

AGENDA ITEM 2-a

MINUTES OF A REGULAR MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, FEBRUARY 23, 2009, AT 6:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA

Prior to opening the regular meeting, Chairman Allen proceeded with an invocation and requested Commissioner Hall to lead in the Pledge of Allegiance immediately following. He then requested for a roll call to be taken and all of the Commissioners were in attendance as follows:

Commissioner Jeanne K. Diesen
Commissioner William E. Hall
Commissioner William H. Reynolds
Commissioner Oscar Zeller
Chairman Walter Allen III

Others in attendance were as follows: R. Rodi, General Manager/ CEO; L. Klinkenberg, Director of Finance; R. Mitchum, Director of Electric Operations; T. Beyrle, Director of System Ops. & Gen.; J. White, Director of Engineering; R. Lemoine, Director of I.T.; P. Di Chiara, Director of H.R.; D. Hoover, Director of Water/Water Reclamation; M. Lynch, Interim Materials Manager; B. Bilinski, Controller/Budget Supervisor; E. Fisher, Public Information Manager; D. Wood, Customer Service Manager; D. Zorge, Customer Service Supervisor; C. Hodges, Senior Systems Analyst; J. Lutz, Internet Analyst; D. Simmons, Executive Asst./Recording Secretary; B. Preston, Interim U.C. Legal Counsel; Alex Kish and Brad Douglas, Representatives from Brent Millikan & Co., P.A.; Dana Toolan, Representative from Code Red; J. Lutz, Randy McHenry, Sharon McHenry, Scott Lewitt, and an unidentified man, all members of the public.

(1) Agenda Changes, Additions and Deletions:

Chairman Allen then asked if there were any agenda changes, additions or deletions.

Mr. Rodi stated no agenda changes, but during Commissioner time, I have several items I'd like to present.

(2) Approval of Consent Items:

Chairman Allen then asked if there was a motion for the approval of the consent items on the agenda.

Commissioner Diesen made a motion to approve the consent items: item 2-a. Minutes of Regular UC Meeting Held 1-26-09, approved as submitted; item 2-b. Equipment and Materials for Smith Street Pump Station and 20" Low Pressure Transmission Main (ITB 04-09), approved and awarded ITB 04-09 to Mainline Supply Inc. in the amount of \$357,773.00, to Ferguson Waterworks in the amount of \$153,237.00, to Southeastern Pump in the amount of \$2,993.01, to R.C. Beach & Associates Inc. in the amount of \$544,303.98, to Riceland Machinery & Supply Corp./The Ideal Pump Co. in the amount of \$42,161.00, and to Ring Power in the amount of \$131,650.00, for a total award of \$1,232,117.99 for equipment and materials for this project; item 2-c. 30-inch Force Main Failure Investigation, ratification of the approval of the task authorization with Black & Veatch in

(2) Approval of Consent Items (cont.):

the amount of \$16,344.00 for investigation of the 30-inch force main failure; item 2-d. RSQ No. 02-09 – Alternative Water Source and Harvesting Project, approved and authorized staff to negotiate a scope of work and fee for services with the highest ranked firm for the Alternative Water Source and Harvesting Project – Missimer Groundwater Science and their sub-consultant Quentin L. Hampton Associates (action is a refinement to previous approval for legal and technical support authorized 11-10-08); item 2-e. Bid No. 01-09 – Wind Retrofit Storm Shutters, approved and awarded purchase order no. PO 00008351 to Weather Guard, Inc. in the amount of \$63,495.00 for the purchase and installation of wind retrofit storm shutters (at Electric Ops. & Water Treatment Plant); 2-f. Compliance with NERC Reliability (TPL and FAC) Standards – Transient Stability Analysis, ratification of task authorization with R.W. Beck in the not-to-exceed amount of \$38,000.00 to enable the U.C.'s compliance with NERC mandatory reliability standards; item 2-g. Compliance with NERC Reliability (PRC) Standards – Periodic Testing, ratification of contracting with Progress Energy to perform required periodic testing in the not-to-exceed amount of \$48,000.00 to enable the U.C.'s compliance with NERC mandatory reliability standards; and item 2-h. State of Florida Tax Audit – Telecom 7-2002 thru 6-2005, approved and authorized payment of the total \$173,292.15 plus applicable interest charges from February 14th to the day of payment (calculated by the State at \$29.68 per day) to the Florida Department of Revenue for the Communications Services Tax Audit – Audit No. 200019485. Commissioner Hall seconded the motion and it passed unanimously on a roll call vote.

(3) Public Participation:

Chairman Allen stated as we come to public participation, item three, we have one item on public participation that is listed and then it will be opened to the floor. As we prepare to open up for public participation I just want to put on record, we have a code of ethics, a code of conduct for the Commission here, and functioning as a body, here as Commissioners we fall under the State. I met with Mr. McHenry Friday upon his request to hear him out, so I just wanted to make that part of the record before we begin.

(3-a) Request for Policy Waiver RE: Wastewater Charges on 2" Potable Water Meter Located at 301 Flagler Avenue – R. McHenry and S. Lewitt:

Chairman Allen stated we have a request for a policy waiver referencing wastewater charges on a 2" potable water meter located at 301 Flagler Avenue. Mr. McHenry and S. Lewitt, would you step to the podium.

Mr. McHenry stated good evening gentlemen, ma'am. My name is Randy McHenry and I live at 1320 South Riverside Drive in New Smyrna. Last February I purchased the property at 301 Flagler Avenue and when I purchased that property I asked that the utilities all be turned off and secured. There's been a terrible mistake and a series of errors that have occurred and I'd like to explain to the Commissioners a little bit about what happened and see if we could possibly ask for some help. As I said I had asked for all the utilities to be secured in the building. About a week later I was in the building with Mike Slayton who is the contractor that had been working with me. And there's a water valve there, I turned the valve on and there was water running in it, that was in end of mid-April, a few weeks after I had bought the building. I turned the water meter, or the water off, I had not touched the meter, so there was water in the building.

(3-a) Request for Policy Waiver RE: Wastewater Charges on 2” Potable Water Meter Located at 301 Flagler Avenue – R. McHenry and S. Lewitt (cont.):

Mr. McHenry stated a few months later the Flip Flops restaurant came to me and wanted to lease the building and the adjacent property behind the building and requested that we put in some landscaping. We put in approximately \$12,500 worth of landscaping and that was done by Down To Earth Landscaping Company, they're well known and licensed in Florida. They do landscaping for KB Homes, for Disneyland. We hired Dempsey, a plumber here in town, had all the permits, and installed an irrigation system. I was out of town shortly after that irrigation system was put in and I came back to town in October and saw that the, this would have been about the first week in October, and I noticed that the plants were dying and that the water had been shut off. And I inquired what happened to the water and the people at Flip Flops said it had been disconnected. I went down to the utilities office, inquired and they said well, apparently that it didn't have the proper, nobody had signed up for water. Obviously I didn't know that, it wasn't anything where anybody thought that we were going to steal the water or get away with it. And I instructed that we had to get the problem solved and get our water taken care of and go forward.

Mr. McHenry stated I subsequently have learned that there was water used later than that time and I'd like to explain what I believe happened after I've done a very thorough investigation. I think the water was on in the building. There is no other place that the water could go except from the incoming pipe through the irrigation system and all of the water that was used went onto the ground. When the water was turned off then, I think the water was off. I have the ticket here where the County came out and this ticket is dated October 27, 2008, where the County inspector came out. And I believe the water had been turned off before that time and I believe that the County inspector came to test the system. The system was tested, I was not here, I don't know, but it is my belief that he could not have tested the system if the water had not been turned on. I believe that after the water system was tested, then if there's pressure in the pipes again, that what happened after October 27th was the sprinklers, on an automatic timer, and it went off again and it ran more water and nobody knew that was happening. I don't think anybody willfully went back out and said oh, the Commissioners have turned it off, we're going to go around them and turn it back on. I've talked with everybody that's there.

Mr. McHenry stated there's no question in my mind that the water was used incorrectly and we've said hey, if we've used the water, we should pay for the water, and we have offered to pay for the water. I understand there are some fines because the water was turned back on. I have found no one that says they turned the water on. That doesn't mean it didn't happen but I think if somebody did that, they would say yea, we turned it on. I've asked all the people at Flip Flops and the water was turned on initially, it was in the building, and when Mr. Dempsey the plumber hooked his system up, the water flowed. There was no maliciousness, the water was used incorrectly. My request to you Commissioners is that clearly this is an unusual set of circumstances, we had both a hired plumber, we had a County inspector, we had several people involved with this, and the water was all used through the sprinkler system in the building. And I've had a couple of you out there and I don't think anybody disagrees with me, there was no toilet, there are no sinks, there is no way that any of this water could have gone anywhere except to go through the sprinkler system and onto the grass.

Mr. McHenry stated and in hindsight, it looks so perfectly easy, why didn't I or somebody go down and sign up for an irrigation meter. I thought this had been done. When Mr. Dempsey and a landscaper there, all with contracts, I thought surely this would be done. When I got back then after

(3-a) Request for Policy Waiver RE: Wastewater Charges on 2" Potable Water Meter Located at 301 Flagler Avenue – R. McHenry and S. Lewitt (cont.):

November, and say oh my goodness, we've said don't use any more water after October. I believe absolutely that when it was tested, that the sprinklers then went on again and it ran for a period of time before anybody realized it. There was unauthorized water use, I'm not here to be crossways with you guys. I would like to ask that we say wait, if all the water that was used went to sprinkling, we should pay for the water. None of the water went into the sewer system so it seems a little tough for me to say well, because of some variety of reasons we didn't get the proper paperwork done, so we get to pay for \$2,000 for sewage charges when nothing went into the sewer. And I've done a lot of stuff, I pay for everything that we do, and my request is that you look and say hey, we're trying to do something that's nice for the City, we've planted nice trees. It's an unfortunate set of circumstances that somehow we didn't get notified earlier somehow as a property owner, there's no way that I would have known about this till much later. So my request is that we pay for the water that we used. If you feel it's necessary for us to pay for the fines for the unauthorized turning it on, though I didn't turn it on, nor can I find, but somehow the water was on. And my request is that you grant a one time exception to the policy and allow us to pay for the water, but not to pay for the sewage fees as nothing went into the sewer; thank you. He then added if you have any questions, I'd be happy to answer them.

Chairman Allen stated I believe at this time I'll turn it over to our Counselor Preston to share where the Utilities Commission stand's from.

Mr. Preston stated I believe that the facts are fairly well known with what was presented tonight, but also with what you've been presented earlier. I think there are several inconsistencies but what remains consistent is the fact that the Utilities Commission did no wrong in anything related to this particular project. And secondarily, and most importantly, the Utilities Commission has a policy regarding water and wastewater that is being asked to be waived here tonight. My recommendation is that you do not waive that policy for this circumstance, both in the fairness of every other ratepayer who lives under this policy, and secondarily for our bond financing which requires that we provide no free service. That simply the...

Mr. McHenry then interjected, excuse me, may I interrupt for a moment. He stated to Mr. Preston, you've mentioned earlier the inconsistencies, I've only found one inconsistency and that was the inconsistency in your agenda item where you say there was people utilizing this Laundromat until March. I bought the building in February, so there couldn't have been people in there in March. And if I've made any inconsistent thing I wish you would point it out to me because I think that the things that I've said have been very consistent.

Mr. Preston stated the inconsistencies that I speak of permeate this discussion, the discussion that you and I had with Mr. Rodi in my office, and other discussions regarding the first knowledge and the ability of turning water on, turning water off, whether water was on, whether water was off. You stated here tonight that in fact when you bought the property that you contacted the Utilities Commission...

Mr. McHenry stated no, I did not say that, excuse me please, I don't want to be misquoted. I said when I bought the property, I asked for the utilities to be turned off, and they were in the name of the previous owner, and I have here where the utilities were turned off. I don't want to be argumentative but it seems to me that you've decided oh, I'm going to be wrong and there are

(3-a) Request for Policy Waiver RE: Wastewater Charges on 2” Potable Water Meter Located at 301 Flagler Avenue – R. McHenry and S. Lewitt (cont.):

inconsistencies. The discussions that we had in your office, to my best belief, are identical to what I’m saying now. I have never said that the water wasn’t used, I’ve never said that there was not water in there, I said I didn’t turn it on, nor can I find anybody who has turned it on.

Mr. Preston stated and so, for you all as Commissioners, my recommendation is not hinged upon whether or not consistent statements were made or not. It is solely hinged on the fact that there was water that was used, and there was no irrigation system that was applied for and identified, and that our policy is that when water comes in, there is a charge for water going out, wastewater. The request is to waive that policy in this regard, and my recommendation is that you do not waive that policy. It has impact on our bond financing which does require “no free service” and it does have impact on other ratepayers who do in fact pay similar charges for water going in, as for water going out, regardless of their actual usage of that water. And there was no fault of the Utilities Commission at any time, nor was there any alleged from Mr. McHenry, in any of the water usage at, whether it be Flip Flops or the surrounding property.

Mr. McHenry stated my request is that we can’t determine when, who actually turned the water on in the 27th of October and I’m being levied a fine for that. I was not anywhere around, and nor was anybody that I can find, but I do have a record here that the County came out and did a pressure test on the system. It doesn’t seem possible to me that the County could test the system without turning the water pressure on. I don’t want to say that’s what happened, but it would feel that way to me. And we’re certainly willing to pay for all the water we used, we didn’t use any of the sewer system. We certainly want to pay our fair share but we don’t feel we should have to pay for services, i.e., the wastewater service, that we didn’t use. Thank you very much.

Commissioner Reynolds stated well, you know, I’m sure a lot of people are in the same situation as Mr. McHenry finds himself having a water meter coming into their home and using some of that water, or a portion of it, to water their yard. And therefore, even though it’s not going through the sewer, they pay the gallonage and the fees for that wastewater to go through the system. And what it really would mean if we make an exception here, we might have to make an exception to 25,000 ratepayers that say oh, we used 5,000 gallons of the water on our yard and therefore we shouldn’t have to pay for the sewer portion. So it seems to me that this kind of exception would lead to many, many problems down the road, beside the fact that it is against our policy, which covers all of our citizens here, or our ratepayers. As well as the fact that landowners are responsible for what they do and they don’t do.

Commissioner Hall then asked Mr. McHenry, you mentioned that the County of Volusia came in to check the system, did you try to follow up on that?

Mr. McHenry stated no sir. I spoke to the people at Flip Flops and they said that the County people came down.

Commissioner Hall then asked did Flip Flops try to follow up on it.

Mr. McHenry stated well we had the, the guy came out from the County and tested the system.

Commissioner Hall stated without your knowledge?

(3-a) Request for Policy Waiver RE: Wastewater Charges on 2" Potable Water Meter Located at 301 Flagler Avenue – R. McHenry and S. Lewitt (cont.):

Mr. McHenry stated I wasn't here, I don't know the answer to your question. I know the County came out, I know the County tested the system. My belief, and I don't know I wasn't here, but I tried to research this as best I could. The water was on in the building, why it was on, how it got turned on, nobody knows. It was on in April, March, shortly after I bought the building. I thought it had been turned off, but I didn't even know where it was until a couple of weeks ago. There was a request from Flip Flops to me, we'd like to put in some landscaping, we need irrigation, and would I do that, and we were going to do it. We kind of have an idea that we really want to try to turn that old Flagler around. I wouldn't be spending all that money down there if I didn't think it was going to help and make the whole area much nicer. And the issue is, I said fine let's get a landscape architect, landscape company, and we got a very highly regarded company who came in and they designed the system. They hired a local plumber because he had to be correctly licensed. The plumber put it in, the plumber hooked it up, and the plumber started running it. I was out of state when all of this happened. I came in, just like you guys later, and said hey, what happened. When I came back in early October they said oh, there was unauthorized use of the water. I think if you check, and I think Mr. Rodi has notes to the record, I said wait a minute we can't do stuff wrong. I came down, I talked with the gal, I came back and said hey, don't turn on any more water until this is settled. And the people at Flip Flops said we're talking with the people. I think Mr. Reynolds you've talked to the people at Flip Flops, I don't know if you were there to look into the building or not, but there were absolutely no toilets hooked up, there was no way any water was used at all except for the irrigation. And I realize that we had, I mean I own other houses in town and I water the lawn and I pay because I'm aware of that. But in this situation I think it's very unique, not very unique, but I think it's a unique situation because we thought that with the hiring of a landscape architect and hiring of a plumber, that was going to do it. I mean it's not like I thought we were going to get away with anything. It's just I feel like we're trying to make a project go, and down there now we're trying to get water hooked up and I was told there are no exception. I can't hook up electricity to a different building on the same site because this problem hasn't been solved. I found that quite frustrating that the Michelbrinks are down there trying to open Clancy's and we can't get water to a different building because this problem hasn't been solved. When as soon as I found out about it I said hey, let's solve the problem. And I'm not trying to go about this by being cantankerous or argumentative, but I do feel like this is not like water in my back yard or some other place. We're talking \$867 for water and a total bill of \$2,900 and some dollars, it's a huge variation because absolutely there was a screw up on somebody's part. We have involved a plumber, a tenant, an inspector, a landscape person, and all of them say no, we didn't turn the water on. The water was turned on, that's not the question. I'm being told you pay \$20, some hundred dollars, because this wasn't handled right and my question is I'm just asking the board could you not see possibly some way to say hey, this is an unusual circumstance and make them pay for the water. Make them pay some of the fines or all of the fines, but we shouldn't make them pay for wastewater, nothing went through our waste system. I don't know if I've answered your question, I talked awful long.

Commissioner Hall stated no, not really. I'm going to ask it again but I want to stick to my question. Did you contact anyone from the County of Volusia about their inspection?

Mr. McHenry stated I did not.

Commissioner Hall stated okay, that's good, that's all I want to know. Thank you.

(3-a) Request for Policy Waiver RE: Wastewater Charges on 2" Potable Water Meter Located at 301 Flagler Avenue – R. McHenry and S. Lewitt (cont.):

Chairman Allen stated to Mr. McHenry, you stated that you were in the building in March and found the water on.

Mr. McHenry answered yes.

Chairman Allen stated that should have been a flag to you, because you just made a statement earlier that when you bought the property you requested all utilities be turned off, did you not.

Mr. McHenry stated I didn't think about that.

Chairman Allen stated and you walk in, and you've got water. He reiterated that should have been a flag that the water has been turned on.

Mr. McHenry stated I don't think that water was ever turned off, but I don't want to be argumentative with you. In another building yesterday, I went down to the utilities department and paid \$400 and some dollars on the other building, and it was \$80 worth of fines because it had been turned on, and one of them was electricity and one of them was water, and I don't know who turned that on.

Chairman Allen then stated we need to stay to the issue that we have on the floor.

Mr. McHenry stated I'm sorry.

Chairman Allen continued, but you made a statement that when you went in the building in March, knowing that the utilities were turned off and you turned on a valve or whatever and you see water running, you had knowledge that the water was on.

Mr. McHenry stated I didn't think about, I've never had a problem with a utility company and I've owned real estate in five states for the last 40 years. This is the first time I've ever had a problem with a utility company that I couldn't solve without talking with people. And I don't disagree with you, it should have been a red flag. My request is I think \$2,000 some hundred dollars is a big fee for me to have to pay for what is a once in a lifetime, I mean this doesn't happen very often if ever, a set of circumstances quite like this. And it's not like we're out here saying we didn't do this, the water was used, all I'm requesting is that I should pay for the water that I used, I should pay a fee for not recognizing the red flag that the water was on. I don't feel that I should have to pay for sewage treatment fees when nothing went into the system.

Chairman Allen stated well the thing is that it went through a 2" potable water meter.

Mr. McHenry stated but it's the same water.

Chairman Allen stated no it's not, when you have...

Mr. McHenry interjected if I went down...

(3-a) Request for Policy Waiver RE: Wastewater Charges on 2” Potable Water Meter Located at 301 Flagler Avenue – R. McHenry and S. Lewitt (cont.):

Chairman Allen stated when you get irrigation, you go down and you make application for an irrigation meter. It's set up specifically for irrigation.

Mr. McHenry stated I understand that, but the same water goes through that.

Chairman Allen stated and you pay for the tap for that service.

Mr. McHenry stated I understand that.

Chairman Allen stated but when it goes through the potable water, it is on a potable water meter for use for consumption.

Mr. McHenry stated you install the meter differently but the water comes from the same source, I understand that.

Chairman Allen stated right, but somewhere in the future it may not.

Mr. McHenry stated well, okay, but we're not, what I'm trying to do is just to have this be a viable workable situation so that we can have money to develop and people around town say hey, it's really a great place to develop property and not be running against brick walls. Oh, you made a mistake that costs you \$2,000, oh you made a mistake here that's \$480. If you look, I paid yesterday for something that I don't believe.

Chairman Allen reiterated that's for another matter now.

Mr. McHenry stated that's another matter, my request is to please, you're the judge and the jury in this case. I'm either totally wrong, I should pay the whole \$2,900, or maybe at my request is you could have a variation to your policy. Maybe there ought to be a policy if a property owner has two or three months and the meters are spinning around and around and nobody's paying the bill, let's see between August, September, October, November. I went in last week and tried to pay a bill and they said we can't give you a bill. Maybe there ought to be a policy that if the meters are spinning and nobody's paying the bill, the property owner should be notified. You have my name and my email and all my phone numbers, nobody's ever attempted to say hey, there's a problem down there, why don't you get on it. I think that might be a consideration for a policy for the board. He concluded by stating I'm going to get argumentative, I don't want to do that, I apologize.

Chairman Allen asked if there were any further questions by the Commissioners. There being none, Chairman Allen stated I believe we ought to follow staff's recommendation as it has followed through, and Counsel's recommendation.

Commissioner Reynolds stated I make a motion that we follow the policy of our Utilities Commission in this matter. Commissioner Zeller seconded that motion and it passed unanimously on a roll call vote.

Chairman Allen then asked if there was any further public participation this evening. There being none, he said we'll move on to the General Manager's Report.

(4) R. Rodi - General Manager's Report:

Mr. Rodi stated we'll start with Ms. Klinkenberg for an overview of the financials please.

(4-a) Financial Status – January 2009:

Ms. Klinkenberg stated good evening, while we show a favorable change in our net assets for the month of January; our sales came in lower than we anticipated. The majority of this has to do with the lagging and the billing, and we estimate unbilled revenues. Weather plays such a significant role in that our estimates are not always exact, but we do anticipate catching up in February on that. Again this month we show deteriorating customer base, which is reflective of the effects of the economy and businesses deteriorating. These are tough times for all of us and our staff is doing their part to keep our expenses down, and it's evidenced by our year to date being under budgeted \$2.5 million in our expenses. She then offered to answer any questions.

Commissioner Diesen stated I'd like to ask you a question about the customer base. How much of that variation can be attributed to, or can any part of it, be attributed to enQuesta?

Ms. Klinkenberg stated an honest answer, we have been trying to put a handle on that, we are trying, it scares me. I've been trying to get reports out of the software that could tell us how much of it is attributed to that. At this point, I am unsure that we are billing every single one of our customers; I'm trying to get the reports. We put that back to S&S and asked them why isn't there a report to give us this information, and they've opened what they call a TPP, which is their coding that they're putting it on an issue list and they'll get back with us when they have a resolution.

Commissioner Diesen stated okay, I'm sure we're going to discuss this a little more, later in the manger's report.

Mr. Rodi stated yes, we will.

Commissioner Hall stated hold on, that begs a question. Does enQuesta have anything to do with Mr. McHenry's problem?

Ms. Klinkenberg stated no, that wouldn't have anything to do with it because we do have the meter readings and we can check on accounts. It's the automated process of creating bills that has the problems I believe. I mean we can even look at the accounts if they're not receiving a bill and see the history, it's just that the software doesn't pick up the bill.

Chairman Allen stated it's basically a problem in the report generator.

Mr. Rodi stated that's what we're finding, and I think after you hear Brent Millikan, and also I think you have some details with this. But part of it even goes to the concept that is being used, we use a concept of customer. EnQuesta separates each utility so that when they count, they count differently than counting by a customer. So as you well know, we may have a customer that has electric service only or electric and water, or electric, water, and wastewater, and it goes on. But each of those, internet is separate, wastewater is separate, reuse is separate, etc. And that lends not only to the confusion of the answer, but about well, is it accurate. The customer account is, the information in there is, but the report isn't, it isn't in the kind of scale that we saw before. The

(4-a) Financial Status – January 2009 (cont.):

second element of that is when a Customer Service Rep. goes in to make a change, that Customer Service Rep. has to enter each of those different utilities to make sure the information in there has been entered. So there's a lot of extra work and we were never told about any of that.

Chairman Allen stated okay, any other questions here. There being none, he introduced the next item, 4-b.

(4-b) Discussion RE: UC Water Conservation Programs and Suspension of Residential Electric Rebates:

Mr. Rodi stated I've asked Mrs. Fisher to present two different aspects of what we're doing here and one of them, obviously, is related to conservation and efficiency, in primarily our electric and water systems.

Mrs. Fisher distributed two pages to the Commissioners (copy of 2-3-09 news release regarding showerhead exchange and power rinser flyer from Niagara Conservation). She stated thank you, I'll start with the water conservation. We have been doing the showerhead exchange, about 500 of these, I think we have ten left. We have given out 500 of these (showed sample showerhead kit) to our customers who bring in their showerheads. With the exception of two condominium units that have requested showerheads because the management companies are doing it on behalf of the customers, so we haven't gotten all of those showerheads back. She stated but we're very excited about the results. Based on the Niagara Conservation company measurements, the program will, annually of course, save customers and the Utilities Commission 23 million gallons of water and 1.5 million kilowatts of electricity annually. And that's, of course, if they use all the products in the kit to the maximum. So I just wanted to present the giant tub of old showerheads for all of you to enjoy. She added if anyone has any creative, artistic uses for it, please let her know. She stated I don't think there's any money in scrap metal or scrap plastic so we'll probably just dispose of them. But the program was very successful and continuing on the water conservation idea, we still have a couple of rain barrels left, and those are popular.

Mrs. Fisher stated the new thing we're doing for commercial kitchens in our service area is doing a pre-rinse spray valve, which is the second handout I gave you, that's just facts on the product itself. She then showed a sample and stated Chairman Allen was nice enough to help one of our local church kitchens, at the United Methodist Church, put it in their kitchen. I believe that McKenna's was the first one, our commercial sales rep. Ms. Santrock gave one to the owners at McKenna's, and they're going to install one as soon as their bill flips over so that they can properly track the savings; so they're very excited about that. She stated so we purchased 25 of these to help out our commercial kitchens, our commercial customers, and help them achieve some water savings as well.

Mrs. Fisher stated as far as the electric rebates, we have decided to suspend those for the time being, just the residential rebates. The demand is just not there frankly and of course I'm sure it has everything to do with our economy right now. Through the end of January we've only given out 24 residential electric rebates and that's way down, that's way, way down from last year. So we decided to suspend those, the residential ones for the time being, as of March 1st. We're going to continue with the LED exit sign rebates for our commercial customers. We've had some commercial customers express interest in that, and there is some lead time needed for installing those, so we're going to keep those around for a little while.

(4-b) Discussion RE: UC Water Conservation Programs and Suspension of Residential Electric Rebates (cont.):

Mr. Rodi interjected and will home inspections...

Mrs. Fisher stated yes, the home energy audits that are offered through Stan DiBello are still going, very popular. I get about five phone calls, I'm pretty sure he tells them to call but I'm glad they do, about five phone calls a week from customers who are very pleased with the audit. They say the audits are very helpful, that he's very thorough, that he's able to share information about their specific homes that's useful, and just things they didn't know that will help them individually. So I told Mr. Rodi, it's sort of like the, you know, give a man a fish and he can eat for a day, teach a man to fish, you know he's got a life time. So I think if we keep that teaching element out there, that educational element, even though it's on the higher end of our expenditures for the conservation initiatives, I really do think it's worthwhile because our customers seem to really appreciate it and get something out of it. And they'll still get a lot of savings should they install the insulation or do the duct leak repair and make these other changes that may be recommended. We're just not going to have the rebates for that, but they will still see savings from energy savings.

Mr. Rodi stated if I may interject, what we're looking for here is that we've seen the interest in actually doing the duct repair, insulation, has diminished greatly. So what we are asking for is a resolution allowing us to suspend those items. To keep the inspections going, keep the water conservation parts of this going, and then sometime in the future presuming things are going to turn around, then to allow staff to re-implement those rebates, assuming that we will budget for it and have budget money for it. So what we wanted to do was bring you some results, the box of showerheads are over there, sort of an ugly mess but nevertheless it shows that they really did change them out. And obviously, you've also been seeing the results of what's happened with the home audit inspections because it puts it in the hands of people, do-it-yourselfers, for the most part, but we're also finding some important elements from design standpoints that customers have expressed that's very helpful to them. So with that we're asking for a motion to allow us to do this.

Chairman Allen stated okay, we need a motion at this time in reference to suspending the residential electric rebates but continue on with the energy audits and the other conservation measures; do we have a motion for that.

Commissioner Zeller stated I'll make the motion.

Chairman Allen asked if there was a second.

Commissioner Reynolds seconded the motion.

Chairman Allen confirmed there were no questions and then asked for a roll call motion to be taken.

Commissioner Zeller interjected, do we need to amend that motion to let it be reinstated at the time that the staff feels it's good.

Chairman Allen then asked Mr. Rodi, do we need an amendment on that, as far as re-establishing.

Mr. Rodi stated yes, this way we would request that staff be able to re-apply rebates.

(4-b) Discussion RE: UC Water Conservation Programs and Suspension of Residential Electric Rebates (cont.):

Commissioner Zeller stated so we need to amend it to let staff...

Commissioner Diesen stated assuming there's budget for it.

Commissioner Zeller added when they deem necessary.

The recording secretary confirmed Commissioner Reynolds agreed and seconded that amended motion (to suspend the residential electric rebates but continue on with the energy audits and the other conservation measures with approval for UC staff to re-apply/re-implement in future if budgeted). Commissioner Zeller's previous and amended motion then passed unanimously on a roll call vote.

(4-c) Discussion RE: Code Red Emergency Notification:

Chairman Allen stated now the next item.

Mr. Rodi stated it's with Mrs. Fisher. He stated what prompted this item is when we had the 30" inch force main break, one of the compelling needs that we have as a utility is to notify a number of people. In that particular case it was most of the City of New Smyrna Beach. The first time we had used the reverse 911 system it seemed to go okay, it was a little bumpy. But the last time posed a number of issues for us about some judgments, and part of the great concern that we have is for that particular force main, that's a major problem. It then lead us to start to think well, what happens if there are other issues such as we have an emergency even, whether it's with us or with the City, what do we do to help our citizens if there's a particular area that's affected by something, and it's usually something important that they really would want to know. It isn't, you know, please come to the pancake fest tomorrow, but these are important things that customers may want to know, especially if we are preparing for hurricanes. A lot of times, just as we did when we had the tropical storm come through here, Fay, there were a lot of questions about well how long before the power's going to come back on, or you know what should I be doing. And so I had asked Mrs. Fisher to pursue whether or not there's some other alternatives to what we're doing now, and so with that opening.

Mrs. Fisher stated thank you. Just to introduce, I have a representative from Code Red, Dana Toolan here, so she's here to answer any questions that you may have, but I'll present the facts as we have them now. As Mr. Rodi said in order to provide emergency notifications to our customers we have had to rely on, specifically, Volusia County government to send messages and it hasn't always worked out well. The types of messages we'd like to send are sewer breaks, electric outages, precautionary boil water notices, hurricane preparation advice, post hurricane notices, high electric demand system requirements, reuse water system changes, and there'll likely be other emergency uses as well. And we can utilize a system like this, it's called an emergency notification system, and there are many companies that do it, but the one that came up, that we find that would suit our needs the best, is called the Code Red system. And that's the same one that Volusia County uses, and I believe Daytona is looking at, or has it.

Ms. Toolan indicated Daytona Beach has this system.

(4-c) Discussion RE: Code Red Emergency Notification (cont.):

Mrs. Fisher stated and 40% of the counties in the state, and 25% of the cities in the state utilize this particular system. But we can use it in many different ways to reach our customers. We can preset different call groups, for example all electric customers, all water customers, all sewer customers, or all reuse customers. We can also establish specific geographic areas, for example the beachside or the mainland. We can narrow it down to streets or specific subdivisions. Our customers can enter their information into a web page interface that will work off our website, and we can pull the customer information from our existing database. Another thing that's very exciting about the customer interface web page, is the customer can pre-set specific dates that this number will be contacted. For example, if we have a seasonal customer, they say that we reach them at this number for any notices between November 1st and April 1st, so it can be set to specific dates and times. We can use the Code Red system's information that they already have in their database from Volusia County and other municipals in the County. The messages can be launched from a computer or a phone or both, and we can provide text and email messages as well to customers, and have the ability to launch up to 60,000 calls per hour. She added we won't need that. The cost for us is \$11,500 for 87,500 minutes. Just to put that in perspective, we used for the sewer break, we used 18,600 numbers, we reached 18,600 numbers which I specifically told the Volusia County person I need everybody in the City of New Smyrna Beach, and that only used 5,390 minutes. So the total of 87,500 minutes should be ample for us for a year. And that price remains the same every year, it does not increase. The system will be internet based, there's no hardware we need to buy or maintain, and the system is accessed through a log in and pass code, and we get five of those so there can be multiple system maintainers. And there's three computer systems in three states that are utilized by the Code Red Company for redundancy and protection of the system. And Ms. Toolan just explained to me, when I spoke to her a couple days ago, that this system was started, it's based in Ormond Beach, and it was started after the 1998 wildfires. So it has a lot of history here in Volusia County and I think can meet our needs well. Finally, to meet our cost needs a little bit better, Ms. Toolan said that we could pro-rate the amount for the rest of this calendar year, and say for example start at March 1st, just for a throw out date, for a bridge contract between March 1st and November 1st, and pro-rate the amount for a little over \$7,600. So they're flexible and the training's right here in Volusia County, at their headquarters, and I think it really would meet a very important need for our community.

Mr. Rodi stated again, if I may interject, obviously with this amount I have the authority to commit us, but that isn't what this is about. Obviously the cost is going to be in setting up these zones that you might want to call. For example, just with the fires, I really watched the Fire Department agonize in trying to notify people in Sugar Mill, they were running around trying to make sure people were there. During those times you need as much help as you can, and we're not just talking about the U.C. use, but you know, with some parameter around it, we feel that this would benefit our City. So I still have some other questions, and what I'm looking for here, if you think it's a good enough idea, and I thought it was good enough to bring it here. I mean, obviously then, I would just like your concurrence that I can move ahead. I need to understand more about what it would take in order to program these areas and how much time is involved and who keeps it up. And there's just lots of little odds and ends yet, but added I'm very pleased, I get very good answers. He thanked Ms. Toolan, and added I've had lots of them that I've forwarded on, but I just wanted to get your reaction because it seems like for this amount of money, if it's used properly, it could be very beneficial in times of crisis, presuming of course that there's a phone line that goes to the house or the cell phone works or whatever's put into the system. So, I just wanted to get your reaction.

(4-c) Discussion RE: Code Red Emergency Notification (cont.):

Commissioner Diesen stated will you have that redundancy built in, because you said it was internet based and yet you have locations in three other states. And I immediately went to the northeast grid when it went out, and thought well, you know, where did you from there. But will you have multiple contacts, in the last thing I didn't get a phone call, I don't know why but obviously that's a flaw in the County's system. I guess to me it's kind of sad that we can't get that system to work right and that we have to go expend money because of something that isn't being taken care of.

Mr. Rodi stated if I may too, part of what we experienced in this last round was a judgment had to be made by the County as to whether or not we had a real emergency, and so that was one hurdle. The second hurdle was well, this is going to cost you, I think the figure was \$2,500 or ...

Mrs. Fisher stated she thought it was \$13,000.

Mr. Rodi stated there was some number given to us, that in order to use this system that we were going to have to pay, and we said wait a minute, that didn't make any sense. So that if we're looking down the road and someone sees this as a revenue stream, that when we have an emergency, it's going to cost. Then I thought it important to bring this forward and say all right if we really do need our own control, and to make sure that it does work and that we don't have to debate whether or not it's a real emergency from our perspective; that's what intrigued me about this.

Commissioner Diesen stated okay, I agree with you, I won't go there about the County, I'll refrain. But I wonder, will you have a redundancy built in, for instance, because you mentioned a cell phone. Would there be you know like if it's by phone basically, would you have multiple numbers for one individual.

Mr. Rodi added, and see these are part of the questions. What I'd like to know is I'm assuming that the computer systems, one might be in Atlanta, one might be in Dallas, from my past dealings with large systems they have them in different parts of the country, assuming that all parts of the country won't be affected at the same time. But what I don't understand yet is, what are the connections that we need here. In other words if we're going to rely upon the fiber that we have coming out of this building, do we have any other alternatives if something should happen to that. And some parts of the fiber system could be hit by a truck, and it's on the ground, and you know. So those are the kinds of questions that still need to be answered yet and I think your redundancy issue is an important one, because when it goes wrong is when you need it. So that's what brought us here with this item.

Commissioner Reynolds stated it seems to me that maybe what we could do is have you continue to proceed, find out all the details, and maybe in the next meeting give us a presentation on that if you're ready to go with it. I would have a lot of questions too, you know, in terms of that redundancy. There's no sense in taking time now to ask if you'll go at it.

Ms. Toolan asked if that was a question for her.

Mrs. Fisher indicated she didn't know the answer so yes, a question for her.

Ms. Toolan stated in terms of the redundancy.

(4-c) Discussion RE: Code Red Emergency Notification (cont.):

Mr. Rodi interjected and asked Ms. Toolan to go the podium so the microphone could pick her up.

Ms. Toolan stated it was actually, you kind of asked two questions in one. So one question was redundancy within a household, and that's typical, that we would have, you know, multiple phone numbers assigned to one household. And what matters is where that household is located on the map, you know what is the lat., long. coord. for that household because most emergencies depend on the geography. So if you go into the mapping part, and select a certain geographical area, you know which households are affected by this, then every phone number assigned to that household will be called. So you could have three different cell phone numbers and the land line, and all those numbers will be called. So that even if you aren't home, you're still getting notified that something is occurring at your house, and every member of your family is getting that notification; so there is that redundancy. She stated internally in terms of the company and that redundancy, we're talking about the hardware being located in three different states, what that hardware is, is telephone dialers and servers, where all the information is stored. One backs up the other, so your information is in a very, very secure location in Dallas, Chattanooga, and Atlanta. The chances of a natural disaster occurring in all three of those places are as close to zero as you can possibly get. So it will never be an issue of whether or not the system works.

Mr. Rodi stated if I may, I think this system has a geographical user interface, a GUI, where you can just take an electronic pen and trace out a map area, and that's why, and then all of the homes that are within those coordinates are then notified. So that there are a number of different applications that might make this very easy to get notices out, beside standard instructions that could be by zip code, you know pre-fix number, or whatever.

Ms. Toolan stated I mean it's very easy to manipulate. We're also talking about having separate data bases for sewer customers, water customers, so you can differentiate who you want to contact. So you have complete control over who you're calling, no permission issues, no you know, there are no barriers there.

Mr. Rodi stated and if you know, the connection, for example, would a message be conveyed to your office or some other office, how does this work when you say I have a message to get out. Who does that, does Mrs. Fisher do it, does Mr. Rodi do it, do you do it, how does that process work.

Ms. Toolan stated that would be up to you, who is recording the message, so that's where the user names come in to play, and it wouldn't be us though.

Mr. Rodi stated okay, so the process is someone records a message, they call a number. On the other end of that number you're either in Dallas or you know wherever, Atlanta.

Ms. Toolan stated exactly.

Mr. Rodi stated and you talk to a real person and you say I have this message to send out to this identifier location, or how does that part work.

Ms. Toolan stated that part is automated, and if you have any problems you can call us, but we give you the training. She stated you wouldn't even believe how easy it is, you can launch a call in

(4-c) Discussion RE: Code Red Emergency Notification (cont.):

about three minutes, depending on how many times you listen to your message to see if you like it, but in an emergency you're probably not going to do that, it does play it back to you. Most of these messages are anywhere between, most of these messages are only 30 seconds long because you'd be surprised that you can get your point across that quickly. And a customer can always press a button to repeat the message, the phone number on the caller id, if they call that number back, they can get the message, and the message is also delivered to answering machines and voice mails, so no matter what they're going to get that message. She added but I think I went on a tangent.

Commissioner Reynolds stated I have one question, what about security of these numbers. In other words one concern is that makes a record.

Ms. Toolan stated we are very familiar with Florida Public Records laws, even if we're sued we're not giving up that information. The numbers are stored in a SAND, which is if you look up a SAND on the internet it's the highest technology that exists in the world.

Commissioner Reynolds commented he was familiar with that.

Mr. Rodi also indicated he was too.

Commissioner Hall stated I agree with Commissioner Reynolds that Mr. Rodi should pursue, but I have a question about large institutions like the hospital because in the last one. I'm not sure if I shared this with you, but my wife is a manager at Bert Fish Hospital, and normally she would have received the message had she been at work, to her direct line. You've got three shifts, three different people in charge of the shift during the day, and there's a CEO who's in charge. When you come back, I just want to know how you handle that kind of thing. There's Ocean View Nursing Home that's very large, probably has the same problem.

Ms. Toolan indicated lists could be prepared with those numbers, and then you would upload the lists into the data base, and you can also give each person a qualification. So you can, when you're launching the call you can say I want to call night shift versus day shift, depending on what time of day it is that you're launching the call, and I want to call only supervisors; so it just gives you a lot of manipulation.

Mr. Rodi stated I think some of those set-ups would depend upon us to get the feed into the system and then its...

Ms. Toolan stated right, we give you an initial base-line data which represents your residents and some of your businesses. But then what we would need, what we can get from the city normally, is business license data, the utility billing data, and we merge all of that information together. And then ultimately when you're issuing press releases into the community, look at this great thing that we got for you, then ultimately that information is the golden information directly. You know that's where you're going to get the majority, your cell phone numbers. At this point they've estimated that 23% of the nation has moved to cell phone only, so those numbers are going to be very important.

Chairman Allen stated so it looks like we may need to add some alternate numbers to our database as far as contacts to be able, so you can interface, a lot easier, the customer data base into the database for the calling.

(4-c) Discussion RE: Code Red Emergency Notification (cont.):

Mr. Rodi stated to Ms. Toolan, what I hear the Commission saying, if I'm interpreting properly, is they would like more specific information and have a presentation made at the next meeting, if that would be okay with you.

Ms. Toolan answered sure.

Mr. Rodi stated okay, because I think at least two Commissioners have said that and I see other heads nodding, they want it.

Commissioner Diesen stated I'm just curious about unlisted numbers there, all kinds of issues.

Chairman Allen stated maybe we'll address those at the next meeting.

Commissioner Diesen stated okay.

Commissioner Reynolds stated I guess we'd also have to go, like you say, go to the hospital and say we're going to have this communication system, to the City, to any businesses that are on 24 hour shifts.

Chairman Allen stated the other thing I see in reference to this particular type of system and looking at costs, cost-wise if we had one incident as far as wastewater and not being able to get the word out and be able to control the flows, the cost of trying to clean up after one in a subdivision, or something, could equal that.

Mr. Rodi confirmed.

Chairman Allen stated my question would be, when you come back is, you have x amount of dollars for x amount of minutes, what is the difference if you go beyond those minutes.

Mr. Rodi stated yes, and they have all that information and they were very generous on their minutes, and I hope that will be retained.

Ms. Toolan stated I don't think there's any chance you could ever go over those minutes.

Chairman Allen stated well, you never know, with four hurricanes in one year, you might have five.

Ms. Toolan stated well, if they're FEMA declared emergencies, historically, our clients have been able to get reimbursed for that so you could actually bank that money to pay for next year's system, so there are a lot of possibilities there too.

Mr. Rodi thanked Ms. Toolan.

Commissioner Reynolds asked Mr. Rodi if he had talked to the City about this.

Mr. Rodi stated no, not yet, what we wanted to do was we wanted to bring this here and just get a sense. As you know it's more than money, you know there's a political aspect to this, there's a very

(4-c) Discussion RE: Code Red Emergency Notification (cont.):

realistic aspect of it, and so that's why I thought it important to talk about this one a little bit before we moved forward. So we will have an agenda item next month, a presentation I guess.

Mrs. Fisher indicated Ms. Toolan has done many presentations for other cities, so there shouldn't be a problem.

Ms. Toolan commented if you could forward your cell phone numbers to Mrs. Fisher, then we'll be able to call the room.

(5) Commission Counsel's Report:

Chairman Allen then moved on to item 5, Commission Counsel's report. He asked Mr. Preston if there was a report.

Mr. Preston answered no report this month.

(6) Old Business

Chairman Allen commented there was no old business items to consider.

(7) New Business

(7-a) Fiscal Year 2008 Audit – Brent Millikan & Co., P.A.:

Chairman Allen stated the first item under new business is Fiscal Year 2008 Audit – Brent Millikan Company.

Mr. Brad Douglas addressed the Commission and stated good evening. He added he had with him Mr. Alex Kish. He stated we completed the audit and one reason why we're delivering the audit about a month later than we typically do is we wanted to allow management a little more time to see if we could get this customer information system to work or to perhaps be able to communicate something a little differently when we finally included our findings with respect to that new system. In any case that will be something that we'll be discussing.

Mr. Douglas stated I trust you all have a copy of the report and have had an opportunity to hopefully go through it, look at it, read it. I'm just going to touch on some high points and then get into, to discuss a few things that we want to make sure that we communicate to you, those charged with governance of the Utilities Commission. And the first thing you're going to find, something that I like that was included in your transmittal letter, if you look in your transmittal letter you're going to find major initiatives and accomplishments. This is Roman numeral six through twelve and there's mention of the results of a Triennial Report that was prepared by Black & Veatch, a consulting engineering firm, that was prepared for the Commission in July, which I thought was a nice addition. What ends up happening, just so that you know, there are some things that are in the transmittal letter that don't go into your management's discussion and analysis. And that's because management's discussion and analysis is confined to like twelve to fourteen specific things and that's all that it can speak to, we can't include information that might be subjective. So anyway I wanted to bring that to your attention, if you do look at the transmittal letter, it has some good information in there.

(7-a) Fiscal Year 2008 Audit – Brent Millikan & Co., P.A. (cont.):

Mr. Douglas stated the auditor's report, our report, pages one and two, we rendered an unqualified opinion, meaning there's no exceptions or qualifications to your financial statements for them to be presented in conformity with generally accepted accounting principles. In our report, we explain to you what an audit is, that we examine your financial records and supporting documentation on a test basis which provides us the basis for our opinion which is rendered in the third paragraph. And that opinion provides reasonable but not absolute assurance, because again we're not looking at everything, that the financial statements are free of material misstatements and again are presented fairly and in conformity with generally accepted accounting principles.

Mr. Douglas stated management's discussion and analysis, pages three through twelve, highlights significant interperiod changes, it's in an easy to read format with condensed comparative data, some graphs. At a minimum, we've mentioned this before, at least read that, it does condense an overview of your current year financial activity, and it's the easiest way to probably get through the report. It doesn't have necessarily references to some specific data throughout the entire comprehensive financial report, but it just puts it right there in a condensed format. On pages thirteen and fourteen you have your comparative balance sheets. Page fifteen your comparative statement of expenses and changes in net assets, and on pages sixteen and seventeen, your comparative statements of cash flows. Those are your basic financial statements.

Mr. Douglas stated pages eighteen through thirty-six, you have eighteen pages of required disclosures and your notes to financial statements. One thing that is mentioned in there, and we'll get to that, is some information that will help make sense. So if you pick up this report and you compare it to the report in the prior year, you'll see a slight little difference, some re-classification items to deal with how you are disclosing your accounting for asset disposal costs and the related asset retirement obligation with your CR-3 nuclear plant dismantling costs, and we'll touch on that in just a second.

Mr. Douglas stated pages fifty-three to ninety, the statistical section, the cover page prior to page fifty-three, kind of lays out to you that there's five general categories of ten year historical information, in table format, that breaks it out to financial trends versus revenue capacity, which provides information on your utility rates. That capacity gives readers information on outstanding indebtedness, ability to issue additional debt in the future, some demographic, economic and operating indicators; a lot of good information in there. I think what's helpful is when you're looking at it, it helps to take such information that you'll find, like on pages thirty-seven and thirty-eight which is your schedule one, it takes your statement of revenues, expenses and changes in net assets and splits it out by system. And when you can look at that information over a ten year period, it really helps to see where you were ten years ago, nine years ago excuse me, and then coming forward. So it does provide a lot of good information.

Mr. Douglas stated as I mentioned you'll find some information for accounting effects on the future dismantling of your CR-3 nuclear plant. So if you'll look on pages twenty-two and twenty-eight in the notes of the financial statement, we just wanted to, again, bring that up to your attention so that if you were to pick up last year's report, and look at this one, just a slight difference in the representation of the comparative data for last year.

Mr. Douglas stated in fiscal year that ended September 30, 2008, your total assets were \$195 million, approximately, that's an increase in total assets of about \$13.8 million. Of that amount

(7-a) Fiscal Year 2008 Audit – Brent Millikan & Co., P.A. (cont.):

\$2.4 is the amount invested in your net assets, that's net of accumulated depreciation increase of \$6.3 million. We also had some unspent proceeds from the issuance of the Series 2007 Revenue Certificates of about \$6.4 million, so that helps answer why did our assets go up by \$13.8 million. And we had some, an increase in your Renewal and Replacement Funds, obligated for capital improvements of about \$2.5 million. And finally the last significant component of your increase in assets is about a \$2 million increase in the amount of unbilled, underrecovered fuel and purchased power costs adjustment.

Mr. Douglas stated liabilities at the end of the year, at the end of September 30, 2008, totaled \$89.5 million, compared to \$81.8 million in the year before. The majority of that increase in your liabilities was from the, again, the issuance of that new revenue certificate, Series 2007, of \$10 million. We have to net against that your scheduled debt principal payments of \$5.5 million. So the rest of the increase was attributed to like payables, because of the increased costs of fuel and purchased power. So in accounts payable, if you look at that, that had increased substantially at the end of September 2008 compared to September 30, 2007.

Mr. Douglas stated your total net assets, so now we've talked about assets, liabilities, your total net assets, they increased \$6.1 million. How you can see that is if you look at page fifteen, you're going to see your statement of revenues and expenses and changes in net assets on a comparative basis. And if you look at that, if you want to look at statement two, that's on page fifteen. The little bit different format where it's broken down by utility system, just flip to pages thirty-seven and thirty-eight and look at schedule one, it provides you with some information by utility system.

Mr. Douglas stated when you look at management's discussion and analysis in some of the statistical tables you might see that they reflected a slight drop in consumption, you know due to milder weather or conservation efforts, but your operating revenue did increase and the majority of that increase was attributed to the increase in sales related to the electric system. And the majority of that is attributed to the single most significant increase in your operating costs that you're going to recover, which is the fuel adjustment for the increase in the fuel and purchased power costs. He stated when you're looking at operating expenses they increase \$5.3 million for the year, approximately \$4 million of that was the increase in fuel and purchased power.

Mr. Douglas stated again, as I mentioned earlier, if you want to look at a ten year history of what's represented in schedule one on pages thirty-seven and thirty-eight, just go to tables three and four at pages fifty-seven to sixty-two in your stat section, and you'll see a nice ten year history by system of what's been going on. The net income from your core utility operations, before your capital contributions, the electric system produced net income of \$2.2 million, water virtual break even, \$86,000 net income before capital contributions, and wastewater, likewise, \$305,000. So it's a testament to the fact that you are keeping your utility rates very reasonable, you're recovering your depreciation and your O&M expenses, and you know eventually will be collecting on the unbilled, underrecovered fuel adjustment. So you had basically a total net income before contributions, which are basically service capacity fees and/or represent donated in ground assets or items that developers would deed to the Utilities Commission to take care of in the future, so you had \$2.2 million net income. It's a good, modest return for you, nothing extravagant, just plugging away and going well. So in other words, your financial condition's improving, albeit at not as great a pace in maybe the year before.

(7-a) Fiscal Year 2008 Audit – Brent Millikan & Co., P.A. (cont.):

Mr. Douglas stated when you look at the supplemental reports, you're looking at an integral part of our audit, it's the report that you'll find on pages ninety-one and ninety-two. It's our report required under government auditing standards on the Commission's internal controls and compliance with laws and applicable regulations. You'll find that there's a separate schedule this year of findings and responses on pages ninety-three to ninety-nine, which separates our report that's on ninety-one and ninety-two, from the management letter that's reduced to the format prescribed by the Auditor General. And what's a little bit different in the reporting this year is that management's responses immediately follow the recommendation for each finding. The supplemental reporting has changed, it's changed to conform to changes in government auditing standards and as adapted by the rules of the Auditor General which became effective for governmental audits beginning with fiscal year 2008. There were a slew or a suite of new auditing standards that the AICPA had issued and the government auditing standards picked right up on them and they became effective for fiscal years that began after December 15, 2006. So that became for you, your fiscal year that began October 1, 2007, the year that we just audited, September 30, 2008. So under these new standards, they've essentially lowered the bar so that findings that may not have been previously reported to you, simply because there is potential for misstatements and not whether they actually occurred. So we have to provide to you communications on matters where the potential that perhaps a misstatement, or material misstatement could take place rather than saying oh, we found one. So there's the possibility that what you'll be seeing here and in the future, that there might be some more findings to be reported to you. It's not necessarily indicative of the Utilities Commission's management's not doing its job and we just want to make you know that I think it's in response to standards that apply more at the larger level, Sarbanes Oxley Act, that unfortunately, trickle down into our world where we have to deal with it as they relate to governmental audits.

Mr. Douglas stated because of these changes there is more of an emphasis placed on management's increased responsibility to you, the Commission, to provide assurances on the adequacy of internal controls over financial reporting. I don't think it can be understated, and so I want to talk to you about what we are communicating in our finding that's numbered 08-01. Management, you know basically has to conduct a risk assessment process, very similar to how we as your auditors have to do a risk assessment approach to looking at the Utilities Commission's financial reporting. And management is responsible for monitoring the internal control effectiveness, while also monitoring for fraud. The end product of that process should be a report from management to you, the Commission, that identifies all areas where the risk of material misstatement in your financial reporting is likely to occur. An appropriate response to any findings under that report will be recommendations made by management to enhance internal controls and monitoring to reduce the likelihood of those misstatements occurring in your financial reporting. So how frequently should management communicate to you on the effectiveness of internal controls is dependent upon how often you think perhaps procedures have changed or systems have changed, or whatever. But it is good that something be documented in writing to provide that communication. The important point we're trying to make to you is this, as your external auditor, and you know we put it in our comment, we're only required to obtain an understanding of internal controls sufficient to plan our audit and to apply a risk based approach in conducting our audit. So a financial statement audit does not require that we test or verify the effectiveness of your internal controls. So we want to make sure that's clear, I think that sometimes there's misconceptions on behalf of the public at large, what really a financial statement audit is really doing and not doing. In other words we can't supplant your internal controls, and why is that because the audit takes place after your fiscal year

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has ended. So we can't effectively be there to prevent or detect material misstatements whether or not they were caused by fraud. And as we mentioned in our report, on page one and two, we only examine your financial records and underlying documentation on a test basis, so we can only give you reasonable but not absolute assurance. And because these standards have kind of changed, and there is more of an emphasis on management's responsibility there, we just wanted to make sure that we brought it to your attention and just communicate to you that it is good practice to have management from time to time report to you on the effectiveness of internal controls. So that's what we're reporting to you on pages ninety-four and ninety-five. And we do want you to know that in planning and conducting our audit we actually do review, with management, your various entity level and activity level and internal controls as part of our overall risk assessment process so we can determine the extent of our substantive testing of key account balances and transactions. And you will know on page ninety-one, when you look at our report on internal controls and compliance, on page ninety-one the last sentence of the first paragraph under the heading internal control over financial reporting, you'll notice that we refrain from expressing an opinion on the effectiveness of your internal controls over financial reporting. So I think it's important that at least be communicated and said at least one time to you so that we know that those charged with governance are relying on management, and that perhaps some people that might not otherwise know, can realize the limits to what an external audit can or cannot accomplish.

Mr. Douglas stated when we're looking at the next comment, we want to talk about, your customer information system EnQuesta. And with respect to that, I think if you look on page ninety-six, so I'm going to flip to it. There's a number of bulleted items here that I think say it all. What's important to note is the majority of these problems were identified more than six months ago and as of the date of our report, which was January, here it is a month later February for signing it. It was five months you know when we first became aware of this, and your staff has been working with this system now for eight complete months at the end of this month. I think it's a testament, just the time that it has taken to get to this point, and I think the point that I'm trying to make is that all these items that are listed there on page ninety-six were known to us effectively after we made the conversion and nothing's been done to resolve them. That's quite unfortunate, but it is the truth. It's not been able, this system hasn't been able to consistently report or provide to you reliable data or provide the level of reporting that we think you should have too, to document your adherence to internal controls or policies or procedures, or compliance with applicable laws. Like, does it provide an audit trail sufficient if the Florida Department of Revenue wants to conduct a sales tax audit or gross receipts tax examination. I don't think so, not from what we've seen anyway.

Mr. Douglas stated it's been frustrating to say the least on behalf of management and your staff. I mean we did meet with Mr. Rodi, and we did communicate our preliminary assessment when we were doing our planning for the audit. So we hadn't started doing our audit and we get a call, help, we think we have a problem. And we meet with Mr. Rodi, it prompts us to say okay, we should provide a preliminary communication under these new standards to document what we think. We have, as far as what appears to be, inherent system significant deficiencies in internal control of your financial reporting on something this important, so let's do that. And you know that obviously prompted the vendor's management to make a trip to Florida to meet with your staff, with Mr. Rodi and everyone involved on the U.C. implementation team, to try to show I guess some faith that they were serious about the matter. But since then they leave it in the hands of their project team managers and their DBA's, and I think there's probably a lack of communication or understanding on their behalf. It's almost as if they ignored your complete business process analysis you gave

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them almost two years ago and it's like they haven't really, really understood how complex your little New Smyrna Beach's Utilities Commission really is as compared to what they thought it was.

Mr. Douglas stated so I think that, I'm saying that subjectively in one sense but when you really look at the issues list, when you look at the emails, when you go through the system, and when you test it, and when you're seeing problems and you're seeing your staff trying so hard to want to make this work and can't. I mean it's like certain things that work, don't work right now, daily reconciliations have deteriorated. I can't make the customer deposits balance with your control account in the general ledger from the report that's produced from the system. I can't say why, you can't get the vendor to say why, that's frustrating when you can't get the vendor to say why their system's not giving you the information you should. And quite honestly, I think it's one where you know you make an investment with them, and they probably have a limited number of personnel in one respect and they devote a significant amount of their efforts because let's face it, this is a system that required a significant amount of customization to meet your needs and there was a lot of reliance, obviously, that you have to re-place on them in some way to determine when are we ready to go live. I mean, it resides on a completely different platform, there's reasons why we got into this and we wanted to make it work, we didn't really know all the processes involved from their end, and once we get the program implemented, then we find out not everything's been turned on or working like it's suppose to. Budget billing never seemed to be properly working from the beginning and then we find out later, much later, like just a month ago, in training, that well that was a relatively new module. So like the representations they made at the time when they were trying to get your business, it was a module that really wasn't even fully developed at the time. And it's just things like that, I didn't want to bog down and try to include in this report, but it's just things that I, when you look at it, it just gives you a feeling of perhaps the vendor's not either taking you seriously or isn't capable of making the system work the way it needs to work.

Mr. Douglas stated so, you know, I don't see any sense of urgency on their behalf to help you fix these problems so consequently, the collections process is so significant. I mean we know the inherent importance of this kind of a system to your financial success and to your mission to serve your customers, and yet it's kind of, to be quite honest, it's failed you. So we felt like that was important to make sure that we communicate that. And we concur with management's decision to start looking at other customer information systems to remedy the situation, and look to see if there is any possibility of remedial action with the vendor on, you know, of you not being able to accept the system because really it's not a system that you've fully accepted to be honest with you. I don't think so, we're not into, that's Mr. Preston's area all this legal stuff, but we wanted to at least give you just that general feeling of where it's at. I mean we can go on in more detail, I mean we tested the utility billings, completely at random; we found all kinds of things. For the most part the billings looked okay but reports that you're suppose to get out of the system, I sat down one night with Ms. Klinkenberg, and I swear we went through an entire case of paper. And the report that finally got produced the next morning, when it was fed over and over again for the remainder of the report that printed out, was totally useless. And we were just trying to get something as innocuous as a customer balance credit report to tell us, you know, do we have delinquent customers. And the way the system is devised, as Mr. Rodi had mentioned, they kind of designed the system around what they call applications or what we like to call your different utility services.

So to run a report that includes all the applications, electric, water, wastewater, irrigation, you know, City services as well, your reclaimed water, whatever, it's like the system goes in overload,

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there's time out issues, the reports don't even, we can't even get to making the reports the way that they tell us that we're suppose to be able to get the report. It's very difficult for us to even see how to do the report because it's totally different the way it's been designed. Perhaps it's different because of its significant amount of customization for your needs, perhaps. But they have kind of like a reports catalog in PDF that's about this thick for various types of reports and yet when you look at trying to run a report from that reports catalog, the way the system's set up, it's like some of them are just not available at all. So, anyway, we just wanted to get that out there.

Mr. Douglas stated I think what's important is this, I think that you get the gist of it, we put three pages of comments in here, it's nowhere near as detailed as we probably could make it. The important thing is at least it hits what the thing is, I mean most of this, and I want to make this clear too. This was not something we discovered as your auditor, this was totally something that was brought to our attention by management, by your Finance Department, by Ms. Klinkenberg, by staff, saying we're having issues and we're not comfortable, we're so not comfortable, it's scaring us, and we can understand that sense of reliability. I mean what happens is the vendor will say will heck, the report that you're running for this billing cycle's not reconciling to your general ledger, it's only off by \$19.00. But how would you like to have your bill off \$19.00, we wouldn't, would we. What they would perceive, what they would say is that's insignificant, immaterial; well, that's not how we operate, I mean that system should be dead on. It's not rocket science, I mean we have rate structures, we have consumption, it should work but for some reason it doesn't work. When we're discovering that we have a customer that, like for one instance, we have a customer that's been delinquent, ironically since July, the date that we finally converted, but yet continues to receive service and the system's not identifying them as something that shouldn't be receiving it, should receive a disconnect notice, whatever you want to label it as, the hang notice, whatever. The fact is they've been able to continue to receive service without the system stopping it or catching it and it's not suppose to allow that. And there's more than just the one customer, so I mean just to throw it out there, it's kind of like you just don't get at all a sense of that this system's reliable or that it's consistent. One minute a process seems to or appears to work, then the next minute it doesn't and there's no explanation for it. There are some explanations and I don't want to go into it, but you know they need remote access to work on the system so to speak. And we certainly have imposed, I say we, the Utilities Commission has imposed you know certain restrictions on their access ability to systems because they at first were trying to not have any identifiable means in which they were logging in and that was, a halt was put to that.

Commissioner Diesen commented been there, done that.

Mr. Douglas stated yes, they had you know control of the system for a time and eventually it needed to, since they said it's fully functional, there's no problems, it just seemed odd, then why aren't you releasing to us full control of our database. We own it, we own the system, we bought it, we have the rights, and you know questions like that arose through the whole process. I kind of had to speak to somebody about the seriousness of our concerns at one time and they were very overly sensitive to the way that we were conveying what we wanted. And we just wanted to get to the bottom line on certain things and it was, well it was not fun. I mean it got pretty confrontational, even over a telephone conversation, and I was trying to keep my cool and I had to apologize to Mr. Rodi. But I could then sense what exactly management was trying to express to us, was this frustration of where the vendor feels like they know how this should be done better than you, and their system is right and you're wrong. And everything is like they're pointing a finger at you like it's all your

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processes, it's your, the way you conduct business, and it's not, and that's not the case, not at all. It seems to be inherent with the system itself, either their inability to make the system do what it needs to do or just inherent limitations within this EnQuesta system is where the problem is, not with your staff and how Customer Service handles your customer account information or how Accounting handles your financial reporting as it relates to this system. So, hopefully that kind of gives you an idea of what we think. He then asked, was it too much?

Commissioner Diesen stated I think we've been lied to frankly, by a vendor.

Mr. Douglas stated well, all I can say is they showed that they wanted your business, I mean they came down again.

Commissioner Diesen interjected why wouldn't they.

Mr. Douglas stated but its like, it's almost like there's a disconnect between senior management of the vendor who came down and obviously wants your business, and those that actually have to affect the conversion itself. It's like there's not that sense of whatever. I don't know what direction they're given, we can't say, but all we can say is we certainly, we're certainly are at a point where we basically, we can't make the decision what do you do, we can only basically give you the recommendation we do. And that is if you decide to change fine, make sure we don't have compatibility problems. I know we upgraded Great Plains and a lot of other things and accomplished a lot in the IT area and I think that the previous vendor that you used before has a lot better product than what you used to use.

Commissioner Diesen stated Mr. Douglas I want to ask you a question, excuse me for jumping in but this really hacks me off, you can't imagine how much. Having all the stuff we've been through and we're back where we are again in that loop, and we asked those people, and you just said that one of the modules that was so critical hadn't even really been tested. And they were asked flat out because it's one thing I always ask, is this beta, are we still in that process, has this been tested. And we were assured oh no, that is, everything is good to go. And now here we are in this mess and we have to get ourselves out of it, and I just, what kind of recourse do we have Mr. Preston. I mean do we have any and, excuse me for jumping in, I'm sorry.

Mr. Preston stated and I am researching now and working through the contractual arrangement that we have with enQuesta. And not only the representations made here, but the ones that I have heard, as well from Ms. Klinkenberg and from others truly indicated default in the contract terms themselves. So it's a wind down of that contract into a new, and in doing so, looking at what alternatives we have in regards to any claims that we can make for both past and future obligations with enQuesta. Not just limiting the future, but determining what kind of recourse we may have with the lost time. I mean it's been eight months in using this system without it being an effective system.

Mr. Douglas stated I do want to mention something. I do want to at least comment that you know as far as we are concerned, and again, let's talk about it in the perspective of your auditor, of your financial statements. It is a financial statement audit and what we did see, and I mean based upon the results of what we do test and what we see, I mean it's not that I'm stating that it's resulting in a material misstatement, but what did I communicate to you earlier? The potential may exist that

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something could be occurring. We didn't see any material misstatements as a result of this system but I do want to qualify my comments with respect to the system. It's not like we're giving you a qualified opinion and feel like you can't completely 100% rely on the system at all, but there's just too much. It's all over the place, it's just too many different processes, some are related some are not, where it's not working properly, and you know it's not. I don't think that it's going to get fixed, that's the problem. I just don't believe that you can continue this relationship necessarily and have it be fixed. I think that the time it has gone on is a testament to how they work with you, there's just no sense of urgency there at all about how important it is that we get these things working. I mean when it holds up your ability to send delinquent customers to, you know, credit bureaus for possible collections processes, I mean that starts impairing your cash flow. I mean, that could lead to that, I'm not saying it does, but it could lead to that. And you know, it's just, what can I say, it's all right here, if you read it, it's there.

Commissioner Diesen stated there's no way to reconcile, I mean.

Mr. Douglas stated you can reconcile but things are not exactly where you want them to be. If you were to have to produce a report, and you did have to undergo an audit in such a way where it would make sense, how we would relate to. Well, then show me for this span of time for all the cycles, the customers that you've got, so I can see it all the way from the very beginning, from cradle to grave, of your entire process, of the meter reads, all the way through the whole thing. I want to get real warm and fuzzy if I'm like a Department of Revenue auditor. And I just feel like the reports that exist don't lend themselves to even something as insignificant as documenting the compliance with something like a request that an auditor like that would want. You know where they may want to see the information broken down by customer, we want to make sure that you're not charging gross receipts tax on the wrong customers or on sales tax on the wrong customers, or that you, or at all. So I mean it's just, the reporting limitations are significant in one respect because what do we look at, we look at reports, we look at what does the system produce for reports. I mean we look at what does your system have for reports that can show your billing routines are properly conducted. You can do an on-line bill edit process but can you imagine taking your biggest cycle and having to go through all through a screen with your eyes. You know how do you know you're going to catch something there, you know a high or a low or mis-read or no read. They do an awesome job as far as I'm concerned, your staff, in working around with some of these thing that they've been having to do. It's just that we recognize, the fact is, they don't seem to be getting anywhere. Matters that were brought to my attention in following up when we were concluding the field work for the audit, when we're finally saying okay we want to conclude the audit and let's work on together this report so we can present it, and it's been three, four weeks since the matter was brought to their attention. We'll get right on it, I saw the emails, and they haven't gotten it.

Commissioner Diesen stated well, they don't care obviously, they'd be here in front of this Commission. They've got to know that we know.

Mr. Douglas stated well, in one sense I think they're oblivious.

Commissioner Diesen stated I think you're being just...

Mr. Douglas stated too nice.

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Mr. Kish stated I honestly think they don't really understand the extent of what you're going through. In accounting you have to have a frame work of sticks, you build a house from the frame up, and when do billing, you know you enter interactive data that come in meter read billings, and you bill accounts. Let's just say the charge that hits the books, the general ledger, let's just say for giggles its a million dollars. What they will follow up with is wanting to produce a written report. Well, that written report will come out at \$9,816,031.15, and you go whoa, wait a minute, what is that. And then you have cash collections that come in, you proof your cash collections that come in, say you collect \$1,100,000 and when you print the report to support the debit that's hit to your cash account and credit to accounts receivable, \$1,361,852.14. It's like, you just don't know what in the world is going on. Then when you actually do find these billings and you do sort by you know, literally, if you can catch the plan is you have to take every single customer from the top to the bottom, trace the prior balance, the charge, the collection, ending balance, print a report and it doesn't agree. And then you go in and you fix it, and you get it corrected, you find out what's wrong, then three months later it bills it wrong again. It might for the next month, it will bill it correct, and then the month after it won't bill it, either it won't bill it at all or it will bill it incorrectly. And that's the frustration level that these people are going through, and again it's brought to their attention and they say well, you know, you get a report. And we're making it sound real simple but in many cases like it might be a million dollars and it might be off \$317.21 or whatever. That may not sound like a lot to them, but to us, that is a lot. What if that's your account, \$317 a month that you're not paying or you're paying and you're not getting credit for or being billed in error, or whatever. You don't know what it is, you can't, one plus one minus one doesn't equal two or one, I mean nothing adds up. That's what you have as a controlled start point, you add your items together, subtract your payments, you come up with a two on the number and you go look at your schedule and it's one. And that's literally the most frustrating part of the whole thing, some of the numbers aren't materially misstated, it's just that the integration has got to work. Otherwise you completely, you literally and completely lose all confidence in the computing system all together, and that is where you're at right now. I think all of the frustration level, I have to admit that in the last seven and a half months that I believe you've put all the energy into it, over and above what should be put in. You ran the thing parallel, then after you run parallel it doesn't account for the items the same way twice. Something's fundamentally wrong with the package and I think that it's gotten to the point where they're really not receptive to wanting to fix it. So our recommendation is that you need to literally pursue that and take whatever mitigation steps that you have to do to get there.

Mr. Douglas stated and just one last point, just to clarify again, how did we get there, you know how did we get to this. I mean it's not a beta version or product, but it is a product that they had to significantly customize to meet your needs, so let's clarify that, we want to clarify that. It's something where their system is completely structured different than how we think and how we process our business here at the Utilities Commission. So there had to have been obviously a lot of adaptation to try to make it work to your needs, it's just, I think that, it just didn't work, what they did. It doesn't work and that's basically how it was that we were able to get into it and get to the point where we realize where things aren't working like they should be working. There was a lot of reliance, basically on the vendor's determination of its readiness to go live because think about it, we're completely unfamiliar with their product. And their product as advertised had to be significantly customized for your needs, so it is a unique situation in one respect. He commented I like the way the bills look, I'll say that. But you know, and why does some of the bills go out with the highs or the lows or whatever, and they are caught and they will get fixed and they do, but the

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fact that it allows it to happen. You know I think that if you could generate a report on pre-billing routines, inherent internal control, utilities business, it's something that you would obviously have. They don't have a report for that, but you can look at it on screen, view it all you want, but I like the reports. I'm old fashioned, I want to kill a little bit of trees once in awhile and have an audit trail and I think that's important some times, especially when you're trying to prove your point.

Mr. Preston then requested to make a comment, just so that I can finish answering your question because I don't feel that I did, it was too generic. But you know this has been an explosion if you will tonight, but it's been an event that staff has been living with and working with awhile. And I know that Mr. Rodi came to me sometime ago with some of the issues that were then being presented and since that time, which has been a fairly lengthy time, we've been in the process of pretty much making determination and building if you will a file in regards to the product itself and their responses to inquiries made for changes to be made, corrections to be made. All of that is important from my perspective especially because it carries us to a particular level as to what our response could be, should be, proactive or reactive. And what I mean by that is at the very least if we can show that there is a default in our original agreement with S&S enQuesta, we seek first to escape the obligations that we have pursuant to the contract. If we take the next level of misrepresentation or fraudulently, knowingly or unknowingly, will take us to a higher level, if you will, of potential recovery from that breach of contract to the point of what damages have we sustained as a result of the previous eight months, even prior to that in the leading up to the contractual relationship. And even greater, potential treble damages if we can get to a point where we can show that. And so I wanted to clarify my answer, that's the research that we're doing, we're working through and building the file to determine what is the best, and best being most appropriate way to first move forward in righting the wrongs, whether that means changing companies, which is apparent. And then mitigating the damages and to what level is appropriate at that point. So to expand the answer somewhat more, that's where we are in the process and I'm not only building the file but looking at the contractual relationship relative to other relationships similar to ours, case law to determine where can we achieve our best result.

Commissioner Diesen thanked Mr. Preston.

Commissioner Hall stated I have a couple of questions, I have a question, maybe two. How soon can we get rid of the system? I mean do we have to go through a bunch of legal maneuvers to get rid of it or can Mr. Rodi and staff just make the decision. This thing has not worked, let's get on with life, get something else in here, and how long does that take. I know you said immediate future but...

Mr. Rodi stated well, let me, and he asked Mr. Douglas if he wanted to finish his report.

Mr. Douglas stated well, I just wanted to conclude that basically was, I think, the more significant things to communicate, there's other things in there. We're talking about some implementation of some new accounting pronouncements that are coming up and just more like a FYI in that respect, you know things like that. So if you have, and if you have any questions when you're looking at this report, we understand it's a pretty big document, its 107 pages and there's a lot in there. If you have any questions at all and you'd like us to come back or meet with you in a different way, a workshop, whatever, and you want us to take you through this we'll be glad to do that. And I wanted to thank Mr. Rodi, I want to thank you all for letting us continue to serve as your auditors.

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Also, Mr. Rodi for his help, and Ms. Klinkenberg and the Finance Department. They're very helpful, I mean obviously, we have to ask them for some assistance and they do prepare a lot of work papers for us and they do make it a good process, very cooperative. That's very helpful in an audit, so we thank you all.

Mr. Rodi stated if there aren't any other questions, what I'd like to do is ask that you accept the report. When that's completed, then I'd like to answer Commissioner Hall's question. Okay, if that would be acceptable to you.

Commissioner Diesen then stated I make a motion that we accept the audit (receive the audit for fiscal year ended September 30, 2008). Commissioner Hall seconded the motion and the motion then passed unanimously on a roll call vote.

Mr. Rodi stated thank you and if I may, we have as our financial system Great Plains, and we upgraded Great Plains as a part of this process and that went, you know, very well, it had a few bumps. We ended up looking for another customer system because the previous system was having its own auditing problems. And that also occurred in the same time period, if you will, with our extraction from the telecommunications business; no records, couldn't find things, so. I might add that the previous system and the management there were, I think, very gracious with us. They were trying to convince us to stay but yet we didn't see the performance there, and then, of course, we had all the presentations and you had part of that. What's important here, I think, and what I'm trying to do is establish a sequence and then I'll answer your question, I think directly. When we went live and had this system in its test mode, and there was something very important among other things that Mr. Douglas said, it functioned. I mean we put it on line in the first month, it went pretty well. The second month we started to see a problem and so a fix would be made, and then we'd see other problems. And then those problems, there were attempts to fix them, and the big ones nothing was happening, and then other problems would occur. And while all of this was going on our IT folks, because of our telecom experience, were monitoring what was going on, and there were records that disappeared. And we said to them (S&S) you're not allowed to do that, put them in a corner somewhere, but you're not allowed to do that. Well, we're not doing that, well our logger shows that you are. So there's a lot that went on that eventually culminated in a very high level meeting and I was asked if I could give them until February. That's why we're here and for those of you who were in the meeting, I said yes, and we'll have a fix by then, we'll pay attention. And all throughout this time I and others would send information, where are you with our major status, our major problems, have you moved, what have you done; so this has occurred. It's February, I've listened, Brent Millikan has been helpful, they've tried to convince them of regardless what you think, and we have a set of standards that we must follow. And they received a copy of the advisory that was sent about you really have got to get this fixed, and we showed them the basis of that advisory and where we were headed. So all along there's been high level communication and in my way of examining things, and I think you see that pretty consistently, I spend a lot more effort in communicating each step and all aspects.

Mr. Rodi stated what we have done is approached Cogsdale again, and again, they have been very gracious. Connie Hodges has just been marvelous, along with a number of other people in the IT area, I don't want to overlook anyone, but where we are is we think we can make a two step approach to get off the system. We spent, it was budgeted around \$600,000, we spent like \$510,000, somewhere in there, and most of that was on licenses, we're withholding about \$90,000.

(7-a) Fiscal Year 2008 Audit – Brent Millikan & Co., P.A. (cont.):

Mrs. Hodges has said, you know, this isn't carved in the granite, that in about three months she could load into the new version of Cogsdale, it's not the newest, but move all of our files, which is an enormous amount of work. And then we would move to that system and then beyond that, then we would upgrade again perhaps to the next system. Now as I understand, and if I'm not describing this accurately, please help me. Most of the hardware, I think almost all of it that we bought for the enQuesta system, can be used with the Cogsdale's system. So we have some very good hardware that came from this. The next part of this is that we were waiting and had hoped to have for you today how much it might cost to do this, because that's the next question. And I just might give you a reference that usually customer systems are tremendously expensive, even the amount of money that we paid for the S&S system was a discounted rate, so you can think what you want. But where we are with Cogsdale is they're suppose to give us a cost and we're, and I'm just going to throw this out there, don't take it and tattoo it on my forehead if it isn't exactly this, but we're right around \$250,000 to walk away from this. And I want to walk away from it, and I'll tell you why I say that. I have watched employees, I'm talking about Customer Service Reps., I'm talking about people who accept payments, the Cashiers, I've watched the Accountants, and they've given all they can give. And it's not right, and for the loss of productivity, I mean we're checking every bill before it goes out the door, manually. You don't do that, and we're a small system, but you still don't do that. And the people that we've put into our line up to take care of commercial customers aren't getting the attention they deserve, because they're checking bills. So from a standpoint of gaining efficiency back, of having a customer be a customer as we know it, we think that we don't know. It's like you know we have checked around again just like we did last time, and confirmed it was Fort Pierce, has switched over to a Cogsdale system. They're a lot like us in a lot of products and they had a bumpy run but it smoothed out. But again I wanted to say even in this where we've gone back, because there are only two choices, its Cogsdale or S&S. Cogsdale and IBG have been very gracious with us, you know they've been working very hard to say we're going to work with you, whatever. Now in the last week I've had several emails from some folks at S&S, I've stopped talking to them. I said I'd give you until February, I sent off maybe a month ago what's the status you know and had a real struggle just to have them write their answers on our form. And the status wasn't changed on what we consider to be material items.

Mr. Rodi stated so that's where we are and obviously I asked for as much as I could, a bullet proof, you know is this really going to be the cost, I don't want to run into some other thing. You know this is difficult enough to say we've got to get out of this, but we do. And I know that the tipping point for me was the unexplained errors that would show up that couldn't be replicated again, they couldn't find them. And when I see that, we couldn't get at source code, we couldn't, we had Ciber in here to say hey translate for us, maybe we're not getting it. And I've described this for you in emails that I have sent and that's why it's up, but we need to do that. Obviously it also ties into the anti-fraud aspects and of course if you can't get an anchor to reference your information through reports, and that's been the weakness in particular, then what are you checking against. You know it's like that old bad line, you know we're driving to Australia; we're going to drive, okay. And I wanted to give you a very complete answer so if we could get our quote in here, whether you want us to call a special meeting because we think you should know that and then start to turn it over. But our next step is, I was waiting for this meeting tonight, and I said after you know the harpooning is over, then the next step is to notify them that we're not moving forward and we're going to look for an alternative. But I need to have the Cogsdale stuff and I think we have our arms around that, we just haven't had the official piece.

(7-a) Fiscal Year 2008 Audit – Brent Millikan & Co., P.A. (cont.):

Commissioner Diesen then asked does the IT Department agree?

Mr. Rodi stated is IT shaking their head yes, Mr. Lemoine?

Commissioner Diesen stated to Mr. Lemoine do you agree?

Mr. Lemoine stated absolutely. He added I'd like to make a couple of quick comments because I don't often come up this microphone. Since the inception of the S&S system, they were in the system every single day fixing something and when they fixed something, something else broke. We stopped them doing that and asked them to gain permission from myself or Ms. Klinkenberg if they wanted to get into the system. There has not been one day that has gone by without them asking for access to the system to fix something. It's very frustrating for the staff, we love to support the Finance area as much as we can. Some of the fixes that have taken place that have benefited the finance system were made by us, not by S&S. So I agree wholeheartedly with Mr. Rodi and I've said that to him and I've said it to Ms. Klinkenberg, that we are in full support. We have the hardware which is brand new from the S&S system to utilize, it will keep our costs down tremendously from having to buy new hardware, and I think that the system that had been outlined in my conversations with Mrs. Hodges, that has been here a long time, and she believes wholeheartedly this is the correct situation for us to go towards, and so we support that decision completely.

Commissioner Diesen thanked Mr. Lemoine for his comments.

Ms. Klinkenberg stated I wasn't here when we implemented Cogsdale, but I am aware of the difficulties that we had, and one of the things that I want to try and put you at ease with, that Mr. Lemoine and his IT Department and us are working toward, part of the problem we got into with not being able to upgrade Cogsdale, was Great Plains and Cogsdale were married together on one server. You have to upgrade both simultaneously at the exact same time in order to do this. In the past Cogsdale was behind on their upgrades so Great Plains would issue a release and a year later maybe Cogsdale would come out with a matching one, you couldn't upgrade one without the other. So part of what we're investigating, and Mr. Lemoine, Mrs. Hodges, and Ms. Domingo has been very involved in that too, is can we keep them living apart. If we keep them on two separate servers, they will still function perfectly together with an integration tool that we used when we originally separated the two in order to go on to enQuesta, they can still live that way and then you're not limited to the upgrade. You can still upgrade Great Plains whenever you want and you can upgrade Cogsdale whenever you want, and then we're not locked in again. She stated I just wanted to make sure you understood that.

Commissioner Diesen asked how much additional training will be involved, Mr. Lemoine? And will they be having a consultant on that.

Mr. Lemoine stated additional training you're asking about?

Commissioner Diesen stated right.

Mr. Lemoine stated part of the benefit of going back to Cogsdale is the office backend is the same as it was before. Very, very similar, so most of the staff do not have to learn something new. Any

(7-a) Fiscal Year 2008 Audit – Brent Millikan & Co., P.A. (cont.):

new staff members would have to but as you know we don't have a turnover of personnel in a great amount, so most of the people already are familiar with the system, so there's not a lot of training from that aspect. There may be some new features that are involved with the upgrade to a later version, but they're something that can be taught within a week or so. So it's not like a six week training program that we've got to send people to, we'll do it all in-house, we'll do it very quickly, and we'll do it as they do their work. So the amount of training is going to be very minimal.

Mr. Rodi stated and if I may, Cogsdale now also has a credit card payment module which they didn't have before.

Commissioner Diesen commented oh, oh, everything always new again. She then asked so do you need something from us.

Mr. Rodi stated well I would like the authority to move forward but I also don't want to shortcut. He commented this for me is like a root canal.

Commissioner Diesen commented three prong, it's a molar, it's not a front tooth.

Commissioner Reynolds asked if he could ask questions, and added he just really needs yes or no answers, okay, I realize that's simplistic. But can our reporting system be modified to meet off the shelf software.

Mr. Kish stated you're asking me?

Commissioner Reynolds stated yes. I mean we have a very sophisticated, I would call it "one of a kind" reporting system or accounting system. Can that be changed to go to an off the shelf product that would provide services.

Mr. Kish stated not necessarily, what you use now is the Federal Energy Regulatory Commission Chart of Accounts which is established by a national regulation, U.S. regulation. In addition to that, it's semi-coded to comply with the uniform account system of the comptroller general of the State of Florida.

Commissioner Reynolds stated and that's good for all organizations.

Mr. Kish stated it's done for a reason to be honest with you, it's done so that you could take your records and compare them against Orlando, Jacksonville, or anyone else that does the same thing. But you do have a uniform account system that's mandatory. And the FERC accounts now, believe it or not would be nation wide, so if someone that's in the business, they should be ready for that.

Commissioner Reynolds stated okay, that answers the question. Second question, has this company provided the software documentation. He directed the question to Ms. Klinkenberg, have they provided the software documentation of all of their software.

Ms. Klinkenberg asked if Commissioner Reynolds was talking about S&S or Cogsdale.

Commissioner Reynolds stated S&S.

(7-a) Fiscal Year 2008 Audit – Brent Millikan & Co., P.A. (cont.):

Ms. Klinkenberg stated no, they will not provide that to us.

Commissioner Reynolds stated so no software documentation.

Ms. Klinkenberg stated well, in a way they believe they have, they've given us a reports catalog that I sat the evening with Mr. Douglas trying to run a report. The pass that they give you and the steps that they give you don't exist. They supposedly gave us training manuals but they're suppose to be customized to our needs and they're not.

Commissioner Reynolds stated okay, I'm just trying to catch up because I was on a sabbatical when all this occurred, so I'm sort of "stupid" at it.

Ms. Klinkenberg added and we do not have access to our source code.

Commissioner Reynolds stated okay. He stated now I presume we went out with an RFP for this software, and that this company responded to our requirements, our statement of work.

Mr. Rodi stated that's correct.

Commissioner Reynolds stated and they said they could do all the things that are in there.

Mr. Rodi stated yes.

Commissioner Reynolds stated have we gone back and determined that they have provided this but not this, etc., etc.

Mr. Rodi stated we've done some of that and Counselor Preston is crawling through the contract at this point.

Commissioner Reynolds stated okay.

Mr. Rodi stated just a comment too on our basic platform, this is all basically a Microsoft Suite. All of what we're doing is interfaced with Microsoft, so it's not just the office aspect of it, but all the platforms they all interrelate. So we have a lot of leverage out of these systems, so we're dealing with the base of it is very fundamental, so a lot of that isn't too tailored. On the customer side of the house though, the interfaces are very sophisticated. So whether it's Cogsdale or S&S, and obviously, we didn't have these kinds of issues with Cogsdale. We had others and we're told that those have since been remedied. And I think, just like us we've learned a lot from this process, I think Cogsdale learned a lot too from our exit as well as others, and they really apparently paid attention to their customers, so.

Commissioner Reynolds stated the other question I had with all the utility commissions in Florida, have we done a survey of what software they use, in order to comply with this.

Mr. Douglas stated the larger ones have their own developed systems, we're not large enough to do that, it would be cost prohibitive to do that. And I think S&S, you were the first customer for S&S

(7-a) Fiscal Year 2008 Audit – Brent Millikan & Co., P.A. (cont.):

in Florida I believe.

Mr. Rodi stated in Florida, yes.

Mr. Douglas stated does that answer the question.

Commissioner Diesen stated no, not really, because what are the other small ones doing.

Commissioner Reynolds stated yes, that's what I want to know.

Commissioner Diesen stated that's what Commissioner Reynolds was really getting at, you know, what is GRU doing,...

Ms. Klinkenberg stated I can answer a lot of that for you, I did a lot investigating in that area because enQuesta was performing so poorly. Ft. Pierce just went over to Cogsdale, they were from a Legacy system that was customized for them, like our original system prior to Cogsdale. The big ones like JEA, OUC, all of them have special customized software. Even the small utilities that are billing electric have a customized software that's been in place for years and they don't change.

Commissioner Diesen stated so no one else is using any other commercial, they're doing their own customized, other than Ft. Pierce. So you're telling me Vero, Lakeland, Ocala.

Ms. Klinkenberg stated I couldn't find them, Gainesville.

Mr. Rodi stated a lot of them are Oracle based and some of this I know from a previous life where I was involved in a national platform for People Soft that used an oracle base for an enterprise system that included Finance, Customer Service, Work Management. And that's what most of the larger firms are all on is an Oracle Platform, and Commissioner Reynolds knows all this stuff too. What they do then is they have customized programs and some of them use, like Lakeland uses Cognos Data Warehouse, that's a system to try to link up some of these old legacy things. So each of them are really tailored but for small utilities like us, and that's what makes the Microsoft platform so advantageous, it allows us to use the structure of the Microsoft systems in our little platform. But when you get into larger systems, that's why I think this is probably good for 50,000 to 75,000 range customers with all the products that we have, versus the Oracle based systems that are for you know multi-million customers.

Commissioner Diesen asked how long has Ft. Pierce been on Cogsdale.

Mr. Rodi confirmed they had been on it for about a year.

Ms. Klinkenberg stated they had difficulties in the beginning because their staff didn't know Sequel. They went on to Sequel reporting services and that was most of the complaints that they had is they couldn't get the reports out of it because they were learning it and they didn't know it. She stated we won't encounter that, we have an exceptional staff that knows Sequel reporting very well, we use Sequel already in Great Plains. They did have bumps, they weren't happy, they're actually redoing their bill template which was sent to me today to view to see if it meet our needs also.

(7-a) Fiscal Year 2008 Audit – Brent Millikan & Co., P.A. (cont.):

Commissioner Reynolds stated to Ms. Klinkenberg we don't know a tenth of what you have gone through, even a hundredth, but just as an option would it be, is it feasible, to hire some good software knowledgeable programmers to see if they can tweak this system, to make it operate as opposed to ditching it.

Ms. Klinkenberg indicated we did.

Mr. Rodi stated we hired CIBER, and as you well know CIBER was involved in our change over in telecom and IT. And they could not get at the data that they needed to look at to even give us the answer, and that was proprietary. So if you can't get at that source, then you don't know what to fix. So they gave us three recommendations, only one of which was, well if you can't get at that, then you can't judge whether or not you can fix it and so you're held by that other company until such time as it is, and so that's not a good thing.

Commissioner Reynolds stated did we do due diligence with S&S in terms of we're satisfied with what they presented.

Mr. Rodi stated when we went through this we called around, we found companies who were just starting into it, some didn't know. One of them brought up, as Mr. Lemoine said, that they were in there everyday doing something and they were having some struggle with it. But generally the reports were good but we didn't know for sure. What we did know was that Cogsdale at that point was not acceptable, and they weren't going to maintain the system, and our other choice was this one. Now since that time, I know Ms. Klinkenberg has called around and has spoken to two companies recommended by S&S. One was just fine, they thought it was a good system, and very limited in their application, they had one application. The other company was satisfied but they came from too many alligators in the swamp, so they said although they would like to have something much better, they were very content. We've also spent time talking to other companies that have litigated with S&S, and many of them are under gag orders, but we have asked a lot of questions, so that they could not, they could only respond to us, they couldn't provide any information, or if it was out of bounds they couldn't do that. So rather than disclose that here, one of the companies was into it for eighteen months and spent \$6 million, and bailed; it was a large company. And so what that tells us if they didn't find it, you know.

Commissioner Reynolds then asked who's the big "Daddy" of S&S?

Mr. Rodi stated well right now, they were acquired by Harris Systems.

Commissioner Reynolds interjected of Melbourne.

Mr. Rodi stated no, they're up in Canada, this is not Harris Computing, this is Harris Systems. And so, S&S was originally a New England company and they're still based there, but they're acquired.

Commissioner Diesen interjected across the border.

Mr. Rodi stated yes, a lot of these are, when we go back to Cogsdale it's the same story again.

Commissioner Diesen stated I don't know, its deja vu all over again.

(7-a) Fiscal Year 2008 Audit – Brent Millikan & Co., P.A. (cont.):

Mr. Rodi stated so going back to the question about you know I'd like to move on with this but I don't want to, in any way, because of the seriousness of what's happened and where we are to not have you examine it any way you want to, but I'd like to move on.

Commissioner Reynolds then stated is it possible to give us sort of an executive summary of the actions taken so we can take a look at that.

Mr. Rodi stated sure.

Commissioner Reynolds stated I'm a little hesitant to give full speed ahead personally on going to the other system until we have a little more time to think about it.

Chairman Allen stated to Mr. Rodi, you made the comment that you were waiting for a figure from Cogsdale, possibly doing a special meeting. Maybe between that time you can get that number and get up some information so everybody can look at it and then we can come even at a special meeting to look at that so you can move forward. It is an important aspect for customer relations and then to know the reporting is proper, so maybe that's the direction we need to go, so if you can get that information.

(7-b) Pole Attachment Fee for Cable Carriers – Scheduling of Public Hearings:

Chairman Allen then went to the next item under new business, pole attachment fee for cable carriers, the scheduling of public hearings for that.

Mr. Rodi stated if I may suggest, to save a little bit of time here, we have already on the books a pole attachment fee. What happens is if you're a cable system, you're different than a telecommunication system. And so what we've been doing is now developing one for cable systems, so essentially what this is, is to schedule the public hearings to then take the steps to implement the attachment for cable systems. Mr. Rodi confirmed that was enough said with Mr. White, and then stated so we're asking your approval to schedule this.

Chairman Allen stated so we're looking to have a motion authorizing scheduling of two public hearings regarding pole attachment fees for cable carriers. The public hearings would be on March 16, 2009 and April 20, 2009, which would be preliminary and final respectively, prior to 6:00 p.m. on the regular UC meeting dates.

Commissioner Hall then made that motion (stated by Chairman Allen above) and Commissioner Diesen seconded the motion. The motion passed unanimously on a roll call vote.

(8) Possible Other Business – Time for Commissioners:

Chairman Allen asked Mr. Rodi to begin.

Mr. Rodi commented I'm going to try not to belabor these things. This coming June, under Florida law, we must adjudge whether or not our internet business is profitable. And so this is four years after the legislation was passed, and we've been running a deficit for some time. One of the things that you'll be seeing in a bill stuffer is the opportunity for customers to get off their high speed

(8) Possible Other Business – Time for Commissioners (cont):

systems and go back to our somewhat improved dial up as an economic improvement, so we're trying to grow customers. But in addition to that, it's very painful, but we have eliminated two positions in the internet area, have focused the hours that someone's available for calls, and we're putting another person to be half internet, half in the IT area. The whole reason behind that is if we don't do that then we're not going to be profitable at all, I mean we don't even stand a chance. So we think maybe with those moves, we'll see how we are in June. But consistently our customer base has eroded for a number of reasons, but we have tried to keep the internet business as when I first came, the advice was for this area. So that's what we've focused upon, we have not been trying to sell internet nationally or anything like that.

Commissioner Diesen asked how far away are we from being able to deploy the wireless through.

Mr. Rodi stated well what we've done, in order to help with the relocation of the Smith Street employees, because we have to move them out of Smith Street and we're putting them over at the Glencoe Water Treatment Plant, we have deployed a couple of antennas for high speed connections from here to the communication tower at I-95 back to Glencoe. So one of our legs there was to improve that service and we're nowhere near where we want to be with the fiber installation. For example, if I'm remembering correctly, to install fiber with the 20" water pipe that we're putting in, we're talking \$300,000 to \$400,000 just for that. I don't know where that money is going to come from. So what we're continuing to do, and Mr. Lemoine and the IT folks are doing a very good job of step by step putting in links of fiber but it's meant principally for a municipal backbone as opposed to a data conveyance for commercial customers which is our eventual goal. As you well know from all of the advertising, all of the adaptations of cell phone technology to now power laptops and communicate over wireless are moving ahead very rapidly. This is one of those things if we had enough money we would move that way, but at this stage we've been very judicious in where we've been spending our money, so I'm trying to put it as politely as I can.

Commissioner Diesen stated I do think it's a service that a lot of our people probably need, especially the enhanced dial up. And I think I shared that article with you, they're going after the dial up customer again, especially in this economic situation, because if you go with DSL, I think AT&T is something like \$47.95 and unless you're downloading a lot of data or uploading a lot of things you don't really need that.

Mr. Rodi stated yes, I know that Mr. Lemoine has spoken with me several times about you know, do we advertise. Now with this economic change, it's much more appealing, people are going to look carefully at that, so we hope to pick up some more customers that way.

Mr. Rodi then stated if I may go to another topic, one of the consent items, in fact a couple of them, that you approved today dealt with reliability measures. At a national level this is very different than it's ever been before. As you may recall, when FP&L took out most of the grid in Florida, there was a lot of chaos that occurred during that period of time, but what you aren't seeing is the potential fines that are going to come from that. And we don't know what those are, but we expect that they're going to be very severe based upon our own experience. Where I'm going with this is when the NERC reliability requirements were put into play, some of them were clear, a lot of them were confusing, many of them are obviously set up for very large systems, and we aren't a very big system. So when it came time for our audit, we had a choice, we could have waited but if we waited then the fines that potentially could come from the failings that we have would be pretty

(8) Possible Other Business – Time for Commissioners (cont):

much in play, and if we went earlier, then we had the chance to have those fines waived. He confirmed with Mr. Beyrle he was correct. He then stated so there's a lot that's been going on, and Mr. Beyrle has grown to dislike I-4 about as much as anybody I think at this point, going back and forth to FRCC meetings in Tampa, but where I'm going with this is some of these requirements go well beyond our capability. So we're having sophisticated studies being done so that we could at least meet the requirement. We also have to have some very sophisticated relay testing occur where they refer to functional test, it takes a very unique engineer to write these functional tests, and then you test all of the zones of the protective system to make sure they work properly amongst the utilities that you interconnect with. So part of what we'll be doing, we're going to have the functional test, and where I'm going with this is Mr. Beyrle has, and all the burden he's been carrying, primarily himself along with some of the dispatchers, to rewrite procedures to correct a lot of administrative errors that we had, along with some of these more serious requirements. And so we have a timeline that we're meeting and we were going to finish the last few recommendations here in May. Our fines, and bear in mind most of them were administrative, they weren't big deals, but it's still like \$450,000 had we had to pay those fines. So I don't know what's going to happen in the future but I do know that there's some enforcement, it's very different, the financial consequences are really severe, so the whole ballgame has changed. So I wanted to bring that forward because it causes us to do a number of these things more quickly than what we have done before, so I wanted to make you aware of that.

Mr. Rodi stated there's an issue, I want to briefly touch on, the 2010 budget. About a year or so ago I was saying well I'd like to move forward with a different kind of a rate structure and you know we're looking at perhaps an increase in 2010, I was looking for conservation rates. Well, you can see what's happened, with the economy, we don't need much of a conservation rate, I mean if someone is going to save, there's a tremendous impetus to do that. So I'm not so inclined to move forward with either a rate increase, in some cases maybe like in reuse water because we've got to get more return on that area, but with these conditions, I mean we are really struggling to become even more efficient. And there are things that we are doing, but the pace that we're having to run at to make up for some of these things is really pretty severe. And that's why I made the comments about the Customer Service Reps. and all of the extra work that they're doing now and all that, so you know we're trying to do those things. But I don't feel as though we should be pursuing at this point a rate increase, and we're running right on the edge, I mean you can tell with our financials that everything we're doing, that's why I brought this Code Red here, it's only \$11,000. But then we have let's pave the entrance to Swoope and the City pays a quarter, we pay a quarter, and the County's going to pay half, well there goes another \$25,000, and \$11,000 here; so we're watching all of those things. So I just wanted to make you aware that I had said originally that we're going to start moving down the conservation path, but we haven't hired the conservation engineer, we're trying to use Mr. White's engineering area to fill in part of this use, part of Mr. Beyrle's area; so we're doing those things.

Mr. Rodi then said what I wanted to get your advice on and it relates to the commercial market, and I think today you saw again another \$60 billion write off that's going to occur by AIG, you know these are defaulted loans apparently. And a number of the reports, and it's so hard to tell what you should listen to and what you shouldn't listen to, but all you know is nobody's an expert, and it's just a very difficult time. Part of what I was thinking about was, a lot of these experts are saying in March or thereabout, there will be the beginning of announcements for bad retail numbers, a number of large retailers closing up, the commercial sector really starting to implode like the

(8) Possible Other Business – Time for Commissioners (cont):

residential. I don't know if that's true, but there's some real signs that cause some concern. So I thought if you're a small investor here with commercial, this is where I'm going this conversation, we have tried to encourage the rebuilding of existing commercial buildings and residences and that's why they aren't a part of the infrastructure. If you use the same footprint, there aren't infrastructure costs for those, but there are capacity fees. And depending on how big you may want to build something, those could be pretty significant, and I don't know what the ability will be to get a commercial loan any more, I mean there's some serious questions. So we can't give it away for free, I mean someone has to pay the capacity fee, so I was trying to think of a bridging situation where we have in the past used irrevocable letters of credit. So if someone can get a bank to say now we'll guarantee this loan, what it essentially does for this small or smaller developer, is to be able to get one of these letters at a much reduced cost, and sort of defers taking on the debt obligation through I think a very difficult period. Then we could cash in that irrevocable letter of credit, and we've done that before, I think we did it with a larger developer here who wanted us to hold it for a while, we held it and then we eventually cashed it in. The downside of that is if that individual goes bankrupt, or the bank goes bankrupt, it puts into limbo some potential for a loss. Now if it goes to a bankruptcy judge, then we're awarded a certain amount, then only a certain amount of that would be compensated. And it's basically, it's reimbursing us for the cost of the water and wastewater plant, that's what we're talking about here. But that individual or that building would only receive a credit for whatever portion that is, and it's likely that business would not continue. So the next person coming in would have to then, if they used the same ERU's, then they would have to pay the balance of that capacity fee. It's sort of like we do now, we give credit for capacity fees as long as the building footprint's the same, we can work with this. So I was trying to think of something that was a little bit in between that might give someone some breathing room, not knowing what's going to happen. I just wanted to get your reaction to it because I have a feeling we're going to see some folks who are going to have a hard time.

Commissioner Reynolds stated yes, the Tsunami really has not come down to small USA towns.

Mr. Rodi stated its coming, so my approach with this, the bottom line is, if I find it's something that might help in a certain situation, then I would do with this the same as we've done with others. There would have to be a developer's agreement, something that you would rule upon and say yes or no. But I was trying to think of a middle ground so that they just don't have to pay cash up front, especially if they're undercapitalized, and I have a feeling everyone's undercapitalized at the moment.

Commissioner Zeller asked how much money are we looking at?

Mr. Rodi stated I think in some cases it can be \$25,000, \$30,000. You know if you're a small developer, that can make or break a project for you real quick, along with all the other things that you have to deal with.

Chairman Allen stated the other side of that comes into play if you're moving from a smaller area expanding your business, quadrupling your footprint, you may be in limited funds.

Mr. Rodi stated when someone builds something new, now we have infrastructure fees, and that includes tear downs too. He then stated those are the items that I had and thank you for allowing me to move on through these things.

(8) Possible Other Business – Time for Commissioners (cont):

Chairman Allen then confirmed the other Commissioners had nothing further to say. He said I have a couple of thoughts, and just after dealing with our public participation and some of the aspects. I gave Mrs. Simmons a little bit of my thoughts the other day and one of the thoughts I had, not knowing or understanding when was the last time we looked at some of our illegal use policies, had reviewed them or even updated them. One of the real things I see that, it seems like there's not much clout there if you go out there and illegally turn a water meter on; in my estimation that's called theft. And we try to kind of grey it out a little bit but I think we really need to re-evaluate our illegal use policy and maybe looking at some increase as far as penalties. And especially when it's a repeat, develop a tiered process because it appears a lot of times we have multiple infractions on the policy or infractions as far as illegal use by a same individual or a same piece of property. And I don't know how legal that is to do that for those reoccurring misuses by a particular party, whether you could do that, but I think it would surely deter anybody once they've seen what the real penalties were. And the other thing is a lot of illegal use goes on because nobody reports it and there are people that do see it and it seems like there needs to be some way that some type of reporting action could be done so that we catch that. One of the tragedies that we fail to think about and I've heard so many people say it over and over, well, you all can just write it off. And understanding if somebody illegally uses or consumes electricity or they consume water and you have what you call losses, and there's real dollars to those losses, and they're not just written off. Somewhere along the lines, it comes back, and the ratepayers are going to be paying for that theft. If you have x amount of dollars going out, x amount of megawatts going out, and you're not showing that return, then there's this loss and you begin to start wondering where's that loss at and why is it. Because on the electric side you notice it because there's a calculation we do every year that fits in that fuel adjustment and that's a real dollar that our customers pay. And the same thing is on the water end, that loss, that water is being processed, it's being produced going out to the customer and if it's not accounted for and you being seeing losses somewhere, somebody's going to pay for it. So this thing about illegal use, I think it's important for us to grasp a hold of that and really evaluate what's going on there. The sad situation that I think, often what happens, especially with someone coming in to develop something, and again it probably gets back to there needs to be some consistent way that when somebody walks through a process, to understand when they start developing or start remodeling, and start pulling permits, that there's a process you walk through. And so often I think the ball is dropped whether it's intentionally or a process isn't followed through or there's some way or some means that somebody is trying to undermine or shortcut the process as far as trying to work through and do something cheaper without having to pay the proper fees. And then subsequently, we see a lot of this stuff happening, and I just find it hard in my mind to think that if you've been cut out for illegal use three times and the light hasn't come on.

Chairman Allen stated but the other side of the coin with this whole thing I see, there needs to be something within our customer data base, our billing system, where we have information of who actually owns a piece of property. Because my understanding is if somebody is renting a piece of property, it is the customer that comes in, applies to have the utilities turned on, if there's misuse then somebody's got to pay that illegal use and that consumption for that utility to get turned on. Well, somebody along the line, that illegal use might have been six months down the road. If it happened six months ago, why should somebody that's coming in and moving into a unit be charged for that if that consumption was used illegally before they got there, and we have no way to tie the actual ownership. To me if there's ownership for that piece of property and somebody who has leased that property and moves out, somewhere there needs to be a flag so when we go out and read meters, there's consumption, it's been disconnected, that there should be a flag goes up and

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when that flag goes up you should be able to tell who has the actual ownership on the property. Because not only is there the illegal use, but there's that time period, and talking about fuel, that's a major thing, and if you have enough of that sitting on your books, that isn't being collected in the right time period, I see that as being a real issue. So there needs to be some point of looking and thinking about that process that we walk through as we think about illegal use of our utilities, because it does impact every customer.

Mr. Rodi stated and we will take a look at that, I think we're all having those thoughts.

Commissioner Zeller stated in the City of Edgewater, the owner of the property has the meter.

Mr. Rodi stated yes.

Chairman Allen stated I have one other thing I wanted to share this evening. Since our last meeting I've had three different customers come to me and share with me a few of their thoughts and it's not too often that we get an appreciative thanks. There were two different individuals this past month who had sewer problems, our people went out and responded, it was on a weekend, and they were amazed at the response time. And then not only the response time, but they were very appreciative for their conduct and the way they treated them and their performance. So I just wanted to throw that out to you Mr. Hoover, you can send that appreciation to them. Another response I had was another individual came to me in reference to the energy audit that was performed at their home and they were very appreciative of how the person went through and did the audit, and how they were down to earth and sharing the information with them. They just said it was a very personable experience that they received and they appreciated that, so I just wanted to pass that on this evening.

Mr. Rodi thanked Chairman Allen for those comments.

Chairman Allen stated if there's no other business, do we have a motion to adjourn.

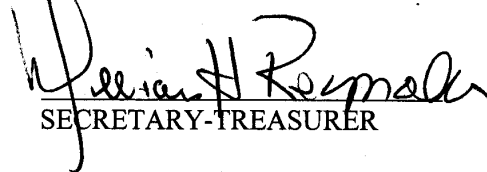
There being no further business to come before the Commission, Commissioners Diesen and Hall made a motion to adjourn. Chairman Allen closed the regular U.C. meeting at 8:55 p.m.

APPROVED:



CHAIRMAN

ATTEST:



SECRETARY-TREASURER

These minutes were formally approved by the Utilities Commission at their March 16, 2009 meeting.