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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable R. Markley Dennis, Jr., Circuit Court Judge

_____

Case No. 2018-CP-10-02764
Appellate Case No. 2021-001395

_____

Snee Farm Lakes Homeowner's Association, Inc., individually and on behalf of those similarly situated.....Appellant,

v.

The Commission of Public Works for the Town of Mount Pleasant d/b/a Mount Pleasant Waterworks.....Respondent.

RECORD ON APPEAL
VOLUME 2

Ross A. Appel, Esq., SC Bar No. 79149
Clayton B. McCullough, Esq., SC Bar No. 13722
McCULLOUGH ▪ KHAN ▪ APPEL
2036 eWall Street
Mount Pleasant, SC 29464
(843) 937-0400
(843) 937-0706 (fax)
ross@mklawsc.com
clay@mklawsc.com

James L. Ward, Jr., Esq. (SC Bar No. 13453)
McGowan, Hood & Felder, LLC
10 Shem Drive, Suite 300
Mount Pleasant, SC 29464
(843) 388-7202
(843) 388-3194 (fax)
jward@mcgowanhood.com

Counsel for Appellant

Gray C. Culbreath, Esq.
Eleanor L. Jones, Esq.
Gallivan White & Boyd, PA
P.O. Box 7368
Columbia, SC 29202
gculbreath@gwblawfirm.com
ahill@gwblawfirm.com
ejones@gwblawfirm.com

David G. Jennings, Esq.
James A. Bruorton, IV, Esq.
Timothy J.W. Muller, Esq.
Rosen, Rosen & Hagood,
LLC P.O. Box 893
Charleston, SC 29402
djennings@rosenhagood.com
cbruorton@rosenhagood.com
tmuller@rosenhagood.com

Counsel for Respondent

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Strategic Business Plan 2019

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BRUNSWICK-GLYNN JOINT WATER AND SEWER COMMISSION

The Brunswick-Glynn Joint Water and Sewer Commission (BGJWSC) ensures the availability and quality of water and wastewater services to meet the growing needs of our community by investing in the future of our water and wastewater systems. Our focus is two-fold. First, we focus on providing a high-quality product and customer service for our current customer base. Secondly, we prepare for the medium and long-term water needs for our area. BGJWSC maintains and operates water supply wells, water treatment stations, and distribution systems as well as wastewater collection systems, wastewater pumping stations, and wastewater treatment plants for more than 30,000 residential and business service connections in Brunswick and Glynn County with thousands of indirect customers visiting the area on an annual basis due to the tourism industry. BGJWSC is funded primarily by fees charged to customers based on their use of the water and wastewater systems.





BGJWSC Stats

- 65,000+ Local Residents Served
- 2,900,000 Tourists Served Annually
- 28,000+ Customer Accounts
- $31 Million Annual Operating Budget
- 163 Full Time Employees

Average Monthly Residential Bill

- Water Base Fees - $9.87
- Water Usage Charges - $4.32
- Sewer Base Fees - $18.63
- Sewer Usage Charges - $15.46
- Total Bill - $48.28

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Challenges and Opportunities

Letter from the Executive Director

As a relatively young utility commission, the Brunswick-Glynn Joint Water and Sewer Commission is still facing critical challenges in all areas to mature as an organization which sustainably provides the highest level of service at an affordable cost. The BGJWSC came into existence in 2008 as a result of combining the City of Brunswick Water and Sewer Department with the Glynn County Water and Sewer Department. The utility, because of its relatively short existence and the cumulative issues it inherited, has decades of asset neglect to remedy, key program needs to establish, and organization structure to improve – all in order to better meet the many challenges currently faced. Asset condition concerns, heavy debt, problem personnel from two sets of cultures, training needs, lack of formal processes, safety concerns, inconsistent policies, and poor organizational structures were all part of the new utility. Along with these issues, have come many opportunities to improve the services provided, the utility sustainability, and the costs of providing services while maintaining the utility for the long-term.

Over the past two years, the BGJWSC has made some big improvements: some organizational changes with more to come as resources allow; some performance measures have been established with far more to come; long-term planning has become the focus rather than living for the day in spite of the many pressures to do otherwise.

Incremental improvements are appearing in most areas of service and operations. New staff has been hired in the Planning and Construction area to meet developer review and inspection needs while managing capital project needs. New staff has been hired in the Customer Service area to institute a call center dedicated to providing the care our customers deserve when they call for assistance with billing issues or for operational needs they are experiencing. Certainly, these improvements are indicative of the energy and commitment the staff has to improvement and are indicative of the future direction of the utility.

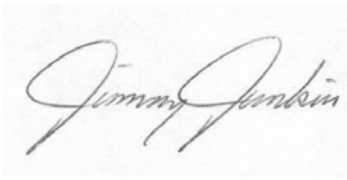
In the near future, we will be focused on: improving customer satisfaction ratings; rehabilitating operational assets; modernizing the materials and technologies applied in all facets of the utility; setting priorities and optimizing reinvestment expenditures; documenting and formalizing procedures and processes; improving organizational structure to improve efficiencies and reduce costs; improve the training and safety management of the organization to provide greater resiliency in the long term; become a much more data-driven entity where the data guides to greater performance throughout; finally and most importantly, apply formal and strategic asset management principles to the operational groups.

In the development of the strategic business plan, major emphasis has been placed on and built around the formal asset management program. This area will lead to the greatest improvements in the key areas initially selected for strategic importance to the organization. Certainly, asset conditions are affecting reliability, level of service to our community, and costs.

Asset Management is not a software but rather a concept of how to effectively manage and minimize the life cycle costs of assets. This involves having an inventory of all assets, conducting condition assessments of assets, conducting assessments to insure the appropriate application of the asset, insuring proper preventive maintenance is done on assets, insuring reactive maintenance is done on time with the best available techniques, and finally, optimizing the resources used to perform these tasks.

While the strategic business plan and the concentrated focus on asset management will be the guideposts to significant organizational improvement, the change won't occur over night. There is no silver bullet and Rome was not built in a day. Understanding the needs and getting an organized approach to change is the key to long-term success. Continuous improvement must be our motto and that can only be achieved through a systematic process and perseverance.

Sincerely,



Jimmy Junkin
Executive Director
BGJWSC

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History of Water and Sewer in Brunswick and Glynn County



Commission meeting minutes from November 1927 indicate that a special election was held to gauge support for the issuance of bonds to expand the existing sewer system. The measure passed 447 to 9. Since those days, the water and sewer system for Brunswick and Glynn County has been repaired and expanded many times to the system that it is today. Until 2008, the water and sewer systems were operated by the separate City and County governments. In 2006, the Brunswick-Glynn Joint Water and Sewer Commission (BGJWSC or JWSC) was formed. Since that time, the JWSC has gone through several structural and leadership changes. Each change has brought a new aspect to the table that has helped strengthen the organization.



The JWSC has since combined the old City and County water systems on the North Mainland into one. The water systems on the mainland and St. Simons Island remain separate due to the large costs associated with looping those systems. Both water systems are operated similarly to provide safe, high quality drinking water for the residents and visitors of Glynn County.



The sewer systems are broken into three separate systems as delineated by the wastewater treatment facilities servicing each district. The three systems are Academy Creek, Dunbar Creek, and Southport. Each of these wastewater collection systems is operated in the same manner with the treatment plants consistently meeting permit requirements despite each plant having unique operational requirements.

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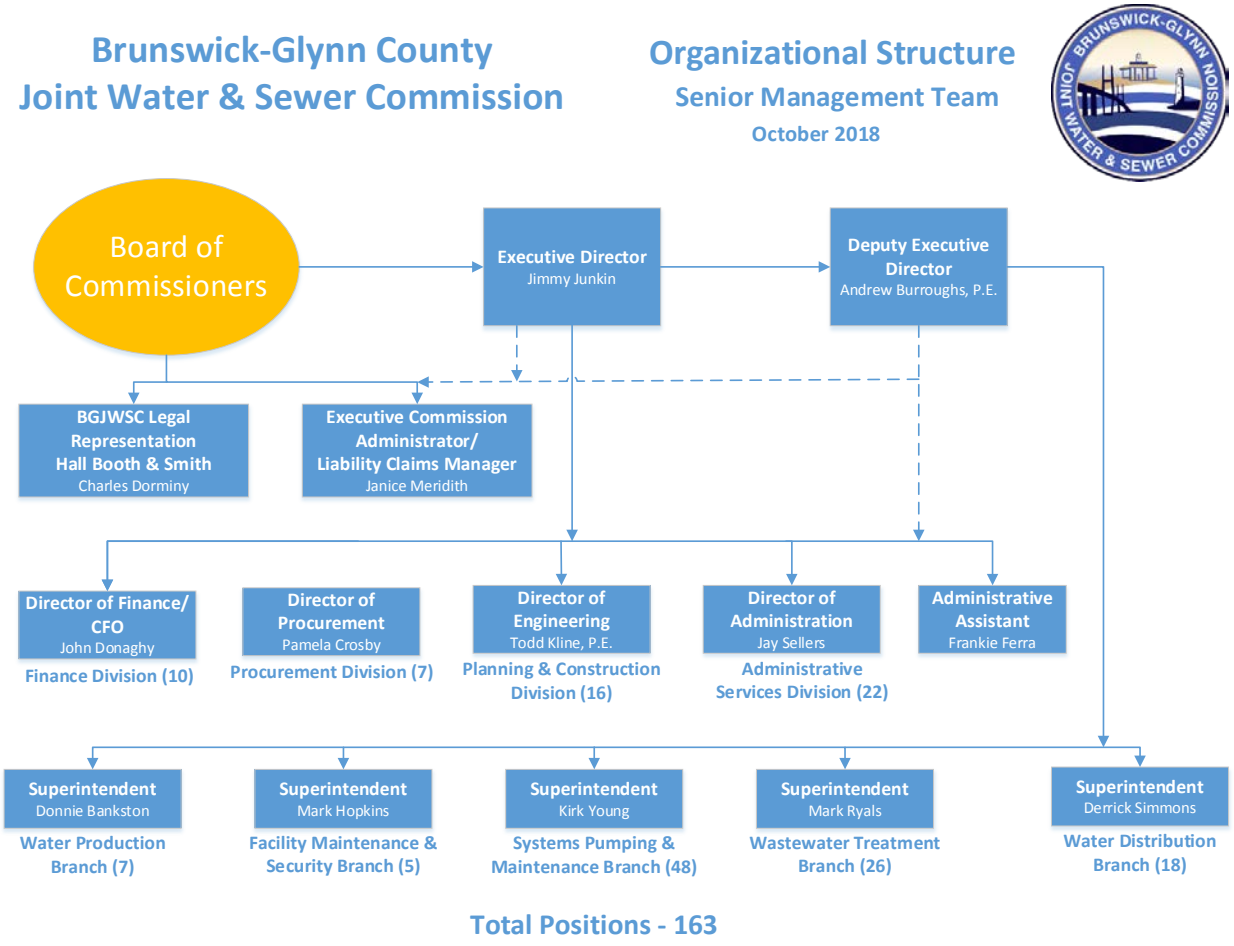


BGJWSC ASSETS BY THE NUMBERS

28,834	WATER METERS
7,438	MANHOLES
4,793	FIRE HYDRANTS
521	MILES OF WATER MAIN
298	MILES OF GRAVITY WASTEWATER MAIN
157	WASTEWATER LIFT STATIONS
121	MILES OF PRESSURIZED WASTEWATER MAIN
19	WATER PRODUCTION WELLS
14	WATER GROUND STORAGE TANKS
10	WATER ELEVATED STORAGE TANKS
3	WASTEWATER TREATMENT PLANTS

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BGJWSC Organizational Structure



The Office of the Director manages and coordinates work between the other nine divisions of the JWSC. Based upon direction from the Board of Commissioners, the Office of the Director institute policies and practices to fulfill the mission of the BGJWSC. Jimmy Junkin is the Executive Director of the JWSC. He has been with the JWSC since 2016.

The Finance Division oversees the financial processing and reporting requirements for the BGJWSC. It is required to complete a third party financial audit annually. With feedback from these auditors, the Finance Division strives to practice continuous improvement to ensure that the rates and fees collected by the JWSC are maintained in a legal and financially sound manner. John Donaghy, CPA, CMA, is the Director of Finance/Chief Financial Officer for the JWSC. He has been with the JWSC since 2006.

The Procurement Division oversees the solicitation of public bids and proposals and the execution of purchasing agreements and contracts needed to be outsourced by the JWSC for the completion of its mission. Pamela Drury-Crosby is the Director of Procurement for the JWSC. She has been with the JWSC since 2015.

The Planning & Construction Division oversees capital project management and daily inspection for the repair and expansion of the JWSC water and wastewater system. In addition, Planning & Construction reviews all proposed new developments that are considering Brunswick or Glynn County. These development projects are

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reviewed for compliance with the JWSC Development Standards to ensure that these assets are of sufficient quality to provide adequate water and wastewater service to the customers. Todd Kline, P.E. is the Director of Engineering for the JWSC. He has been with the JWSC since 2015.

The Administration Division oversees meter reading, billing, customer service, and information technology for the JWSC. They also oversee the collection of payments from customer billing and produce a variety of educational material for the public. Jay Sellers is the Director of Administration for the JWSC. He has been with the JWSC since 2013.

The Water Production Branch oversees the supply and treatment of drinking water to the JWSC customers. They are also responsible for the maintenance of the water storage tanks and provide laboratory analysis to ensure safe, clean drinking water for our customers. Donnie Bankston is the Water Production Superintendent for the JWSC. He has been with the JWSC since 2010.

The Facilities Maintenance and Securities Branch oversees the maintenance of all JWSC buildings, landscaping at all JWSC sites, and ROW clearing when needed. Mark Hopkins is the Facilities Maintenance and Securities Superintendent. He has been with the JWSC since 2000.

The Systems Pumping and Maintenance Branch maintain the wastewater collection system including gravity wastewater, wastewater pump stations, and pressure force mains that collect and convey the raw wastewater to the wastewater treatment plants. SP&M also provides assessment services to the system using closed circuit television monitoring and smoke testing to aid in the planning of maintenance and projects. Kirk Young is the Systems Pumping and Maintenance Superintendent. He has been with the JWSC since 2014.

The Wastewater Treatment Branch operates and maintains the three wastewater treatments plants owned and operated by the JWSC. Through the proper operation of the treatment plants, the treated effluent discharged from each plant is consistently well below permitting standards for the protection of the environment. Wastewater Treatment also oversees the Pretreatment program that investigates industrial and commercial customer discharges to ensure that they are within set parameters to not damage the treatment processes. Mark Ryals is the Wastewater Treatment Superintendent. He has been with the JWSC since 1995.

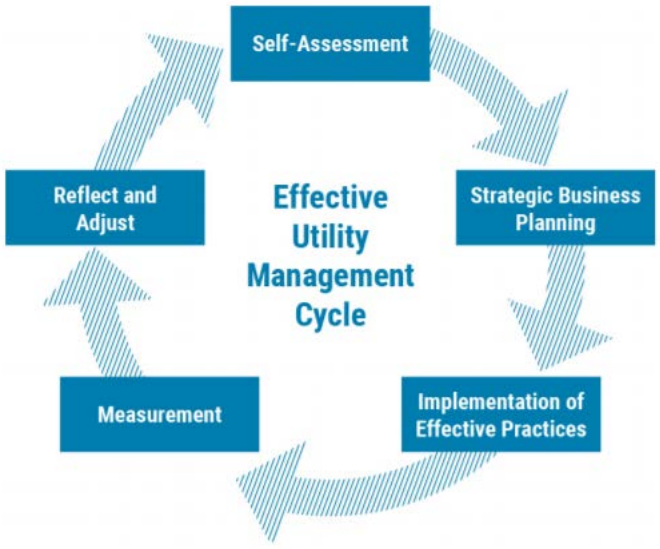
The Water Distribution Branch maintains the water distribution system includes the water mains, service connections, and fire hydrants. They also set meters for new developments once required. Water Distribution flushes water through hydrants to maintain adequate movement through the system to ensure safe drinking water. Derrick Simmons is the Water Distribution Superintendent. He has been with the JWSC since 2004.

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Effective Utility Management Cycle

In 2006, the U.S. EPA and a variety of leading industry organizations came together to provide "a common sense, replicable, and proactive set of approaches to meet these current and future challenges." Effective Utility Management was created from this collaboration and provides water and wastewater utilities with a roadmap on how to steer themselves through the ever changing landscape of water and wastewater treatment. By instituting the principles provided by this program, the JWSC has taken a 360° review of our operations and well as helping to plan for future decision-making. One of the key points that this program makes is that there are Ten Attributes of an Effectively Managed Utility. However, the plan cautions utilities against trying to immediately implement the entire program due to the perceived complexity and administrative time necessary to do so.

To limit the scope of this project to allow for maximum success, JWSC staff completed the Utility Self-Assessment provided in the Effectively Managed Utility primer. To be most effective, out of this self-assessment the JWSC determined which of the Ten Attributes were most critical to the utility as well as which attributes the utility was struggling with the most. We selected three areas that were most critical and three that needed the most improvement. Since these attributes are crucial to the long-term success of the organization, several key performance indicators are presented with each attribute. These key performance indicators will be tracked annually to determine the success and/or failure of the business plan from year to year.



Building upon the work of the self-assessment, staff presents a mission statement and ten objectives for the next year. These objectives form the baseline for the JWSC moving forward into the future. The objectives are overarching and cumbersome to some degree. These can be broken down into five areas of focus: Environmental Compliance, Responsible Decision Making, Community Resource, Workforce Development, and Customer Service. From these five areas, the JWSC plans to implement 20 initiatives throughout calendar year 2019 with four initiatives supporting each of the five key areas.

Successful implementation requires measurement to determine the effectiveness of each initiative. These initiatives are each presented with key performance indicators to keep track of the organization's progress throughout the year. Keeping track of these throughout the year will allow staff to maintain focus on these initiatives as well as provide an early glimpse of how the plan as a whole is progressing.

Strategic business planning is not a one-year process, but rather a long-term process that must be updated periodically. The goal of this plan would be to provide five-year objectives with one-year initiatives. The initiatives will be updated annually to reflect the areas of most immediate need identified by the Commission and the staff.

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Most Critical Attributes

Financial Viability

From the EUM primer, a utility that practices Financial Viability:

- Understands and plans for the full life-cycle cost of utility operations and value of water resources.
- Establishes and maintains an effective balance between long-term debt, asset values, operations and maintenance expenditures, and operating revenues.
- Establishes predictable rates— consistent with community expectations and acceptability—adequate to recover costs, provide for reserves, maintain support from bond rating agencies, plan and invest for future needs, and taking into account affordability and the needs of disadvantaged households.
- Implements sound strategies for collecting customer payments.
- Understands the opportunities available to diversify revenues and raise capital through adoption of new business models, including revenues from resource recovery.

Financial Viability is key to the short and long-term success of the JWSC and the surrounding community. In order to meet the goals of our customer base and provide reliable infrastructure while maintaining affordable rates and managing competing local priorities, the JWSC must utilize the practices established above in the EUM primer.

For the short term planning of the utility, hereafter defined as one to three years, the JWSC will maintain an ongoing look at five key performance indicators to verify that the initiatives set forth in the following section of this document are having the positive outcomes intended. These KPIs are:

- % of Annual Budget Related to Operations and Maintenance Expenses
- % of Annual Budget Related to Capital Reinvestment
- % of Annual Budget Related to Administrative Resources
- User Rates Compared to US EPA Affordability Criteria
- Rate Increases Compared to the Consumer Price Index

For the long-term viability of the utility, hereafter defined as five plus years, the JWSC will maintain an ongoing look at five KPIs to verify that the initiatives set forth in the following section of this document are having the desired outcomes. These KPIs are:

- Number of Customer Accounts
- % of Customer Accounts in Arrears
- Debt Coverage Ratio
- Days Cash on Hand
- Current Bond Rating

Operational Optimization

From the EUM primer, a utility that practices Operational Optimization:

- Ensures ongoing, timely, cost-effective, reliable, and sustainable performance improvements in all facets of its operations in service to public health and environmental protection.
- Makes effective use of data from automated and smart systems, and learns from performance monitoring.
- Minimizes resource use, loss, and impacts from day-to-day operations, and reduces all forms of waste.

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- Maintains awareness of information and operational technology developments to anticipate and support timely adoption of improvements.

Operational Optimization is necessary for the JWSC to ensure the safety of the drinking water and the natural resources of the surrounding community. Furthermore, Operational Optimization lowers the day-to-day operating costs associated with the water and wastewater services, which helps to stabilize rates.

In order to optimize the use of the JWSC resources, the JWSC will maintain 8 KPIs related to Resource Optimization. These are:

- Number of Water Accounts Per Water Employee Count
- Number of Wastewater Accounts Per Wastewater Employee Count
- Total Number of Accounts Per Administrative Employee Count
- Total Number of Accounts Per Total Employee Count
- Energy Expense Per Million Gallons of Water Treated
- Energy Expense Per Million Gallons of Wastewater Treated
- Operations and Maintenance Cost Per Million Gallons Water Treated
- Operations and Maintenance Cost Per Million Gallons Wastewater Treated

In order to conserve the natural resources provided by our area, the JWSC will maintain 5 KPIs related to Water Management Efficiency. These KPIs are:

- % Total Water Loss
- % Non-Revenue Water
- Number of Non-Compliance Events Related to Drinking Water
- Number of Non-Compliance Events Related to Wastewater
- Average Water Usage Per Capita

Infrastructure Strategy and Performance

From the EUM primer, a utility that practices Infrastructure Strategy and Performance:

- Understands the condition of and costs associated with critical infrastructure assets.
- Plans infrastructure investments consistent with community needs, anticipated growth, system reliability goals, and relevant community priorities, building in a robust set of adaptation strategies (e.g., for changing weather patterns, customer base).
- Maintains and enhances the condition of all assets over the long-term at the lowest possible life-cycle cost and acceptable risk consistent with customer, community, and regulator-supported service levels.
- Assures asset repair, rehabilitation, and replacement efforts are coordinated within the community to minimize disruptions and other negative consequences.

Infrastructure Strategy and Performance provides direction for the JWSC in the maintenance, rehabilitation, repair, and replacement of the utility's infrastructure. Proper execution of Infrastructure Strategy and Performance will minimize disruption to the day-to-day activities of the residents of Brunswick and Glynn County while ensuring the continued availability of the assets for use.

One of the key components of Infrastructure Strategy and Performance is asset management. Asset management begins with the knowledge of current asset inventories, conditions, and criticality. With that in mind, the JWSC will maintain 4 KPIs related to asset inventories. These KPIs are:

- % of Asset Register Completed

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- % of Critical Asset Register Completed
- % of Assets with CAP 1 Level Condition Assessments
- % of Critical Assets with CAP 2 Level Condition Assessments

Through proper asset management, assets should be renewed or replaced in a timely fashion to minimize risk of failures. With that in mind, the JWSC will maintain 4 KPIs related to asset renewal and replacement. These KPIs are:

- % of Assets Beyond Estimated Useful Life
- Miles of Collection System Replaced or Rehabilitated Annually
- Miles of Distribution System Replaced or Rehabilitated Annually
- % of R&R Funds Allocated to Asset Management Predicted Projects

The greatest non-financial impacts felt by the customer base are related to asset failures. These asset failures cause disruption to the lives of our customers as well as reduces the public confidence in the integrity of the utility's assets. With that in mind, the JWSC will maintain 6 KPIs related to System Integrity. These KPIs are:

- Number of Water Main Breaks Overall
- Number of Water Main Breaks Not Caused by Contractor Interference
- Number of Water Main Breaks Per 50 Miles of Distribution Piping
- Average Length of Unplanned Water Service Interruptions
- Number of Wastewater Major Spills Overflows or Wastewater Spills Overall
- Number of Sanitary Wastewater Major Spills Overflows or Wastewater Spills Per 50 Miles of Collection Piping

The maintenance of infrastructure is the single largest cost to the customers of the JWSC. It is our duty to make sure that this maintenance is completed in an intelligent and efficient manner to minimize costs and service disruptions. With this is mind, the JWSC will maintain 4 KPIs related to infrastructure planning and maintenance. These KPIs are:

- % of Maintenance Work Planned/Preventative
- % Cost of Maintenance Work Planned/Preventative
- % Maintenance Labor Utilization
- % of Preventative/Planned Work Orders Completed on Schedule
- Number of Planned Maintenance Work Orders Not Completed on Schedule Due to Lack of Available Parts

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Attributes Requiring Most Improvement

Community Sustainability

From the EUM primer, a utility that practices Community Sustainability:

- Takes an active leadership role in promoting and organizing community sustainability improvements through collaboration with local partners (e.g., transportation departments, electrical utilities, planning departments, economic development organizations, watershed and source water protection groups).
- Manages operations, infrastructure, and investments to support the economic, environmental, and social health of its community.
- Integrates water resource management with other critical community infrastructure, social and economic development planning to support community-wide resilience, support for disadvantaged households, community sustainability, and livability.

The success of Brunswick and Glynn County is significantly impacted by the JWSC. The JWSC is the Lifeblood of the Community as water and wastewater services impact every person who lives, works, or visits the area. These impacts occur through the affordability of customer bills, the reliability of services, and the expansion of the water and wastewater system to further economic development. The JWSC also is the organization with the responsibility for the education of the public concerning water conversation and environmental protection. With this in mind, the JWSC will maintain 4 KPIs related to Community Sustainability. These KPIs are:

- Average Chloride Concentration in Upper Floridian Aquifer
- Number of Customers Helped with Customer Payment Assistance Program
- Number of Residential Equivalent Units Sold Annually
- Number of Commercial Residential Equivalent Units Sold Annually
- Number of New Community Jobs Related to Water and Wastewater Expansion
- Number of Public Education Campaigns Completed
- Percent of Wastewater Lift Stations with Available Capacity
- Percent of New Project Development Reviews Completed On Time
- Average Days Until Completion of New Project Development Submittal Reviews
- Number of Private Asset Dedications Completed
- Total Value of Spending in Local Community

Employee Leadership and Development

From the EUM primer, a utility that practices Employee Leadership and Development:

- Recruits, develops, and retains a workforce that is competent, motivated, adaptive, and safety focused.
- Establishes a participatory, collaborative organization dedicated to continual learning, improvement, and innovation.
- Ensures employee institutional knowledge is retained, transferred, and improved upon over time. Emphasizes and invests in opportunities for professional and leadership development, taking into account the differing needs and expectations of a multigenerational workforce and for resource recovery operations.
- Establishes an integrated and well-coordinated senior leadership team.

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Employee Leadership and Development benefits the JWSC as a whole as well as the customer base. A well-developed workforce is a smarter, more efficient work force. This translates to lower costs to the consumer, better planning, and more consumer confidence in the utility. With this in mind, the JWSC will maintain 12 KPIs related to Employee Leadership and Development. These KPIs are:

- Employee Turnover Rate
- Voluntary Employee Turnover Rate
- Retirement Turnover Rate
- Employee Job Satisfaction
- % of Job Descriptions Reviewed and Updated Annually
- Training Hours Per Non-Licensed Employee
- % of Required CEHs for Licensed Employees Provided
- % of Employee with Needed Certifications
- % of Employee Performance Appraisals Submitted On Time
- % of Available Positions Filled with Internal Candidates
- % of Available Positions Filled with Minority Candidates
- % of Managerial Positions with Succession Plans
- % of Managerial Positions with Vacancies

Enterprise Resiliency

From the EUM primer, a utility that practices Enterprise Resiliency:

- Ensures utility leadership and staff work together internally, and coordinate with external partners, to anticipate, respond to, and avoid problems.
- Proactively identifies, assesses, establishes tolerance levels for, and effectively manages a full range of business risks (including interdependencies with other services and utilities, legal, regulatory, financial, environmental, safety, physical and cyber security, knowledge loss, talent, and natural disaster-related) consistent with industry trends and system reliability goals.
- Plans for and actively manages around business continuity.

With the experiences of Hurricane Matthew and Hurricane Irma, it became very apparent to the JWSC that the utility needs to spend more time preparing for natural disasters and other risks. These other risks include safety concerns for the employees and the public. With this is mind, the JWSC will maintain 18 KPIs related to Enterprise Resiliency. These KPIs are:

- Number of Work-Related Injuries/Incidents
- Number of Recorded Near Misses
- Number of Days Lost to On-the-Job Injuries
- Number of Damage Claims Filed
- Total Cost of Damage Claims
- Risk/Vulnerability Assessment Up to Date?
- Number of Emergency Response Training Exercises Completed Annually
- Number of Other Agencies Participating in Training Exercises Annually
- % of Total Assets with Backup Power/Pumping
- % of Critical Assets with Backup Power/Pumping
- Number of Days of Chemical Demand for Treatment On-Hand
- Longest Lead Time for Operationally Critical Parts Not On-Hand

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- % of Staff with FEMA Incident Command Training
- Emergency Operations Plan Reviewed Annually?
- Ratio of Wastewater Demand to Firm Wastewater Capacity
- Ratio of Water Demand to Firm Water Capacity
- Number of Cyber Security Events Recorded Annually
- Days of Operating Expenditures Held in Reserve

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Mission and Objectives

Mission Statement

It is the mission of the Brunswick-Glynn Joint Water and Wastewater Commission to safeguard the public health and safety by providing sufficient drinking water and environmentally responsible wastewater treatment in a financially sound manner while meeting or exceeding all regulatory requirements and supporting planned growth in the community.

Objectives

The JWSC will accomplish its mission by:

1. Sustaining proper operation of the water supply and distribution assets to ensure safe drinking water and sufficient flows for fire protection for the residents, businesses, and visitors of Brunswick and Glynn County.

2. Maintaining proper operation of the wastewater collection systems and treatment plants to ensure the protection of the area's bountiful natural resources for the enjoyment of the community.

3. Committing to asset management principles to properly maintain and plan for the repair and replacement of the utility's assets at most fiscally responsible cost while staying current with technological advances in our industry and being proactive in preparing for future regulatory challenges.

4. Working closely with local and state government agencies and local development for the continued expansion of the water and wastewater systems to provide for the growth of Brunswick and Glynn County in manner that upholds the practices and principles of the JWSC.

5. Optimizing fiscal responsibility and data-driven continuous improvement principles in the day-to-day activities of the organization to minimize costs associated with rate increases in order to maintain affordability and service reliability.

6. Providing quality customer service and public education to our current and potential customers to engender a mutual respect between the customer base and the utility.

7. Developing our workforce through the consistent training of employees at all levels of the organization to allow for the transfer and retention of system and technical knowledge as our employees retire or

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leave the organization.

8. Ensuring that the employees of the JWSC work in a consistently safe manner to limit the exposure to risk from the day-to-day tasks assigned through training and systematic safety audits of each work group.

9. Establishing a clearly defined organizational culture that reflects the values and intentions of the Joint Water and Wastewater Commission leadership with an emphasis on maintaining public trust.

10. Raising awareness of the importance of water and wastewater to the success and health of an economically viable community.

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2019 Strategic Initiatives

Environmental Compliance



--Maintain regulatory compliance with all permits
--Educate public on compliance efforts and results
--Reduce business down time from boil water advisories
--Improve sewer capacity through inflow/infiltration reduction

Responsible Decision Making



--Expand strategic asset management program
--Improve budget controls for each operating division
--Improve inventory control measures
--Decrease maintenance inefficiencies

Community Resource



--Educate community on value of water and wastewater services
--Facilitate simpler development practices by working with City and County
--Determine where system expansion should be prioritized
--Eliminate sewer capacity roadblocks

Workforce Development



--Ensure continuing education requirements are met for credential employees
--Provide consistent training for non-credentialed personnel
--Improve employee safety through consistent safety training and auditing
--Document institutional knowledge of tenured employees

Customer Service



--Work to make monthly bills more affordable to low-income customers
--Ensure customer billings are equitable
--Improve public trust with values based customer service
--Provide consistent information to customer base

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Clearly Define Organizational Values

Background

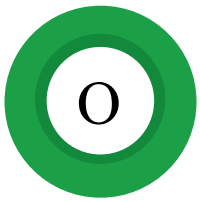
Any organization is only as strong as the leadership and workforce allow it to become. The structure of the BGJWSC is quite segmented based upon working environment. There is little continuity across the organization related to day-to-day work habits, hiring habits, disciplinary habits, and spending habits. For the BGJWSC to move forward as an organization, it is crucial to develop a strong organizational culture that can be applied across each division. If one division is extremely cost aware and consistently is managing the budget successfully, yet another division is lackadaisical in its approach to the budget, the good of one division can be undone by the bad of the other.



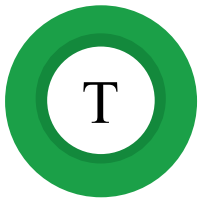
- Staff commitment to development
- Current staff inherently exhibits strong values
- Recent hirings have demonstrated a commitment to public service
- Commission makeup largely community driven



- No definition of current organizational values
- Public misinformation seemingly widespread
- Inconsistencies with organizational priorities as a result of turnover
- Segmented thinking among operating divisions



- Improved onboarding of staff and Commissioners
- Consistency in decision making across operational divisions
- Improved customer outcomes and public image
- Clear and consistent direction



- Political influences
- Lack of employee and Commission buy-in
- Failure to incorporate values of policies and programs
- Values could change due to social and economic pressures

Expected Outcomes

Completion of this initiative should improve employee retention, employee morale, and productivity. Maintain a strong organizational culture has a positive effect on all aspects of the BGJWSC daily work. Customer confidence should also improve as the staff makes positive changes and impacts in the community. This will generate employee pride for the organization and foster an environment of continual improvement. This initiative will provide the foundation for the success of all subsequent initiatives.

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Key KPIs to Track

- Employee Turnover Rate
- Voluntary Employee Turnover Rate
- Retirement Turnover Rate
- % of Employees Within 5 Years of Retirement Eligibility
- Employee Job Satisfaction
- % of Employee Performance Appraisals Submitted On Time

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Monthly Operating Budget Review Meetings

Background

The billing rates charged by the BGJWSC support a $31,000,000 annual operating budget. It is the duty of the organization to verify that the money is being spent in a fiscally responsible manner. Rate increases are never popular and public confidence in the organization needs to be improved. Proper budget management will allow the Commissioners to make more informed decisions on the operating budget for the coming years.

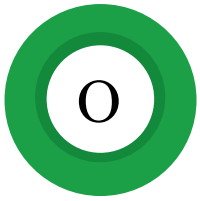
Spending more money than is budgeted in the operating budget can ultimately have a detrimental effect on the capital budget. The BGJWSC needs to increase the rate of asset reinvestment, so any reductions in the capital budget are unacceptable for the long-term health of the systems. A more thorough monthly review process will at the least create an awareness of potential expense issues earlier in the fiscal year.



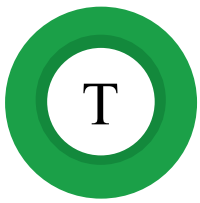
- Strong financial reporting software
- Knowledgeable and experienced staff
- Real time reporting available
- Strong Commission input and support



- Stronger analytical tools needed
- Time demands on budget managers and small finance staff
- Reports currently tabular and not graphical
- Inconsistencies in expense classification



- Development of analytical tools to streamline process
- Consolidation and consistency of expense line items
- Improved accountability and efficiency of budget execution
- Awareness of spending patterns could allow for resource sharing



- Resource sharing could incentivize additional spending
- Employee buy-in and increased workloads on finance and support staff
- Technology shortcomings
- Operational issues prioritized over financial reviews

Expected Outcomes

Completion of this initiative will help to provide the Commission with more accurate information on year-to-date expenditures in different line items. This will allow for a more thorough review of the current fiscal year and aid in the preparation of the budget for the following fiscal year. With the size of this organization, miscodings are going to occur, but by correcting them in a timely manner, the information available will be

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more accurate. This will create a cultural shift amongst budget managers to one of proactive financial management rather than a culture of explaining problems after the fact.

Key KPIs to Track

- % of YTD Budget Related to Operations and Maintenance Expenses
- % of YTD Budget Related to Capital Reinvestment
- % of YTD Budget Related to Administrative Resources
- % of YTD Revenue Budget Billed
- Energy Expense Per Million Gallons of Water Treated
- Energy Expense Per Million Gallons of Wastewater Treated
- Operations and Maintenance Cost Per Million Gallons Water Treated
- Operations and Maintenance Cost Per Million Gallons Wastewater Treated

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Plan Development Review Workflow Mapping

Background

Every organization has a multitude of processes that occur on a recurring basis. Every process has the potential to contain inefficiencies of some kind. These inefficiencies may include the duplication of effort, incorrect personnel being tasked with a particular subprocess, and a failure to understand the desired outcomes. In order to determine the inefficiencies that occur in a particular process, an evaluation tool known as workflow mapping is necessary. Workflow mapping is the process of documenting the specific steps and actions that take place to complete a particular task.

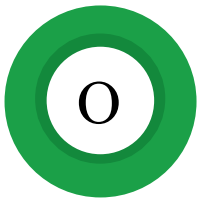
Given the multitude of processes the JWSC completes as part of the routine administration of the utility, staff believes it is important to narrow the focus to those areas perceived as the greatest issues to our customer base. To that end, we are beginning our workflow mapping project with a focus on the plan development review for new subdivisions and businesses.



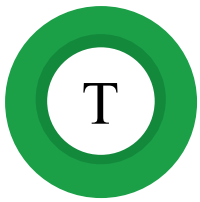
- Knowledgeable, experienced staff has relationships with most applicants
- Open to constructive feedback for improvement opportunities
- Systematic approach utilized including all operational stakeholders
- Many improvements already realized



- Perception problems
- Inconsistencies between reviews
- No clear, easily understandable definition of process
- Inconsistencies among intergovernmental policies and ordinances



- Finalizing and updating construction standards
- Applicants and owners access to review processes
- Request stakeholder feedback to streamline processes
- Improved communication protocols and public image



- Lack of employee buy-in and human resources to implement changes
- Focus on initiative could create greater issues in the interim
- Technology and communication barriers
- Competing interests between applicants and utility

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Expected Outcomes

Completion of this initiative will identify potential areas of inefficiencies on the part of the BGJWSC. Some inefficiencies may be identified on the City/County side as well as the private development side. Upon completion, the BGJWSC will make the necessary adjustments to the review process that are causing both legitimate and perceived roadblocks, provided that the changes maintain the integrity of the process. By the end of the calendar year, the process should be mostly streamlined to allow for timely and effective reviews of potential developments. A public meeting will be held with necessary stakeholders outlining the improved process upon completion.

Key KPIs to Track

- Percent of New Project Development Reviews Completed On Time
- Average Days Until Completion of New Project Development Submittal Reviews
- Number of Private Asset Dedications Completed
- Percent Positive Responses on Customer Satisfaction Survey

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Monthly Compliance Campaign

Background

The BGJWSC does a great job of maintaining compliance with applicable state and federal regulations. Documentation from the Georgia Environmental Protection Division have said such. However, our customers only hear about any issues that we have or issues that affect them personally. While the BGJWSC should never be out in the community boasting of completing the most basic functions of the organization, it is important to make the public aware of how the money they are providing is being used to maintain compliance.

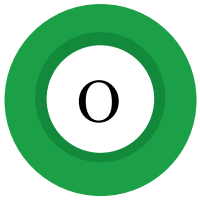
The goal of this initiative is to generate a monthly compliance release focusing on a different portion of the BGJWSC's environmental compliance responsibility. The releases will not simply be a report on the current state of compliance.



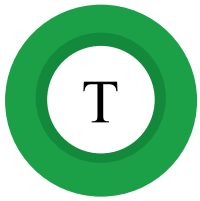
- Increases awareness of BGJWSC efforts
- Shows prioritization of environmental stewardship
- Increases operational transparency
- Ease of reach of social media



- Potentially too complex for easy understanding
- Difficulties in continuing produce quality content
- Could be misinterpreted
- Difficult to reach all segments using conventional methods



- Generate good public relations
- Public education of system needs
- Can generate support from community leaders for funding efforts
- Potential to validate resource needs



- Competing interests within environmental community
- If compliance problems exist, could highlight issues
- Backlash from vocal minority could skew focus

Expected Outcomes

Completion of this initiative should increase public awareness of BGJWSC compliance activities. Furthermore, continued successful compliance should help garner public support for the work that completed by the organization. This will allow for effective communication of spending habits and the benefits delivered to each citizen and the environment. This will reinforce the positive relationships currently in place with regulatory agencies.

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Key KPIs to Track

- Number of Non-Compliance Events Related to Drinking Water
- Number of Non-Compliance Events Related to Wastewater
- Number of Water Main Breaks Overall
- Number of Water Main Breaks Not Caused by Contractor Influence
- Number of Water Main Breaks Per 50 Miles of Distribution Piping
- Number of Wastewater Major Spills Overflows or Wastewater Spills Overall
- Number of Sanitary Wastewater Major Spills Overflows or Wastewater Spills Per 50 Miles of Collection Piping
- Number of Unique Grease Trap Inspections Completed

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Continuing Education Requirements Audit

Background

The JWSC has several staff members who have continuing education requirements because of state licensure. Each water and wastewater operator is required to maintain continuing education to keep him or her up to date with the latest trends in the treatment industry. Currently these employees are required to keep up with his or her own education requirements. The JWSC provides training opportunities to these staff members, most of which attend the Georgia Rural Water Conference on Jekyll Island. At this time, staff is not directed to any particular classes.

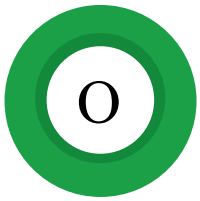
Other than operators, professional staff members have accounting and engineering license requirements as well. The majority of the provided training hours for these employees comes from conference attendance. Each professional staff member determines which conference they would like to attend, and based upon funding and the Director's approval, attend the conference to fulfill educational requirements.



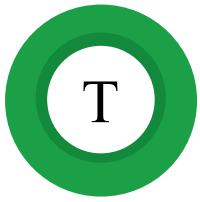
- Strengthens compliance efforts
- Consumer confidence due to standardization of skill sets
- Improves networking availability for knowledge sharing
- Reinforces importance and value of staff members



- Poorly focused or generalized training results in no specific gains
- Training often requires travel which takes staff away from tasks
- No guarantee of knowledge retention
- Not all training qualifies for CEH/PDH credits



- Reduce training costs due to proper planning of needs
- Improved intentional employee development
- Could improve employee retention
- Improved skill sets can lead to lower operational costs



- Loss of employees due to recruitment from other agencies
- Creates demand for more compensation
- Increased division of employees if opportunities are not equal

Expected Outcomes

Completion of this initiative will improve compliance with state requirements for certifications. Training can be directed to improve necessary skill sets to increase efficiency and potentially level of service provided to our customers. Employee morale could improve as a result of employees feeling more valued by the organization due to the investment of training dollars. This will aid in future succession planning improvements.

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Key KPIs to Track

- % of Required CEHs for Licensed Employees Provided
- % of Employee with Needed Certifications
- % of Job Descriptions Reviewed and Updated Annually

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Customer Payment Assistance Program

Background

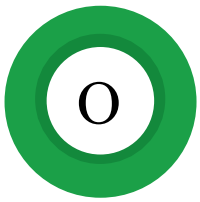
The JWSC has a significant portion of the customer base which current experiences difficulty meeting their monthly bills. The JWSC has looked into a variety of options to provide some means of customer assistance for those truly in need. The "Round-Up Program" is one example. Staff is working to initiate this program and look for other options to fund an assistance program.



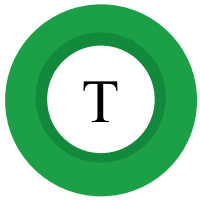
- Helps reduce impact to economically challenged customers
- Positive public relations impact
- Administered by third party to limit issues of favoritism
- Criteria for application already exists



- Limited funding sources readily available
- Public education may be difficult
- Some contributions used to pay administrative costs to third party



- Reduction in bad debt and service disconnections
- Increased customer satisfaction
- Reduction in criticism of rate structure
- Staff time can be dedicated to other tasks



- Lack of public interest in participation
- Perceived inequities between customer base
- Potential fund mismanagement
- Customer could become dependent on aid

Expected Outcomes

Completion of initiative will improve service affordability to low income customers. As rate adjustments become necessary, the effects of the adjustments will be mitigated to those customers most effected. By utilizing a third party to administer the program, any perceived BGJWSC bias is removed from the equation. It will demonstrate to the community that the JWSC has a commitment to its customers and their welfare. This is an emerging trend throughout the water and wastewater industry. To stay current with these developments, the BGJWSC must establish one of these programs.

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Key KPIs to Track

- Funds Collected from Donations
- Number of Individual Donors
- Number of Customers Aided by Customer Payment Assistance Program
- Dollars of Assistance Provided
- Reduction in Aged Accounts Recovery Time

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St. Simons Island Smoke Testing

Background

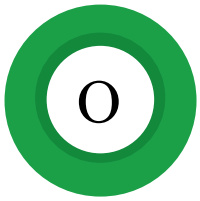
SSI has already undergone flow monitoring and the data at the treatment plant indicates severe I&I is an ongoing issue with rain dependent I&I being extreme and certainly creating capacity concerns at the plant. The next step is to smoke test the critical basins and dye test them to find significant RDI/I sources to address this portion of the I&I issue. Smoke testing is a proven tactic for identifying areas of need in a collection system. It is cost effective and minimally intrusive to the public.



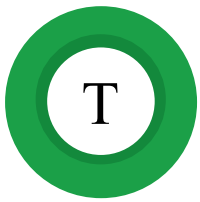
- Helps to prioritize capital expenses
- Cost effective and timely method to determine issues
- Easy to understand
- Least intrusive method for problem identification



- Outcomes reliant on public participation
- Test may not show all defects
- Labor intensive to catalog and notify homeowners of defects
- Obligation to fix issues once aware



- Potential to gain significant sewer capacity after fixes
- Public identification of individual responsibility with sewer capacities
- Educate public of capital needs



- Potential to induce stressors in public realm
- Public notification may not be comprehensive
- Lack of confidence that smoke in non-toxic
- Lack of local contractors to handle workload

Expected Outcomes

This initiative will allow further planning on St. Simons Island for the rehabilitation of the sewer system in a systematic fashion focusing on areas with the greatest impact. Sewer basins will be prioritized for projects, most likely trenchless CIPP rehabilitation of both collection lines and service connections, and will be included in updated five-year capital plans. Completion of the capital projects will open up sewer capacity across St. Simons Island and reduce energy costs to the BGJWSC, and ultimately, the customer base due to less pumping requirements.

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Private assets likely have a large contribution to the RDI/I problems on the island and will require rehabilitation. Ongoing public education campaigns will help get the message out to the customers about the need to take care of private assets.

Key KPIs to Track

- % of Critical Assets with CAP 2 Level Condition Assessments
- % of Service Laterals with Leaks
- Number of Lateral Defects Identified
- % of Lateral Defects Corrected
- Average Wastewater Usage per Capita

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Weekly Maintenance Planning

Background

In the past, the planning process is day-to-day. Specific tasks of work orders are loosely identified on a daily basis. Currently, the approach being pushed is to identify task needs and work orders for the coming week for each division and for each crew. With proactive planning in advance, better preparation and therefore greater efficiencies and productivities are being achieved throughout the JWSC operating divisions. More systematic planning methods are evolving to further improve on this process.

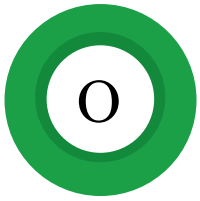
Reactive maintenance work is often inefficient and is often completed on overtime. Scheduling work out will help reduce the overtime and also increase the amount of preventative maintenance tasks that are completed by staff. Preventative maintenance work will need to be cataloged to determine scheduling needs moving forward.



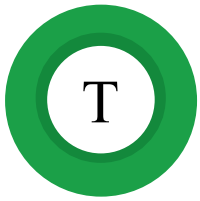
- Software in place to facilitate advanced planning and scheduling
- Staff growing in their knowledge of capabilities of software
- Improves staff accountability
- Allows for predictive maintenance/reduction in equipment downtime



- Time consuming for staff to implement properly
- Requires behavioral changes of both superintendents and staff
- Increases reliance on and cost of IT infrastructure



- Improved productivity and efficiency in operations
- Increased resource sharing among divisions
- Can provide proactive customer support
- More efficient tracking of resource use



- Lack of employee buy-in
- Learning curve for employees could take longer than anticipated
- Rigid scheduling practices can harm customer service efforts

Expected Outcomes

Completion of this objective will allow for more efficient maintenance and increased employee accountability. It will also allow managers to take a more holistic approach to maintenance rather than focusing purely on the next problem. Increased preventative maintenance through proper scheduling will help reduce callouts and overtime due to equipment failures. Overall, this will be a major step forward in furthering the asset management programs of the BGJWSC.

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Proper planning of maintenance tasks has a ripple effect on other support functions as well. Having a schedule of tasks can help coordinate road cuts between operating groups to limit paving costs. It can help with parts ordering to lower costs. Finally, it can aid the Administration Division in building public confidence through proper notification prior to service outages.

Key KPIs to Track

- % of Maintenance Work Planned/Preventative
- % Cost of Maintenance Work Planned/Preventative
- % Maintenance Labor Utilization
- % of Preventative/Planned Work Orders Completed on Schedule
- % Equipment Utilization
- Annual Overtime Cost

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Monthly Work Group with Local Authorities

Background

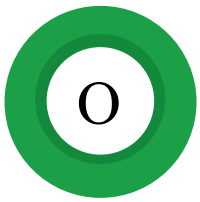
Currently, exchanges between staff and representatives from other authorities and agencies is on an as called basis instead of a programmed or scheduled discussions where key topics of mutual interest are covered regularly. There have been efforts between the JWSC and Glynn County to hold quarterly meetings, which both staffs have found helpful. Meetings with the City of Brunswick are not currently held with any regularity.



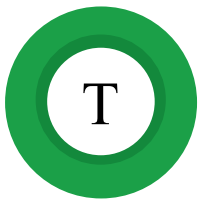
- Improves communication between government agencies
- Better planning of multiple jobs
- Wide variety of technical resources to solve problems
- Current staff members have good working relationships



- Involves significant time commitment from different agencies
- Each agency has differing priorities
- Creates project scheduling conflicts
- Limited ability for community input



- Reduction in paving costs from single mobilization
- Greater project effectiveness with less community impact
- Improves sharing of best practices
- Increases understanding of ordinance requirements for proposed changes



- Potential for significant scope creep
- Finger pointing when delays occur
- Sharing of costs are not always equitable
- Delegation of project management responsibilities to other groups

Expected Outcomes

Completion of this objective will increase communication between all three local government operations staff. This will allow for improved project planning and scheduling to limit the impact to the local citizens and businesses. This can be especially helpful when it comes to paving. Once a road cut is planned, each group will get the opportunity to complete necessary work prior to repaving to limit the amount of patches that are required. During these meetings, ideas are shared on best practices to help lower costs to all three entities. Future project plans can be synchronized to have the greatest future effectiveness by completing work on the water, sewer, stormwater, and transportation systems at the same time.

From a non-project related perspective, these meetings can be used to coordinate table top training exercises to improve emergency response coordination between entities. This will allow all groups to be more effective in

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emergency response and limit the duplication of efforts. As another benefit, these meetings will increase BGJWSC awareness and engagement of local community development efforts to determine how the organization can best aid in these efforts.

Key KPIs to Track

- Number of Emergency Response Training Exercises Completed Annually
- Number of Other Agencies Participating in Training Exercises Annually
- Annual Paving Expenses
- Number of Boil Water Advisories Associated with Contractor Interference

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Learning Management System for All Personnel

Background

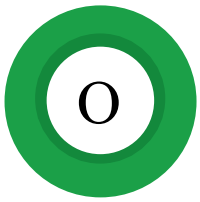
Non-credentialed staff members of the JWSC often times do not receive training other than on-the-job observation of their coworkers. These staff members typically hold positions that are customer facing. Soft skills training benefits all employees, not just those with customer facing positions. By selecting a cost effective learning management system, all JWSC employees will have the opportunity to develop their skills to further their careers. The employee will be able to select courses they want to take, and the employee's supervisor can assign each employee training classes that would be most beneficial to the employee and the JWSC. Employees with supervisory aspirations can take management training classes to provide them with skills they can use to demonstrate their value to the JWSC.



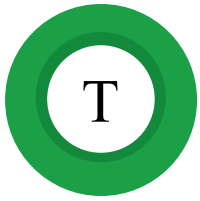
- Cost effective method for training
- Wide variety of content available from any electronic device
- Can be focused to the needs of individual employees
- Makes use of technological investments



- Not water industry specific
- Requires computer knowledge for use
- No guarantee of knowledge retention
- Requires oversight and diverts attention from operational tasks



- Increased employee satisfaction
- Helps with employee recruitment
- Improved customer service from all divisions
- Can focus on soft skill development



- Lack of employee buy-in
- Loss of employees due to recruitment from other agencies
- Funding is not guaranteed

Expected Outcomes

Training can be directed to improve necessary skill sets to increase efficiency and potentially level of service provided to our customers. Employee morale could improve as a result of employees feeling more valued by the organization due to the investment of training dollars. This will aid in future succession planning improvements. Training availability on soft skill abilities can have a positive impact on the customer experience and better employee interactions.

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Key KPIs to Track

- Employee Job Satisfaction
- Training Hours Per Non-Licensed Employee
- % of Available Positions Filled with Internal Candidates
- % of Managerial Positions with Succession Plans

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Safety Council Site Visits

Background

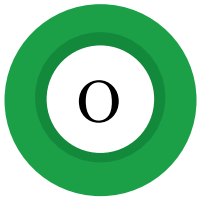
The Safety Council deals with issues for which many never see and never see the type of work being conducted which leads to accidents. Site visits are a means to better inform members of the Safety Council on the issues in the field which lead to accidents and which need to be managed to prevent accidents. Furthermore, the Safety Council will be able to identify safety needs on job sites to help field staff members know what situations to avoid in the future. These site visits will help create a culture of safety where coworkers are constantly on guard against poor habits.



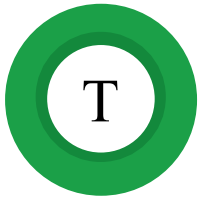
- Safety Council members gain greater understanding
- Improves safety practices
- Creates a self-policing environment for safety practices



- Time consuming for Council members
- Requires objectivity from members to point out issues
- Can be viewed negatively by other employees
- Not all Council members knowledgeable in other fields



- Reduction of worker's compensation costs
- Reduction in lost time due to injuries
- Improvement of safety guidelines
- Increased public awareness of safety procedures



- Lack of employee buy-in
- Knowledge of unsafe practices could lead to a decrease in productivity
- Potential of increased costs for safety equipment
- Exposure to liability

Expected Outcomes

Completion of this initiative should reduce the number of preventable work-related injuries. It will identify safety needs to improve employee work habits. The expansion of safety culture will translate to employee personal lives and lessen lost work time due to non-work accidents. Site visits will broaden the understanding and addressing of risks associated with different work groups.

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Key KPIs to Track

- Number of Work-Related Injuries/Incidents
- Number of Recorded Near Misses
- Number of Days Lost to On-the-Job Injuries

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Customer Database Audit and Analysis Program

Background

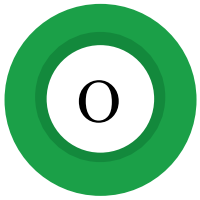
The JWSC customer database has a broad spectrum of demographics and account conditions for a number of reasons. If the JWSC can audit and analyze the database accurately, programs can be developed to minimize bad debt costs and improve services to the customers through a variety of program modifications. Two examples of areas of focus are on proper REU assignments for each commercial customer and an audit of services to ensure that each customer is billed properly. The database audit will also help with the sewer capacity map initiative as the correct REU assignments will determine the existing flow needs within each sewer basin.



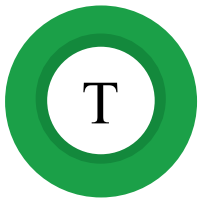
- Ensures consistency and accuracy in billing
- Enhanced accuracy in rate computation
- Improved accuracy of water audits
- Provides better data for decision making



- Time consuming of both technical and labor resources
- Difficult to apply consistently
- Audit implications on property valuations a concern



- Identify areas of need in customer base
- Potential for stabilization of rate adjustments
- Reduce staff time reviewing exception reports
- Improved revenue recovery



- Potential to game the system
- Customer resistance to changes
- Exposes potential problems which could impact public image

Expected Outcomes

Completion of this initiative will improve confidence in the billing procedures. The customers that have the greatest monthly burden should see the greatest benefit from auditing the customer database. Commercial entities can rest assured that the bill they receive reflect an equitable contribution based upon demand. A further understanding of the customer database will increase the BGJWSC's ability to forecast the impact of any rate adjustment

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Key KPIs to Track

- Number of Inaccurate REU Assessments Identified and Corrected
- Number of Inaccurate Services Identified and Corrected
- Number of Sewer Basins with Availability
- Reduction in Non-Revenue Water

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Galvanized Water Main Replacement Program

Background

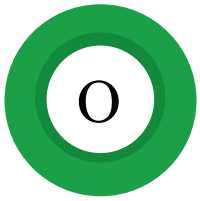
The JWSC has several miles of galvanized water lines in service. As with all water utilities who installed such pipe, this pipe has lasted beyond its expected life. Leakage and breaks have led to water losses and at times poor customer level of service. Emergency repairs are expensive and inconvenient. In addition, these lines are frequently insufficient to meet fire protection needs on top of normal service needs. From review of the boil water advisories, nearly 20% of boil water advisories caused by materials failures are on galvanized lines. Galvanized lines make up approximately 4% of the total length of pipe in the water system.



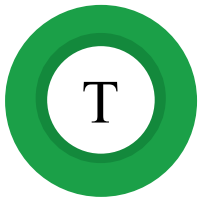
- Reduction in water losses and boil water advisories
- Increases pressure and fire protection
- Decreases discoloration complaints
- Proactive replacement reduces costs



- Funds not currently committed
- Complete inventory of galvanized piping not available
- Small portion of distribution system will limit positive impacts



- Reduce inventory of pipe fittings
- Improve level of service to customer base
- Increase estimated useful life of infrastructure
- Long-term reduction of costs to serve



- Potential damage to personal property through excavation
- Public response to widespread service outages
- Public perception of project outweighing benefit

Expected Outcomes

Completion of this objective will benefit the customer base in four ways. First, a reduction in boil water advisories should be expected as the aged water mains are replaced with newer material. Secondly, galvanized lines are susceptible to dirty water complaints because of the condition. Replacing these lines should decrease the number of dirty water complaints from the customer base. In addition, water loss should decrease as a result of fixing the lines which will decrease the cost to deliver water to the organization and ultimately the customers. Finally, replacing the galvanized lines will allow more consistent water pressure and greater volume to be provided. This aids in both fire protection and quality of life for those customers.

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Key KPIs to Track

- Miles of Distribution System Replaced or Rehabilitated Annually
- Number of Dirty Water Complaints
- Number of Low Pressure Complaints
- Number of Water Main Breaks Not Caused by Contractor Interference

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Pump Station Flow Meter Installations

Background

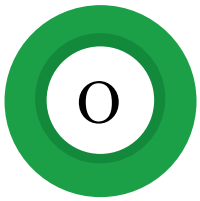
The JWSC operates 157 sewer pump stations throughout the three service districts. These lift stations each have a different required pumping rates, pump efficiencies, and gravity sewer service areas. One operational method to determine which pumps are functioning at the appropriate levels is to complete drawdown tests on each pump station. Currently, drawdown tests require three staff members to complete and have built in inaccuracies because they are based on manual measurement of wet well levels, manual timing of influent flows, and calculations from this data. For many stations, these inaccuracies do not create problems because of the relatively low flow characteristics of the station. On larger stations, a 5-10% inaccuracy level could be 250-500 gallons per minute of flow capacity. The easiest way to eliminate these inaccuracies is to install flow meters downstream of the pumps. This allows recording one number of what flow is actually passing through the discharge pipe rather than calculating this number for multiple inputs.



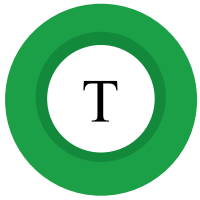
- Some flow meters already installed
- Several flow meters currently on-hand ready to be installed
- Staff knowledgeable enough to quickly interpret data



- Time consuming to complete installations
- Poor line documentation to facilitate quick installations



- Decreased time commitment to drawdowns
- Tie meters into SCADA for energy efficiency analysis
- Can help prioritize CCTV work for I&I inspections
- Can help proactively identify maintenance needs



- Failure to include in SCADA would limit success of program
- Improper installation and calibration could lead to incorrect data
- More issues could be found than funding is available to fix

Expected Outcomes

Completion of this objective will allow the organization to identify problem areas associated with sewer lift stations. This will manifest in two ways: pump inefficiencies can be proactively identified and areas with significant I&I will be easily identifiable. New development reviews will be expedited due to real time information being available for Planning & Construction to review available sewer capacity. Real time

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information will reduce staffing obligations to determining areas of potential need and will allow those staff members to be tasked with more productive job assignments.

Key KPIs to Track

- Number of Meters Installed
- % of Pumping Stations with Flow Meters Installed
- % of Tier 1 Pumping Stations with Flow Meters Installed
- % of Flow Meters Tied to SCADA
- % of Total Wastewater Flow Metered

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Value of Water Public Education Campaign

Background

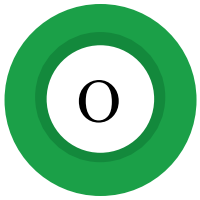
Certainly, there are many challenges in operating a water and sewer utility. Frequently there are issues that arise for either. Many of the solutions require investments to correct conditions and/or make improvements to facilitate change. The funds and rate structure required for raising those funds have to be run though customers. Public education about the value of the services they receive and enjoy is critical. The public's support of the overall programs being acted on is key to continued success. This can only come through an educational process that keeps the public informed about the many things that are ongoing to maintain and improve the level of service in the community.



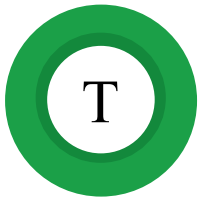
- Increases transparency
- Wealth of available resources for inspiration
- Answers questions relative to rate structure and potential rate adjustments



- Commission not always in support of perceived advertising
- Requires commitment of staff resources
- No medium reaches all customers



- Increased confidence in service quality
- Gathering of community input on importance
- Build community support for funding
- Make customers aware of potential insurance savings from fire protection



- Appearance of favoring new development over existing customer base
- Multiple public education campaigns could result in oversaturation
- Community input may be negative or counterproductive

Expected Outcomes

Completion of this objective will improve public trust with the utility by furthering the understanding of the value of water to the community. This should provide for a better understanding of the cost of production and distribution of water and the collection, conveyance, and treatment of wastewater. This will allow for more informed discussions concerning rate adjustments and infrastructure investments. While rate adjustments are never popular, a furthered understanding of the needs will allow for more acceptance of these adjustments.

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Key KPIs to Track

- User Rates Compared to US EPA Affordability Criteria
- Number of Public Education Campaigns Completed
- Customer Satisfaction Surveys Completed

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St. Simons Island Gravity Sewer Assessment Report

Background

For several years, the SP&M Assessment Division has been doing proactive CCTV inspections of all sanitary sewer gravity flow lines or collectors. Over 1,000 of the 2,328 vitrified clay gravity sewer lines on SSI have been CCTV inspected The data collected on line conditions is being consolidated into a database for comparative analyses to set priorities for rehabilitation and repair.

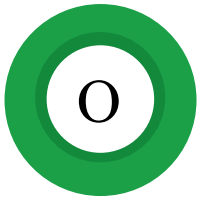
This report will calculate total business risk scores for the gravity mains on St. Simons Island, which will prioritize capital improvement projects for the rehabilitation or replacement of these lines. Utilizing asset management principles, prioritization of these projects can occur in an unbiased manner and allow for the capital funds to be spent where they will have the greatest impact.



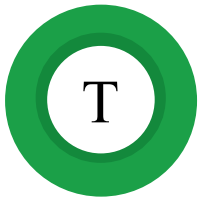
- Deficiencies and therefore liabilities are known
- Rehab priorities can be established
- I&I focus can be narrowed
- Provides tangible results of asset management program



- Lack of comprehensive asset inventory
- Labor intensive and time consuming to produce
- Continual update needed as situations change



- Reduction in I&I can increase available capacity at Dunbar Creek
- Focuses limited capital rehab funds
- Develop comparative database through long term continuation of project
- More accurate mapping will improve GIS reliability



- Poor implementation could lead to inaccurate or inconsistent assessments
- Costly to conduct assessments in the field
- Influence from outside variables may affect scoring

Expected Outcomes

Completion of this objective will generate multiple positive outcomes for the organization's asset management program. First, this will provide a complete asset register of the gravity mains on St. Simons Island. A complete asset register will contain pipe diameters, lengths, materials, and ages. This information will be uploaded into the JWSC's GIS system. Secondly, this objective will provide an unbiased, systematic approach to prioritizing capital improvement projects. Given the limited capital resources available, it is imperative that

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those funds are spent in locations that provide the greatest impact. Finally, generation of this report will increase system knowledge and provide a tangible benefit of expanding the utility's asset management program.

Key KPIs to Track

- % of Asset Register Completed
- % of Critical Asset Register Completed
- % of Assets with CAP 1 Level Condition Assessments
- % of Assets Beyond Estimated Useful Life
- % of R&R Funds Allocated to Asset Management Predicted Projects
- Resource Utilization Cost for Completion

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Warehouse Job Boxes

Background

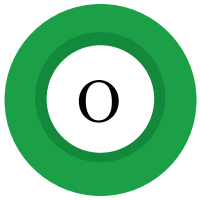
Currently material inventories for maintenance in the various operational areas are located at multiple sites. Those inventories will be consolidated at the Academy Creek WWTP warehouse eventually. This process is underway. With better weekly job planning and better inventory control, materials can be identified in advance for every work order. With this, warehouse staff can commence to pick materials for each work order the day before and have those materials in job boxes ties to the work order they go with. Maintenance personnel can then come by the warehouse at the beginning of the day to pick up job boxes for the work orders they have on schedule for the day. This saves time and improves staff efficiency and productivity in performing maintenance.



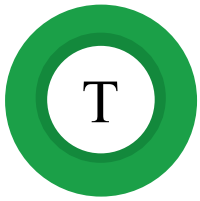
- Operations and warehouse staff become more efficient
- Easily understandable with tangible results
- Reduces stress for employees
- Improved public communication and awareness of service outages



- Requires behavioral changes
- Potential staff changes necessary to implement
- Reactive maintenance needs still take precedent



- Improved inventory controls and tracking
- Reduced inventory carrying values
- Improved ordering efficiencies
- Establishment of more consistent work habits



- Lack of employee buy-in
- Incorrect planning could increase inefficiencies
- Inventory availability could affect success

Expected Outcomes

Completion of this objective will improve the productivity of the maintenance staff as all materials will be on hand prior to the commencement of a planned task. Often times, staff members currently get to a job site and then determine what is necessary to complete the job. Then the staff member will go back to the warehouse or to a local supplier to get the parts necessary. By eliminating this step, this will increase the amount of available time to complete tasks. Eliminating unnecessary driving time allows more tasks to be completed.

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This will also allow the inventory management staff to determine proper quantities to have on hand in the warehouse. This will lead to a reduction in parts on hand or a redistribution of the inventory values to parts that are more appropriate. Through this process, staff will identify items with long lead times that are critical to maintain in the warehouse.

Key KPIs to Track

- Number of Planned Maintenance Work Orders Not Completed on Schedule Due to Lack of Available Parts
- Longest Lead Time for Operationally Critical Parts Not On-Hand
- Inventory Turns Per Item
- Total Value of Inventory
- Inventory Obsolescence Rate

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Updated Sewer Capacity Maps

Background

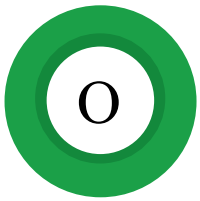
Economic Growth and development are the most direct means to higher quality of life in our community. Most economic growth is tied to availability of water and sanitary sewer capacity. Water supply systems are typically easier to facilitate. Sanitary sewer systems are more of a challenge and are more often the cause for delays in development. For this reason, it is critical the JWSC maintain a sewer capacity map that is up to date. The sewer capacity map will require Systems Pumping staff members to go to each pumping station to determine the capacity of that station. Planning & Construction staff members will catalog the information provided to determine the available capacity at each station. Once updated the maps will form the basis for Planning & Construction staff members to make quick determinations of available capacity when reviewing new development plans.



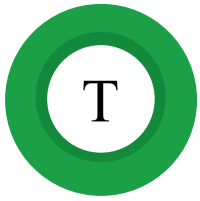
- Allows for accurate decisions on new connections to be made
- Corrects longstanding needs
- Improves overall system knowledge
- Provides better info for policy decisions



- Requires substantial effort for multiple divisions
- Requires real-time updates
- Training needed for proper draw down results
- Reliance on data from outside sources



- Benefits EDA in recruitment of new industries
- Improves capital planning
- Staff time for plan reviews will decrease
- Consistent information available to all stakeholders



- Threats of legal action depending on outcome
- Capital needs may be larger than available funding
- External political influences
- Community could use data to satisfy personal goals

Expected Outcomes

Completion of this objective will facilitate improved planning for both capital improvement and expansion projects. The customer base will be more aware of sewer availability to determine opportunity areas. Field staff will be able to reduce reactive maintenance to facilitate community development. Planning and Construction staff will be able to give a capacity determination without input from field staff in every situation. This will shorten the review process to enable development to move quicker, if necessary, to meet deadlines.

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Outside of the organization, this data could be incorporated into decision-making processes with local governmental stakeholders. Economic Development Authority will have the ability to identify locations for economic development with assurances of sewer availability. Glynn County Community Development can shorten review times for planned developments with up-to-date information.

Key KPIs to Track

- % Completion of Tier I Inventory
- % Completion of Tier II Inventory
- % Completion of Tier III Inventory
- % Completion of Tier IV Inventory
- Number of Wastewater Lift Station Models Completed

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Workflow Mapping Program

Background

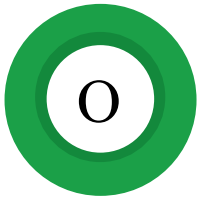
The JWSC must be ever conscious of the need to provide higher levels of service at a more efficient and lower cost manner. Workflow mapping offers the best path to understanding where the opportunities are to accomplish this. This initiative will most likely be a multi-year effort as documenting the work processes of an organization the size of the JWSC is very labor intensive. Once these processes are documented, current staff and new hires can be trained in the proper techniques to complete the given tasks. This will certainly aid in the onboarding process as new hires can be brought along quickly with quick reference guides to the day to day tasks of the given position.



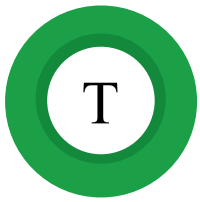
- Clarifies processes for staff and public
- Defines employees roles in workflow processes
- Training tool to increase knowledge retention
- Improves onboarding and training of new employees



- Time consuming to document processes
- Process often complex, changing, and intermingled
- Communication of processes could be challenging
- Too many processes to finish in one calendar year



- Streamlining of processes improves efficiency and productivity
- Elimination of duplication of efforts
- Promotion of continuity and consistency of work across multiple divisions
- Informs stakeholders of process steps



- Outside influences
- Easy to set aside if other perceived priorities arise
- Could be interpreted as bureaucracy
- Stakeholders may disagree with process steps

Expected Outcomes

Completion of this initiative will eliminate the duplication of efforts in completing tasks. This will streamline processes and free up employee to take on new assignments. Service quality and consistency will improve. Onboarding of new employees will take less time as tasks are already documented. The customer experience could improve due to a greater understanding of each process and elimination of confusion. This will help each employee to understand his or her fit into the bigger picture of the organization.

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Furthermore, successful asset management requires a knowledge of workflow processes to determine scheduling needs for maintenance staff. Workflow mapping will be the basis for improving maintenance activities and expanding the Cityworks program throughout the organization. This will lead to a shift in organizational culture from reactive maintenance to planned and preventative maintenance.

Key KPIs to Track

- Number of Workflow Maps Created
- Number of Redundant Tasks Eliminated
- Number of Redundant Labor Hours Repurposed
- Number of Gaps Identified

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Large Meter Testing Program

Background

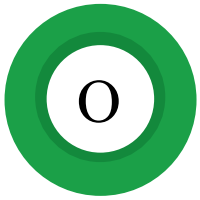
Large water meters represent the largest source of unbilled water that passes through meters. Testing large meters has proven extremely beneficial in all water utilities conducting such programs. Since this has not been done in the past at JWSC, this represents a huge revenue improvement opportunity. Large water meters are inherently less accurate at low flows than residential meters. As meters age, they become less accurate. Less accurate water meters read less water flowing through the meter than new water meters. By testing the large water meters, staff can determine which large meters need to be replaced to provide accurate billings to these customers.



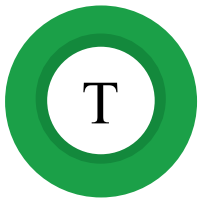
- Increased revenue recovery
- Better measures of non-revenue water
- More accurate billing to customer
- Relatively simple to conduct



- Costly to implement
- Service interruptions for testing non convenient in some locations
- Personnel require training and certification to implement
- Replacement inventory availability



- Technology upgrades can be incorporated
- WaterScope could be applied to provide large customers with detailed analysis
- Better understanding of customer usage trends
- Potential to identify systemic problems



- Customer pushback
- Calibration of testing equipment essential to performance
- Incorrect testing could impact bottom line

Expected Outcomes

Completion of this initiative will increase the accuracy of billings to large water users, which has a trickle-down effect to low volume users as the billings become equitable. This initiative will potentially provide the greatest short-term return of investment of any initiative proposed in this plan. This will aid in compliance requirements for the BGJWSC as the water loss audit will show less non-revenue water. For customers that identify or promote water conservation opportunities, this will provide them with more accurate data to determine the successfulness of their conservation initiatives.

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Key KPIs to Track

- % Inaccuracy
- Projected Revenue Recovered
- Number of Meters Tested

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Planned Capital Projects

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Ongoing Capital Projects

Project	Budget
North Mainland Sewer Basin Re-Route – Phases II and III (SPLOST)	$11,400,000
LS 4003 Station and Gravity Improvements (SPLOST)	$3,300,000
FEMA Hazard Mitigation Grant	$3,188,000
Magnolia Park Transite Water System Improvements	$1,150,000
Academy Creek Oxygen Supply Safety Upgrades	$650,000
L Street Transite Water System Improvements	$650,000
Dunbar Creek Inflow and Infiltration Study – Phase II	$150,000
Combined Project Budgets	**$20,488,000**

Fiscal Year 2019 Capital Projects

Project	Budget
Water Meter Replacements	$700,000
SSI Galvanized Water Main Replacements – Phase I	$400,000
Academy Creek Inflow and Infiltration Study – Phase I	$325,000
Fall Protection Brackets for Pump Stations	$320,000
Academy Creek Inflow and Infiltration Study – Phase II	$320,000
SSI Village Area Water and Sewer Improvements – Phase I	$160,000
State Road 27 Paving (Grade Adjustment for GDOT)	$80,000
Combined Project Budgets	**$2,305,000**

Fiscal Year 2020 Capital Projects

Project	Budget
Water Meter Replacements	$1,300,000
Sea Palms Water Main Rehab – Phase I	$1,300,000
Odor/Corrosion Control at Pump Stations – Phase I	$840,000
SSI Elevated Storage Tank Modifications	$650,000
Lift Station SCADA Improvements – Phase I	$600,000
Brunswick Area Galvanized Water Main Replacements	$400,000
Brailsford Street EST Interior Painting	$115,000
Combined Project Budgets	**$5,205,000**

Fiscal Year 2021 Capital Projects

Project	Budget
Sea Palms Water Main Rehab – Phase II	$2,000,000
Mallery Street EST	$2,000,000
Water Meter Replacements	$1,300,000
Lift Station SCADA Improvements – Phase II	$600,000
SSI Galvanized Water Main Replacements – Phase II	$300,000
Perry Park EST Interior Painting	$115,000
Combined Project Budgets	**$6,315,000**

Fiscal Year 2022 Capital Projects

Project	Budget
Sea Palms Water Main Rehab – Phase III	$1,300,000
Water Meter Replacements	$1,000,000
Lift Station SCADA Improvements – Phase III	$600,000
Prince Street EST Interior and Exterior Painting	$500,000
Mall EST Interior and Exterior Painting	$400,000
Odor/Corrosion Control at Pump Stations – Phase II	$280,000
Combined Project Budgets	**$4,080,000**

Fiscal Year 2023 Capital Projects

Project	Budget
LS 4039 Force Main Reroute	$1,800,000
Water Meter Replacements	$1,100,000
Lift Station SCADA Improvements – Phase IV	$600,000
Odor/Corrosion Control at Pump Stations – Phase III	$560,000
Combined Project Budgets	**$4,060,000**

GEFA Loan Payments for Five Year Period **$2,147,128**

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Financial Snapshot

Operating Revenues	2015	2016	2017	2018	2019*
Sewer Revenue	11,207,806	11,578,296	13,593,385	14,790,991	15,886,950
Water Revenue	4,653,950	4,905,722	6,086,550	5,968,076	6,394,000
Debt Charges	3,722,512	3,831,963	3,740,289	3,845,022	3,522,500
Administrative Fees	2,669,294	2,764,916	3,619,087	4,585,137	4,521,900
Capital Improvement Fees	403,589	1,201,888	3,706,279	1,316,712	N/A**
Other Income	1,582,686	1,513,696	2,570,710	3,096,215	1,788,100
Total Revenues* **	**24,239,837**	**25,796,481**	**33,321,300**	**33,602,153**	**32,113,450**

Operating Expenses	2015	2016	2017	2018	2019
Governing Body Expenses	291,337	354,941	340,164	309,214	346,000
Personnel Expenses	7,496,645	8,517,466	9,703,905	10,929,800	11,317,550
Operating Expenses	7,931,640	9,110,272	11,049,014	10,308,789	11,029,800
Capital Costs	0	0	17,227	159,396	224,200
Debt Expenses	2,437,661	4,264,690	4,797,009	3,249,227	3,636,000
Reserve Transfers	0	3,300,000	3,799,992	6,033,660	5,559,900
Total Expenses	**18,157,283**	**25,547,369**	**29,707,311**	**30,990,086**	**32,113,450**
Net Revenues	**$6,082,554**	**$249,110**	**$3,613,989**	**$2,612,067**	**$-**

* 2019 Data from Approved Budget ** CIFs are not budgeted *** Does not include SPLOST funds

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Policy 5.3.2 – Assessment of Impact Fees

REASON FOR POLICY

To establish the method by which Impact Fees will be calculated and assessed.

DEFINITIONS

These definitions apply to the terms as they are used in this policy.

Term	Definition
Impact Fee	Impact fees are charges assessed to properties to recover part of the capital costs of expanding the water and wastewater infrastructure to serve said properties. Considered as a capital-recovery charge, impact fees allow recovery of the capital costs of developing the capacity directly from the customers who will benefit from it. Impact fees are further defined in Section 8 of the Cost Recovery Policy.
Residential Equivalent Unit (REU)	An REU is equal to 300 gallons per day. REUs are allocated to all MPW customers. When REUs are calculated, MPW will round up to the next whole number.

POLICY

MPW will collect impact fees from all properties to recover part of the capital costs of expanding the water and wastewater infrastructure to serve said properties.

Calculation of Impact Fees

The number of REUs for a development is determined by South Carolina Department of Health and Environmental Control (SCDHEC) Unit Flow Contributory Guidelines and MPW Guidelines for Development. If a category is not covered by either, or there is a conflict, then MPW staff will assign flows based upon methods that best reflect the potential demand that a customer will place on the water and/or wastewater systems.

For undeveloped lots other than single-family residential subdivisions, impact fees will be assessed at a minimum of one REU per lot.

Existing facilities that did not pay impact fees were grandfathered and assigned capacity in 1991 based on twelve months of historical consumption data:

a. Where new ownership of such an existing facility occurs, credit for existing assigned capacity will be granted.

b. When improvement or expansion of such facilities is planned, the policy above shall be followed.

Payment of Impact Fees
When MPW's water and/or wastewater systems are available to a specific site planned for development and only a water meter and/or a wastewater service lateral is required to connect the planned service to MPW's water and/or wastewater systems, water and/or wastewater impact fees must be paid prior to or at the time of issuance of a building permit by the Town of Mount Pleasant or the County of Charleston.

When MPW's water and/or wastewater systems are not available to a specific property planned for development, the property owner is required to install new main lines, and impact fees are due prior to MPW accepting the water/wastewater system extension for operation.

MPW will not charge water impact fees for installation of private fire lines connecting to the water system.

Additional Impact Fee Assessment
Additional impact fees will be assessed for any construction or change in the use of a property that increases the use of the water and/or wastewater systems beyond that previously approved by MPW or beyond that for which impact fees have already been paid. The additional assessment will charge current impact fees in effect at the time of construction or change in use and must be paid to MPW prior to construction or change in use.

If a customer fails or refuses to pay additional impact fees assessed by MPW, water and/or wastewater service to the property may be discontinued.

Refund of Impact Fees
If after the first full calendar year of active service, use of the water and/or wastewater systems remains below the flow associated with the calculated number of REUs the property owner may request in writing (by form submittal) a partial refund of the impact fees paid up to the difference between the original assessed number of REUs for the property and monthly average of the highest quarter of REUs used.

The right to request a refund will expire at the conclusion of the second full calendar year of active service. Upon completion of the second full calendar year of active service, any reduction in REUs shall be governed by MPW Policy 5.3.3 "Request for Reduction of REUs".

Assignment of Impact Fees
REUs are not a transferable asset and are paid for and assigned to a specific piece of property. MPW will not allow the transfer of REUs (impact fees) between locations within its service area.

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REFERENCES

- An Analysis of Unit Contributory Loadings, Mount Pleasant Waterworks 1987 REU Study
- SCDHEC Unit Flow Contributory Guidelines
- MPW Policy 5.2.2 – Impact Fees
- MPW Guidelines for Development
- MPW Cost Recovery Policy
- MPW Resolution 03-96
- MPW Current Budget Resolution Establishing Customer Chagres
- MPW Resolution 05-2011 – Water and Wastewater Use Resolution of the Mount Pleasant Waterworks Service Area.
- Town of Mount Pleasant Ordinances Amending Chapter 51 of Title V

DOCUMENT CONTROL

Managed by: *Engineering Department*	Responsible Position: *Engineering Department Manager*	Contact Position: *GIS Supervisor*
Date Approved: *November 9, 1990*	Last Update: *December 18, 2017*	Version: *4.0*

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Policy 5.3.3 – Impact Fee Management

REASON FOR POLICY

To establish policies regarding Impact Fees assessed by Mount Pleasant Waterworks (MPW) and assessment of customer usage of water and wastewater services.

DEFINITIONS

These definitions apply to the terms as they are used in this policy.

Term	Definition
Impact Fee	Impact fees are charges assessed against properties to recover part of the capital costs of expanding the water and wastewater infrastructure to serve said properties. Considered as a capital-recovery charge, impact fees allow recovery of the capital costs of developing the capacity directly from the customers who will benefit from the service. Impact fees are further defined in Section 8 of the Cost Recovery Policy.
Residential Equivalent Unit (REU)	An REU is equal to 300 gallons per day. REUs are allocated to all MPW customers. When REUs are calculated, MPW will round up to the next whole number.

POLICY

Request for Reduction in REU's after second full calendar year of active service

If a property uses less water than allowed under the number of REUs assigned to the property or for which impact fees were paid, the property owner may request in writing to MPW a reduction in the REUs applicable thus reducing the monthly water and wastewater Basic Facility Charges. Only one request for reduction of REUs shall be allowed per fiscal year. The reduction of REUs shall not be less than the monthly average of the highest quarter for the most recent three years. All requests for reduction of REUs must be received in writing (by form submittal) by MPW prior to March 15th each year. Should the request for reduction be approved, the effective date of the reduction shall be July 1st.

If REUs are reduced for a property after the second full calendar year of active service, there will be no refund of previously paid impact fees. If the usage of the water and wastewater systems

within any given month surpasses the reduced amount of assigned REUs the customer shall be responsible for excessive use charges as set forth in MPW Policy 4.1.1.

Increase of Reduced REUs

If a property owner previously reduced the number of REUs or if the REUs have lapsed the property owner may adjust active REUs once per year to a number that does not exceed the REUs originally assigned to the property. In order to add any reduced or lapsed REUs back to the property, impact fees or back BFCs must be paid at MPW's current rate in accordance with Policy 5.3.2 (whichever is less).

Purchase of Additional REUs

The property owner at any time may purchase additional REUs at any time by paying MPW's current impact fees in accordance with MPW Policy 5.3.2.

REFERENCES

- MPW Cost Recovery Policy
- MPW Resolution 03-96
- MPW Current Budget Resolution Establishing Customer Chagres
- MPW Resolution 05-2011 – Water and Wastewater Use Resolution of the Mount Pleasant Waterworks Service Area.
- Town of Mount Pleasant Ordinances Amending Chapter 51 of Title V

DOCUMENT CONTROL

Managed by: *Engineering Department*	Responsible Position: *Engineering Manager*	Contact Position: *Engineering Manager*
Date Approved: *July 1, 1996*	Last Update: *December 18, 2017*	Version: *5.0*

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1226 Pickens Street
Columbia, South Carolina 29201
info@garberreporting.com
Telephone: (803) 256-4500 | Fax (803) 256-1999

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STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS

COUNTY OF CHARLESTON C/A. No. 2018-CP-10-2764

Snee Farm Lakes Homeowner's Association, Inc., Individually and on Behalf of those Similarly Situated,

Plaintiff,

vs.

The Commission of Public Works for the Town of Mt. Pleasant d/b/a Mount Pleasant Waterworks,

Defendant.

VIDEOCONFERENCE DEPOSITION OF

DOROTHY YAGER

****

Monday, January 18, 2021

11:20 a.m. - 12:30 p.m.

The deposition of DOROTHY YAGER was taken on behalf of the Defendant via videoconferencing on the 18th day of January, 2021 before Cassandra E. Vance, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition and agreement of counsel.

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APPEARANCES:

Ross A. Appel, Esquire
McCullough Khan, LLC
359 King Street, Suite 200
Charleston, South Carolina 29401
Counsel for the Plaintiff

Susan Ranee Saunders, Esquire
McGowan Hood & Felder, LLC
10 Shem Drive, Suite 300
Mount Pleasant, South Carolina 29246
Co-Counsel for the Plaintiff

Amy L.B. Hill, Esquire
Gray T. Culbreath, Esquire
Gallivan, White & Boyd, PA
1201 Main Street, Suite 1200
Columbia, South Carolina 29201
Counsel for the Defendant

ALSO PRESENT:
Linda Montesano and Scot Epling

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- Newsletter dtd 6/18/18
Defendant's Exhibit 4, (7 pages).....45
- P&L Statements
Defendant's Exhibit 5, (17 pages).....46
- 2019 Annual Meeting Minutes

line. Do you know whether or not that drainage was going into the sewer line?

A. I do not know. We had all the pipes repaired, restored, cleared out, and in one situation, the pipe was switched to another area.

Q. From the sewer line?

A. I don't know.

Q. Do you know how much Snee Farm Lakes paid in impact fees back when it was first developed?

A. No.

Q. What do "impact fees" mean to you?

A. Usually, I think it's based on what the people who are developing the area, what they tend to think that particular development is going to use in terms of water, sewage, et cetera; how does it affect the environment where the development is.

Q. Did you understand that at any time, Snee Farm Lakes could reduce its REU's?

MR. APPEL: Object to form.

A. We could. You were notified in that letter. We were notified in that letter that we could.

Q. Did you understand that even prior to that letter, at any time Snee Farm Lakes could reduce its REU's?

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A. No. You're a public utility. I trust you. I'm a customer.

Q. Did you -- did you ever even look into it?

A. No.

MR. APPEL: Object to form.

A. No.

Q. Was that something that you relied on Property Management Services to handle?

MR. APPEL: Object to form.

A. Yes.

Q. And let me show you -- I'm going to show you what I'm going to mark as Exhibit 2 to your deposition.

(DEFENDANT'S EXHIBIT 2 WAS MARKED FOR IDENTIFICATION PURPOSES (19 pages) - MPW bills)

BY MS. HILL:

Q. Do you recognize this document?

A. Yes.

Q. Okay. What is this document?

A. It is a water bill.

Q. From -- directed to whom?

A. To Property Management Services.

Q. For whom?

A. Snee Farm Lakes HOA.

Q. And what's the date of this bill?

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(https://www.facebook.com/MPWaterworks)

(https://twitter.com/MPWaterworks)

(https://nextdoor.com/)

Enter a keyword or phrase to search

CUSTOMERS WATER WASTEWATER DEVELOPMENT PROGRAM CAPITAL PROGRAM

ABOUT US BIDS (/CONTACT-US/BIDS-AND-PROCUREMENT)

Customer Service & Billing Inquiries
843-884-9626

Visit us Online at:
mountpleasantwaterworks.com

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Past Due Accounts
Past due amount is due immediately.
Delinquent accounts are subject to the charges listed below.

Delinquent Charges (days after bill date)
Late $5.00+2.5% charged on day 27
Non-Payment $65.00 charged on day 43
Disconnection on or after day 43

Return Transaction Fee $30.00 per check or Automated Clearing House (ACH) transaction. After 3 checks or ACH transactions are returned, only cash, cashier's check, money order or valid credit card will be accepted.

Meter Reading
Your water meter reading is obtained for billing approximately every 31 days. A small radio device transmits the read to a centrally located tower that in turn transmits the read to Mount Pleasant Waterworks (MPW). If we are unable to obtain a meter reading your bill may be estimated until a read can be collected. Town ordinance prohibits obstruction of your meter including vegetation other than low-growing grass within five feet of the meter. Meter obstruction may prevent important notifications and alarms about your water usage and the system. We respectfully request your assistance in keeping the area around the meter clear.

The meter read date, previous read, current read, and gallons are shown on the front of this bill.

About Your Bill
Your water bill is based on how many gallons of water you use each month. A Basic Facility Charge for residential and commercial customers is a monthly base charge on the number of Residential Equivalent Units (REUs) assigned. The Basic Facility Charge for irrigation customers is based on the size of the meter.

WATER

Water and Wastewater Volumetric Charge
Mount Pleasant Waterworks (MPW) uses a volumetric water and wastewater charge. One REU equals 9,200 gallons per month, which is the allowance provided to a single family residence. Multi-family and commercial developments can be assigned multiple REUs.

When monthly usage exceeds the number of allowed REU gallons, the volumetric rate is multiplied for each 1,000 gallons over the REU allowance. The four tiers are:
Tier 1: all gallons charged at the volumetric rate
Tier 2: charged at 2 times the volumetric rate >9,200 gallons
Tier 3: charged at 3 times the volumetric rate >18,400 gallons
Tier 4: charged at 4 times the volumetric rate >27,600 gallons

For irrigation customers, the number of gallons allowed in each tier depends on the size of the meter.

The number of gallons billed in tier 1 and the excessive use tiers is shown on the front of this bill. Please see the rate card for tier costs.

Wastewater Volumetric Charge
The wastewater volumetric charge is based on the monthly water gallons billed.

Other Rates, Fees and Charges
Visit www.mountpleasantwaterworks.com or call 843-884-9626 for information on other rates, fees and charges.

Commission Meetings
The Commission typically meets on the third Monday of each month at 5:30 p.m. in the Public Meeting Room at the MPW Operations Center, 1619 Rifle Range Road. You are invited to attend. Please confirm meeting date and time by visiting our website.

Round-Up!
Supporting a good cause for less than $1 a month is easy with the Round-Up program. A few pennies can have a powerful positive impact on people's lives. Round-Up is a convenient and painless way for MPW customers to help families in our community and the world. You can agree to round up your water bill to the next highest dollar each month, with the extra change going to either Customer Care or Water Missions International, the choice is yours. Visit our website for more details and sign up for Round Up.

Your Water
MPW has two water sources: groundwater from the Charleston Aquifer, and purchased surface water from Charleston Water System (CWS).
The Charleston Aquifer is a large body of pristine groundwater between 1,800 and 2,000 feet deep beneath the coastal plain of South Carolina. MPW treats the raw water using state-of-the-art reverse osmosis technology. The treated surface water provided by CWS is from the Bushy Park Reservoir and the Edisto River. Our water meets or exceeds all water quality regulations and Safe Drinking Water Act requirements.

For more information about your water please visit our website where you can find our Annual Water Quality Report.

Payment Options:
Pay Online: mountpleasantwaterworks.com

Automatic Payments: Sign up online for Easy Pay and have your checking/savings account or credit/debit card charged each month.

By Phone: Call (843) 884-9626 and our automated payment system can help you with your account status and payments 24 hours a day. You will need your customer and account numbers found on the front of this bill.

In Person: Visit our Operations Center lobby or drive-thru during business hours (9:00 a.m. to 5:00 p.m.) or drop off in the drop box, 1619 Rifle Range Road Mount Pleasant.

Mail: Mail payments to Mount Pleasant Waterworks, PO Box 602832 Charlotte, NC 28260-2832 (Why Charlotte? Mailing to this payment processing center keeps rates low and saves you money.) Be sure to allow extra time for your mail to travel to Charlotte, NC so your payment arrives on time.

Billing Options:
Switch to paperless billing and receive one less piece of mail a month. Sign up for MPW's Online Account Management and receive your bills and newsletters via email. It's quick and easy.

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Customer Service & Billing Inquiries
843-884-9626

Past Due Accounts
Full payment is due by the date on this bill. Delinquent accounts are subject to the charges listed below and disconnection of service.

Delinquent Charges (days after bill date)
Late $5.00+2.5% charged on day 27
Non-Payment $65.00 charged on day 43
Disconnection on or after day 43

Return Transaction Fee $30.00 per check or Automated Clearing House (ACH) transaction. After 3 checks or ACH transactions are returned, only cash, cashier's check, money order or valid credit card will be accepted.

Meter Reading



Water and Wastewater Volumetric Charge
Mount Pleasant Waterworks (MPW) uses a volumetric water and wastewater charge. One REU equals 9,200 gallons per month, which is the allowance provided to a single family residence. Multi-family and commercial developments can be assigned multiple REUs.

When monthly usage exceeds the number of allowed REU gallons, the volumetric rate is multiplied for each 1,000 gallons over the REU allowance. The four tiers are:
Tier 1: all gallons charged at the volumetric

Visit us Online at:
mountpleasantwaterworks.com

Commission Meetings
The Commission typically meets on the third Monday of each month at 6:00 p.m. in the Public Meeting Room at the MPW Operations Center, 1619 Rifle Range Road. You are invited to attend. Please confirm meeting date and time by visiting our website.

Round-Up!
Supporting a good cause for less than $1 a month is easy with the Round-Up program. A few pennies can have a powerful positive impact on people's lives. Round-Up is a convenient and painless way for MPW customers to help families in our community and the world. You can agree to round up your water bill to the next highest dollar each month, with the extra change going to either

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Your water meter is read once a month, approximately every 28-31 days. Meters are read by a mobile collection unit that receives transmissions from a small radio device on your meter as an MPW vehicle drives through your neighborhood. If we are unable to read your meter, we attempt a visual read or your bill will be estimated based on your previous water usage. Please keep the area around your meter free of any obstacles such as debris, cars, bushes or unfriendly dogs, which may prevent us from checking/reading your meter.

About Your Bill
Your water bill is based on how many gallons of water you use each month. A Basic Facility Charge for residential and commercial customers is a monthly base charge on the number of Residential Equivalent Units (REUs) assigned. The Basic Facility Charge for irrigation customers is based on the size of the meter.

rate
Tier 2: charged at 2 times the volumetric rate >9,200 gallons
Tier 3: charged at 3 times the volumetric rate >18,400 gallons
Tier 4: charged at 4 times the volumetric rate >27,600 gallons

For irrigation customers, the number of gallons allowed in each tier depends on the size of the meter.

The number of gallons billed in tier 1 and the excessive use tiers is shown on the front of this bill. Please see the rate card for tier costs.

Wastewater Volumetric Charge
The wastewater volumetric charge is based on the monthly water gallons billed.

Other Rates, Fees and Charges
Visit www.mountpleasantwaterworks.com or call 843-884-9626 for information on other rates, fees and charges.

Customer Care (with East Cooper Community Outreach) or Water Missions International, the choice is yours. Visit our website for more details and sign up for Round Up.

Your Water
MPW has two water sources: groundwater from the Middendorf Aquifer, and purchased surface water from Charleston Water System (CWS).
The Middendorf Aquifer is a large body of pristine groundwater between 1,800 and 2,000 feet deep beneath the coastal plain of South Carolina. MPW treats the raw water using state-of-the-art reverse osmosis technology.
The treated surface water provided by CWS is from the Bushy Park Reservoir and the Edisto River. Our water meets or exceeds all water quality regulations and Safe Drinking Water Act requirements.

For more information about your water please visit our website where you can find our Annual Water Quality Report.

Payment Options:
Pay Online: mountpleasantwaterworks.com

Automatic Payments: Sign up online for Easy Pay and have your checking/savings account or credit/debit card charged each month.

By Phone: Call (843) 884-9626 and our automated payment system can help you with your account status and payments 24 hours a day. You will need your customer and account numbers found on the front of this bill.

In Person: Visit our Operations Center lobby or drive-thru during business hours (8:00 a.m. to 5:00 p.m.) or drop off in the drop box, 1619 Rifle Range Road Mount Pleasant.

Mail: Mail payments to Mount Pleasant Waterworks, PO Box 602832 Charlotte, NC 28260-2832 (Why Charlotte? Mailing to this payment processing center keeps rates low and saves you money.) Be sure to allow extra time for your mail to travel to Charlotte, NC so your payment arrives on time.

Billing Options:
Switch to paperless billing and receive one less piece of mail a month. Sign up for MPW's Online Account Management and receive your bills and newsletters via email. It's quick and easy.

WATERSMART ONLINE ACCOUNT LOGIN

MAKE ONE TIME PAYMENT

STAY CONNECTED WITH US

QUICK LINKS

US/JOIN-OUR-TEAM)

• WATER QUALITY REPORTS (/WATER/QUALITY/QUALITY-REPORTS)

• NEWS (/ABOUT-US/PRESS-RELEASES)





(http://www.call811.com/)



(http://www.epa.gov/watersense/)

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HOW TO FIND US

Mount Pleasant, SC 29464

Phone: (843) 884-9626
Email: Contact Us (/about-us/contact)

WEEKLY OFFICE HOURS

Monday thru Friday	9:00 AM - 5:00 PM
Saturday	CLOSED
Sunday	CLOSED

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EXHIBIT V

ELECTRONICALLY FILED - 2021 Apr 05 3:37 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1002764

From:	George Raftelis
Date:	November 10, 2017 10:28:49 AM (-05)
To:	Nicole Bates
Cc:	Joe Crea; Clay Duffie
Subject:	**Re: Policy Revisions 5.3.2 and 5.3.3**

Attachments:

I understand. With any approach, there will be winners and losers. Often you hear from the "losers". Again, we have to evaluate the trade-offs, and do what is appropriate given all the balls the utility is balancing. I think you can support either approach and we could point to utilities that do it both ways.

One issue I did not mention – many utilities collect billing & collection, meter reading and customer service costs through the volumetric charges. This would place a greater burden on the larger customers.

You have a nice weekend, too! George

George Raftelis, Founder & Chair Emeritus

227 W. Trade Street, Suite 1400 Charlotte, NC 28202
direct 704.936.4430 / *office* 704.373.1199 / *mobile* 704.968.3243

Raftelis Financial Consultants, Inc. www.raftelis.com

From: Nicole Bates <nbates@mpwonline.com>
Date: Fri, 10 Nov 2017 15:18:24 +0000
To: George Raftelis George <graftelis@raftelis.com>
Cc: Joe Crea <jcrea@raftelis.com>, Clay Duffie <clayduffie@mpwonline.com>
Subject: RE: Policy Revisions 5.3.2 and 5.3.3

I do know that in the past we tried a specific bill and meter fee and it was met with much criticism so we prefer it to be in the BFC, but maybe not specifically worded based on our recent experience with customers with multiple REUs. Thanks very much, I appreciate the insight.

Have a good weekend,
Nicole



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From: George Raftelis [mailto:graftelis@raftelis.com]
Sent: Friday, November 10, 2017 10:14 AM
To: Nicole Bates <nbates@mpwonline.com>
Cc: Joe Crea <jcrea@raftelis.com>; Clay Duffie <clayduffie@mpwonline.com>
Subject: Re: Policy Revisions 5.3.2 and 5.3.3

Nicole:

Thanks for asking about my recovery. The one good thing about food poisoning is that it is usually completely gone in less than 48 hours, which is the case with me. I am totally back in the saddle now!

Your raise a good point and one that we have dealt with in designing rate structures with other clients. If we restrict costs to billing & collection and meter reading, one can raise the argument that costs of doing these activities are roughly the same regardless of your size. But by including customer service, we find that large accounts can require substantially more effort than smaller accounts. What we are going through in this case is a good example of having to expend substantial costs to deal with certain large customer accounts. So it gets down to the trade-off of simplicity versus true cost of service in allocating billing & collection, meter reading, and customer costs (generally grouped together). If we wanted to be more exact, we could separate billing & collection and meter reading costs and set a fixed charge (separate from the BFC), and charge one unit of cost to each customer. We then add a BFC to recover the other costs (including customer service costs) that gets assessed on an REU basis. We have done this for other clients but it does add complexity to the rate structure; in your case it would require a change to your billing system. Also, I don't think separating billing & collection and meter reading costs and charging on a per unit basis would have a substantial effect on the larger customers – Mark and Joe would have a better feel for this. I think we can support either approach.

Hope this helps. As I like to think, rate structures are as much an art as a science, and there is not one precise structure that is 100% precise. MPW goes through substantial effort to make your rate structure as supportable as possible which is what we urge for all of our clients.

George

George Raftelis, Founder & Chair Emeritus

227 W. Trade Street, Suite 1400 Charlotte, NC 28202
direct 704.936.4430 / *office* 704.373.1199 / *mobile* 704.968.3243

Raftelis Financial Consultants, Inc. www.raftelis.com

From: Nicole Bates <nbates@mpwonline.com>
Date: Fri, 10 Nov 2017 14:52:46 +0000
To: George Raftelis George <graftelis@raftelis.com>
Subject: RE: Policy Revisions 5.3.2 and 5.3.3

Thank you, George, we appreciate this. I do not think we will need a call today.
I am curious though if other utilities have experienced objection to listing:
• Meter reading, billing & collection and customer costs;

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Specifically, as a fixed cost on an REU basis.
Considering that on an REU basis, there is not additional work or time to read the meter, bill and collect from a property that has say 30 REUs compared to a property with one. Either way I am reading one meter, producing one bill and collecting from one customer. Of course, meter reading, billing and collection is a fixed cost, but at an REU basis we were concerned that a customer could argue and we could in fact argue that we do not have to do something say 30x for a customer with 30 REUs. Which is why Mark was trying to be more general in his draft. I'd appreciate any insight you have. Glad you are feeling better. Food poisoning is awful.
Thanks,
Nicole

From: George Raftelis [mailto:graftelis@raftelis.com]
Sent: Friday, November 10, 2017 9:38 AM
To: Nicole Bates <nbates@mpwonline.com>; Clay Duffie <clayduffie@mpwonline.com>
Cc: Joe Crea <jcrea@raftelis.com>
Subject: Re: Policy Revisions 5.3.2 and 5.3.3
Clay & Nicole:
I think what Clay is looking for is strong supportable wording for Policy 7.2 Basic Facility Charge. I have taken what Mark has proposed, and compared it with the wording on page 130 of our Book and what I sent to you before. I have made some tweaks to what I sent before and offer the attached wording for the policy. I reference in parentheses, the components of costs in the first paragraph on page 130 on our Book so you can see the tie between the attached proposed wording with narrative in the Book.
I propose this wording because:

- It ties to the narrative in the Book. (authoritative document)
- It ties with phraseology that you use at MPW.
- It is definitive as to what can be included in the BFC. (which makes it more supportable in a legal dispute).
- It provides MPW great latitude in what you include in the BFC.

Hope this helps. Happy to discuss this with you today. I'm available for a call up to 1:30pm. Let me know.
George

George Raftelis, Founder & Chair Emeritus

227 W. Trade Street, Suite 1400 Charlotte, NC 28202
direct 704.936.4430 / *office* 704.373.1199 / *mobile* 704.968.3243

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From: Nicole Bates <nbates@mpwonline.com>
Date: Fri, 10 Nov 2017 14:02:04 +0000
To: George Raftelis George <graftelis@raftelis.com>
Subject: RE: Policy Revisions 5.3.2 and 5.3.3
Thank you,
Nicole

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From: George Raftelis [mailto:graftelis@raftelis.com]
Sent: Friday, November 10, 2017 9:01 AM
To: Nicole Bates <nbates@mpwonline.com>
Subject: Re: Policy Revisions 5.3.2 and 5.3.3
OK. I am good until about 1:30pm. Let me know.
George

George Raftelis, Founder & Chair Emeritus

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direct 704.936.4430 / *office* 704.373.1199 / *mobile* 704.968.3243

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From: Nicole Bates <nbates@mpwonline.com>
Date: Fri, 10 Nov 2017 13:56:31 +0000
To: George Raftelis George <graftelis@raftelis.com>, Clay Duffie <clayduffie@mpwonline.com>
Subject: RE: Policy Revisions 5.3.2 and 5.3.3
Hi George,
I will be in touch about a call today, but as of right now, we will not have a call at 9.
Thanks,
Nicole



From: George Raftelis [mailto:graftelis@raftelis.com]
Sent: Friday, November 10, 2017 8:54 AM
To: Nicole Bates <nbates@mpwonline.com>; Clay Duffie <clayduffie@mpwonline.com>
Subject: Re: Policy Revisions 5.3.2 and 5.3.3
Nicole and Clay:
Are we on for talking today at 9:00am?
George

George Raftelis, Founder & Chair Emeritus

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direct 704.936.4430 / *office* 704.373.1199 / *mobile* 704.968.3243

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From: George Raftelis George <graftelis@raftelis.com>
Date: Wed, 8 Nov 2017 17:16:42 -0500
To: Nicole Bates <nbates@mpwonline.com>
Subject: Re: Policy Revisions 5.3.2 and 5.3.3
Thanks, Nicole. I think by Friday morning I should be find.
George

George Raftelis, Founder & Chair Emeritus

227 W. Trade Street, Suite 1400 Charlotte, NC 28202
direct 704.936.4430 / *office* 704.373.1199 / *mobile* 704.968.3243

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From: Nicole Bates <nbates@mpwonline.com>
Date: Wed, 8 Nov 2017 21:44:24 +0000
To: George Raftelis George <graftelis@raftelis.com>
Subject: RE: Policy Revisions 5.3.2 and 5.3.3
Hi George,
At this point you are the only one that responded about tomorrow. I spoke with Clay and he wanted your input on the Cost Recovery Policy more than these two policies so at this point I would say- do not plan on a call Thursday morning. I will check with him about Friday morning at 9 and get back with you. I hope you feel better.
Thanks,
Nicole

From: George Raftelis [mailto:graftelis@raftelis.com]
Sent: Wednesday, November 08, 2017 3:24 PM
To: Clay Duffie <clayduffie@mpwonline.com>
Cc: Nicole Bates <nbates@mpwonline.com>; Mark Coffin <mcoffin@mpwonline.com>; David Jennings <djennings@rrhlawfirm.com>; lcroft@rrhlawfirm.com <cbruorton@rrhlawfirm.com>
Subject: Re: Policy Revisions 5.3.2 and 5.3.3
Hi Clay:
I was wondering how the policy was evolving. I'm delighted to participate tomorrow morning at 9:00am, but I need to make you aware I have been battling food poisoning and not sure how I will feel tomorrow morning. Friday morning at 9:00am would be better but if you need to move ahead let's try tomorrow.
Let me know.
George

George Raftelis, Founder & Chair Emeritus

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From: Clay Duffie <clayduffie@mpwonline.com>
Date: Wed, 8 Nov 2017 14:55:23 +0000
To: "lcroft@rrhlawfirm.com" <cbruorton@rrhlawfirm.com>
Cc: Nicole Bates <nbates@mpwonline.com>, Mark Coffin <mcoffin@mpwonline.com>, David Jennings <djennings@rrhlawfirm.com>, George Raftelis George <graftelis@raftelis.com>
Subject: RE: Policy Revisions 5.3.2 and 5.3.3
We need to put our heads together to refine.
How about we meet at 9 am tomorrow, George can you call in??

From: Chip Bruorton [mailto:cbruorton@rrhlawfirm.com]
Sent: Tuesday, November 07, 2017 5:25 PM
To: Clay Duffie <clayduffie@mpwonline.com>
Cc: Nicole Bates <nbates@mpwonline.com>
Subject: RE: Policy Revisions 5.3.2 and 5.3.3
Clay,
I have not had a chance to talk to David since last Wednesday's meeting. Where do we stand on the proposed policy revisions?
Chip

Chip Bruorton
|*Attorney at Law*|
151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8119
|direct fax| (843) 266-2261
cbruorton@rrhlawfirm.com
V-Card
www.rrhlawfirm.com

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From: Clay Duffie [mailto:clayduffie@mpwonline.com]
Sent: Monday, October 30, 2017 5:10 PM

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To: Chip Bruorton <cbruorton@rrhlawfirm.com>
Cc: Nicole Bates <nbates@mpwonline.com>
Subject: RE: Policy Revisions 5.3.2 and 5.3.3
Yes, but if they reduce them, what is the policy about adding them back? Obviously not more than they originally paid for. I do not think they should be able to add back REU's more than once a year, and the request must be in writing. We need to see how we can track them and if we should charge a fee of some kind. The policy now says they have to pay back BFC, so if we are not going to require that, then we need to amend that policy. We need to get all the changes right.
Nicole is working on the language now, so you don't need to both be working on it.
Thanks,

From: Chip Bruorton [mailto:cbruorton@rrhlawfirm.com]
Sent: Monday, October 30, 2017 4:17 PM
To: Clay Duffie <clayduffie@mpwonline.com>
Cc: Nicole Bates <nbates@mpwonline.com>
Subject: RE: Policy Revisions 5.3.2 and 5.3.3
Did we not conclude that because the customer would have already paid impact fees on the original number of REUs that a capacity reservation fee or back payment for REUS was not equitable?
Chip

Chip Bruorton
|*Attorney at Law*|
151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8119
|direct fax| (843) 266-2261
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From: Clay Duffie [mailto:clayduffie@mpwonline.com]
Sent: Monday, October 30, 2017 4:03 PM
To: Chip Bruorton <cbruorton@rrhlawfirm.com>

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Cc: Nicole Bates <nbates@mpwonline.com>
Subject: RE: Policy Revisions 5.3.2 and 5.3.3
What about the reinstatement of REU's?

From: Chip Bruorton [mailto:cbruorton@rrhlawfirm.com]
Sent: Monday, October 30, 2017 2:11 PM
To: Clay Duffie <clayduffie@mpwonline.com>
Cc: Nicole Bates <nbates@mpwonline.com>
Subject: RE: Policy Revisions 5.3.2 and 5.3.3
Clay,
Attached are the revised Policies incorporating your comments from last night.
Chip

Chip Bruorton
|*Attorney at Law*|
151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8119
|direct fax| (843) 266-2261
cbruorton@rrhlawfirm.com
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From: Clay Duffie [mailto:clayduffie@mpwonline.com]
Sent: Monday, October 30, 2017 9:44 AM
To: Chip Bruorton <cbruorton@rrhlawfirm.com>
Cc: Nicole Bates <nbates@mpwonline.com>
Subject: RE: Policy Revisions 5.3.2 and 5.3.3
Chip, just to be sure, you are not going to be at committee meeting on Wednesday. Are you available by phone ?

-----Original Message-----
From: Chip Bruorton [mailto:cbruorton@rrhlawfirm.com]

RAFTELIS_002180

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Sent: Monday, October 30, 2017 7:37 AM
To: Clay Duffie <clayduffie@mpwonline.com>
Cc: Nicole Bates <nbates@mpwonline.com>
Subject: RE: Policy Revisions 5.3.2 and 5.3.3

Yes. I will add that in. Anything else?

Sent with BlackBerry Work
(www.blackberry.com)

From: Clay Duffie <clayduffie@mpwonline.com<mailto:clayduffie@mpwonline.com>>
Date: Sunday, Oct 29, 2017, 10:01 PM
To: Chip Bruorton <cbruorton@rrhlawfirm.com<mailto:cbruorton@rrhlawfirm.com>>
Cc: Nicole Bates <nbates@mpwonline.com<mailto:nbates@mpwonline.com>>
Subject: Re: Policy Revisions 5.3.2 and 5.3.3

Didn't we talk about allowing a reduction only once a year ?

Sent from my iPhone

On Oct 29, 2017, at 9:32 PM, Chip Bruorton
<cbruorton@rrhlawfirm.com<mailto:cbruorton@rrhlawfirm.com>> wrote:

Clay and Nicole,

Attached is my first pass at revisions to MPW Policy 5.3.2 and 5.3.3. Clay, I believe these changes accomplish what we discussed on our conference call Friday before last. I recall that we decided not to put in a capacity reservation fee since the customer would have already paid impact fees for the REUs. Please review and let me know if you any changes or comments. I have a meeting out of the office in the morning, but should be in by early afternoon if you want to discuss.

Also, I have begun drafting the commercial customer contract for service and hope to have that to you soon.

Chip

Chip Bruorton
|Attorney at Law|
151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8119
|direct fax| (843) 266-2261
cbruorton@rrhlawfirm.com<mailto:cbruorton@rrhlawfirm.com>
V-Card<http://www.rrhlawfirm.com/images/vcards/Bruorton-James-A-IV.vcf>
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<image001.gif><http://www.rrhlawfirm.com/>

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From: Robin Burner [mailto:rb@mpwonline.com]
Sent: Wednesday, October 25, 2017 1:14 PM
To: Chip Bruorton <cbruorton@rrhlawfirm.com<mailto:cbruorton@rrhlawfirm.com>>
Cc: Nicole Bates <nbates@mpwonline.com<mailto:nbates@mpwonline.com>>
Subject: FW: packet of info for our rate consultant

Robin L. Burner
Capital Program Administrator
Mount Pleasant Waterworks
843.971.7503 (direct)
rb@mpwonline.com<mailto:rb@mpwonline.com>

<image002.jpg>

From: Nicole Bates
Sent: Tuesday, October 24, 2017 6:29 PM
To: Robin Burner <rb@mpwonline.com<mailto:rb@mpwonline.com>>
Subject: Fwd: packet of info for our rate consultant

Hi Robin, could you help out with converting these to word please?

Thank you,
Nicole
Sent from my iPhone

Begin forwarded message:
From: Chip Bruorton <cbruorton@rrhlawfirm.com<mailto:cbruorton@rrhlawfirm.com>>
Date: October 24, 2017 at 4:29:20 PM CDT
To: Nicole Bates <nbates@mpwonline.com<mailto:nbates@mpwonline.com>>
Subject: RE: packet of info for our rate consultant Nicole,

Do you have word document version of Policy 5.3.2 and 5.3.3?

Chip Bruorton
|Attorney at Law|
151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8119
|direct fax| (843) 266-2261
cbruorton@rrhlawfirm.com<mailto:cbruorton@rrhlawfirm.com>
V-Card<http://www.rrhlawfirm.com/images/vcards/Bruorton-James-A-IV.vcf>
www.rrhlawfirm.com<http://www.rrhlawfirm.com>

<image001.gif><http://www.rrhlawfirm.com/>

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<5.3.3 - Impact Fee Management.docx>
<5.3.2 - Assessment of Impact Fees.docx> _____

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RAFTELIS_002183

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EXHIBIT W

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STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON FOR THE NINTH JUDICIAL CIRCUIT

CASE NO: 2018-CP-10-2764

= = = =

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VIDEOCONFERENCE DEPOSITION of GEORGE RAFTELIS, called as a witness, taken at the instance of the Plaintiff, in accordance with the provisions of Rule 30 of the South Carolina Rules of Civil Procedure, pursuant to Notice, before Paula Wondra, a Notary Public in and for the State of Wisconsin, on the 2nd day of December, 2020, commencing at 10:00 EST.

A P P E A R A N C E S

ROSS A. APPEL, Attorney,
McCULLOUGH KHAN, LLC
359 King Street, Suite 200, Charleston, South Carolina 29401, appearing via videoconference on behalf of the Plaintiff.
Ross@mklawsc.com 843-937-0400

AND

JAMES L. WARD, JR., Attorney,
McGOWAN, HOOD & FELDER, LLC
321 Wingo Way, Suite 103, Mt. Pleasant, South Carolina 29464, appearing via videoconference on behalf of the Plaintiff.
jward@mcgowanhood.com 843-388-7202

GRAY T. CULBREATH and AMY L.B. HILL, Attorneys,
GALLIVAN, WHITE & BOYD, P.A.
PO Box 7368, Columbia, South Carolina 29202, appearing via videoconference on behalf of the Defendant.
Gculbreath@gwblawfirm.com 803-779-1833
ahill@gwblawfirm.com

FRANK L. BRYANT, Attorney,
POYNER SPRUILL, LLP
301 South College Street, Suite 2900, Charlotte, North Carolina 28202, appearing via videoconference on behalf of Raftelis and Mr. George Raftelis.
fbryant@poynerspruill.com 704-342-5250

Also present: Joe Crea, David Jennings, Nicole Bates, and Clay Duffie
(Via videoconference)

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I N D E X

WITNESS	Page(s)
GEORGE RAFTELIS	
EXAMINATION BY MR. APPEL	6

E X H I B I T S

No.	Description	Page
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(Attached to the original transcript and copies provided to Mr. Appel and Mr. Culbreath)

(Original transcript filed with Mr. Appel and copies provided to Mr. Appel and Mr. Culbreath)

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So there is an opportunity for actual historic data or analytical data to be provided by the customer. At least that's what I've been led to believe in talking with staff at the Waterworks.

Q Okay. All right. Do you believe it is proper for a BFC to be charged as a capacity reservation fee?

A To me, the term "capacity reservation fee" is not a relevant term in what we're talking about when we're dealing with BFCs. That can mean a lot of different things, and I'm not sure I understand exactly what is meant by a capacity reservation fee in the context of this legal brief.

Q Okay.

MR. CULBREATH: Ross, when you get to a point, I'd like to take a comfort break for a moment.

MR. APPEL: Oh, absolutely. It's 12:30. Do y'all want to go ahead and take some time? In fact, we can break for lunch now if that's what y'all want to do as well. Y'all just let me know what everyone's pleasure is.

MR. CULBREATH: I mean, it's up to Mr. Raftelis. He's the witness.

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A Yeah. I -- I mean, I agree with what the latter part of it is, but the impact fees are what a customer pays to reserve their rights to capacity in the system. I mean, that part is -- I totally agree with. And I guess I would agree with the first part in that I would not use the term "capacity reservation fee" to be a synonym for an impact fee is what I'm saying.

Q So why would capacity reservation fee be used in the BFC context then?

A I'm not sure I know why.

Q I mean, this is -- this is in policy 7.2 right here as of today, and it was in the policy when y'all were striking through and adding language to the policy. So presumably by leaving it in there, y'all have acknowledged its validity. Am I right about that?

A No, you're not. We focused again -- or I focused in my analysis what the strike-throughs above related to in terms of what the BFC was to recover. Quite frankly, that was about the only thing I did focus on, and that was what I was most specifically asked to respond to. I do not remember being asked personally to respond to that, that sentence.

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Q Okay. So going back to Exhibit 17 here where Joe and -- from your company and Nicole from MPW were talking about capacity reservation fee and he's saying it's more consistent with an impact fee as opposed to a basic facility charge, you were never brought into that conversation as I understand it?
A That is correct.
Q As you sit here today, do you believe it would be a good idea to remove the language "capacity reservation fee" from policy 7.2?
MR. CULBREATH: Object to the form. You can answer.
THE WITNESS: Yes.
BY MR. APPEL:
Q Yes, you believe it should be taken out?
A Yes. I think it would be -- if you'd go back to it again, please.
Q Yes, sir. Oh, whoops. There we go.
A Almost.
Q Up or down?
A Okay. Up, I think. We were just on it a second ago.
Q So this is where the capacity reservation language appears. I just highlighted it.
A Okay. There you go.

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EXHIBIT X

MOUNT PLEASANT WATERWORKS
PO BOX 330
MOUNT PLEASANT, SC 29465

Customer Service & Billing Inquiries
843-884-9626

Visit us Online at:
mountpleasantwaterworks.com

Customer #	Account #	Service Address		
00040158	00353890	1130 HIDDEN COVE DR		
Bill Date	**Past Due**	**Due**	**Current Charges**	**Due Date**
1/11/2017	$0.00	NOW	$9099.56	2/6/2017

Transactions	Amount
Previous Balance	$9689.56
Payment - Thank You	$9689.56CR
Balance Forward:	$0.00

Current Charges	$9099.56
Water	
Water - Commercial - T1 (All Gallons)	$2418.60
Water - Basic Facility Charge	$1184.00
Wastewater	
Wastewater - Commercial - T1 (All Gallons)	$3424.96
Wastewater- Basic Facility Charge	$2072.00

1/20/17
277
62210
$9099.56 JV

Account Balance	$9099.56

MPW0110A SCH 5-DIGIT 29464
7000001495 00.0007.0157 1409/1

SNEE FARM LAKES HOA
PROPERTY MANAGEMENT SERVICES
1340 BEN SAWYER BLVD STE G
MOUNT PLEASANT SC 29464-4582

Special Message

The MPW Operations Center will be closed for Martin Luther King Day, January 16th. Please call 843-884-9626 in the event of an emergency and on call personnel will respond.

Did you know you can manage your account online? Visit our website and enroll in Online Account Management.

Meter Reading Information

Service	REU # / Size	Date	Reading	Days	Gallons
Water	148	12/16/2016	127273	29	556,000

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EXHIBIT Y

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QUESTIONS AND ANSWERS

Draft as of February 14, 2019

What is a base facility charge ("BFC") and what is it used for?

Utilities have a lot of options when determining a rate structure for charging customers. However, South Carolina law requires any rates charged to be reasonable. [Exhibit A at the end of this document] A synonym for "reasonable" is "equitable" and the term "equitable" is considered by the utility industry to mean "cost-based."

Most utilities charge user rates that have:

- A fixed charge component that is the same amount each month regardless of usage. A utility's water sales to customers can vary from month to month, and yet most of a water or wastewater utility's operating expenses do not typically increase or decrease proportionally with changes in water sales. These fixed costs can include salaries and benefits; debt service; and other routine operating costs required to allow the utility to continue serving its customers. The fixed charge component provides the utility with some revenue stability to cover its fixed costs given the cyclical nature of water sales.

- A volumetric charge component that varies based on the customer's usage. The volumetric charge recovers the costs not recovered through the fixed charges.

The base facility charge ("BFC") charged by Mount Pleasant Waterworks ("MPW") is the fixed charge component of MPW's rate structure for water and wastewater service. BFC revenues collected from MPW's customers are used to pay for a portion of MPW's fixed costs.

There are several options for charging BFC's including:

- BFC's based on the customer's meter size. Customers with larger meter sizes would typically pay higher BFC's since such customers have higher water demand or usage. Since the customers have higher water demand or usage, they should pay for a larger portion of the utility's fixed costs.

- BFC's based on a minimum number of gallons billed regardless of actual usage.

MPW charges BFC's every month based on the number of residential equivalent units ("REU's") assigned to a customer's account. REU's are often known throughout the utility industry as "equivalent residential units" or "equivalent residential connections."

The American Water Works Association (the "AWWA") is the authoritative resource on safe water. The AWWA publishes many utility standards and practice guidelines that are heavily relied

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upon by utility industry professionals throughout the United States and other countries. According to *The Water Dictionary*, second edition, published by the AWWA, an "equivalent residential unit" is defined as:

"A means of expressing different levels of residential customer demand for water in terms of an equivalent number of least-size residential demand accounts. If the base residential demand is 300 gallons (1,135 liters) per day per account, then other customer groups' accounts would be expressed in terms of the equivalent number of these least-size accounts. In this manner, the customer may be said to be paying for a proportionate share of the share of the capacity that customer is using." [Exhibit B at the end of this document.]

Coincidentally, MPW defines one REU as 300 gallons per day. MPW's policy has been to charge a monthly BFC per REU according to the number of REU's for which impact fees have been paid. Impact fees are paid before a customer becomes operational or starts to use the utility system.

It is very easy for a customer to overstate the number of REU's needed. The number of REU's needed could be overestimated during the planning stage due to factors such as:

- End-user usage patterns and dynamics that vary substantially from what was initially projected.
- Continued water conservation pricing efforts.
- Changes in technology that lower water use requirements for household appliances (e.g., high-efficiency clothes washers and dishwashers), low-flow toilets, and water fixtures.

In MPW's case, there are hundreds of customers in the "Commercial and Other" class that have been paying excessive BFC's for many years or even decades. These customers' REU assignments substantially exceed what the REU counts should have been based on the customers' actual use. As such, these "Commercial and Other" customers have been paying unreasonable or inequitable rates for an extended period of time.

What is meant by "excessive BFC's"?

For the purposes of MPW's monthly user charges, "excessive BFC's" means that a customer is paying more BFC's than what is fair or equitable given the customer's actual use of MPW's utility system. Basically, the customer is paying rates generating revenues for MPW that exceed the customer's proportionate share of MPW's costs. Excessive BFC's in MPW's case are due to either excessive REU assignments or flaws in the methodology for the determination of the BFC per REU.

As noted in the AWWA's publication entitled "The Basics of Water Ratemaking" [Exhibit C at the end of this document]:

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"Rate equity itself is a challenging subject considering that it requires interclass (different classes), intraclass (within a class), and intergenerational (customers who contributed capital in different time periods) legal and technical considerations."

It has always been the burden of MPW to implement rates that reasonably meet the interclass, intraclass, and intergenerational equity criteria. The rate structure selected by MPW requires frequent reviews and adjustments over time to be fair and equitable. If a customer's REU assignment is out-of-sync with the demand or usage of a least-size residential account, the REU assignment is not an equivalent value. Rather, it is an inflated number used to overcharge BFC's to the customer.

What are the problems with how Mount Pleasant Waterworks assigns REU's and charges BFC's?

There are multiple problems with how MPW currently assigns REU's and charges BFC's:

Problem #1: Customers with an excessive REU assignment must pay a higher cost per 1,000 gallons than other customers with "normal" usage.

Exhibit D at the end of this document shows MPW's existing monthly water and wastewater user rates. Under the rate structure selected by MPW, all customers with normal usage – defined as 0 to 9,200 gallons per REU – are charged the same volumetric rate per 1,000 gallons. Having the same volumetric rate is equitable – the more a customer uses, the greater the customer's proportionate share of MPW's costs.

Like most utilities, MPW has adopted a fixed charge component of its rate structure. Because MPW fails to regularly review, rebalance, and "right-size" the REU assignments, hundreds of "Commercial and Other" customers have been paying excessive BFC's for many years, or even decades.

Consider three customer types:

- Customer 1: A residential customer (1 REU) with monthly usage of 9,200 gallons, which is considered by MPW to be the threshold of "normal usage."

- Customer 2: A "commercial and other" customer with an equitable REU value of 10 REU's given the customer's monthly usage of 92,000 gallons. This customer has 10 times the monthly water usage demand of the residential customer, hence the 10 REU's.

- Customer 3: A "commercial and other" customer with an excessive REU assignment of 23 REU's given monthly usage of only 92,000 gallons. This customer has only 10 times the monthly water usage demand of the residential customer, but paid impact fees for more REU's than it currently needs. Based on audit report information provided by MPW, the

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"Commercial and Other" class customers with excessive REU assignments collectively have REU values that are over 130% higher than what they should be based on actual usage. [Exhibit E at the end of this document] 23 REU's is 130% higher than 10 REU's.

As shown in the following Table 1, under MPW's Fiscal Year 2019 (existing) water rates, Customer 3 with an excessive REU assignment must pay a cost per 1,000 gallons of water that is over 20% higher than the cost per 1,000 gallons of Customers 1 and 2. From a common sense standpoint, this situation is not fair or equitable. Customer 3 is overpaying for utility service – this customer is paying rates generating revenues for MPW that exceed the customer's proportionate share of MPW's costs.

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TABLE 1: Water Bill Comparison Under Fiscal Year 2019 MPW Rates

Description	Fiscal Year 2019
Customer 1:	
Residential Customer (1 REU) with Monthly Usage of 9,200 Gallons	
Water Basic Facility Charge Per REU	$8.40
REU's	1
Total Basic Facility Charge	$8.40
Normal Usage Volumetric Rate Per 1,000 Gallons	
0 to 9,200 Gallons Per REU Per Month	$4.80
Usage (000's)	9.2
Total Volumetric Charges	$44.16
Total Water Bill	$52.56
Total Cost Per 1,000 Gallons	$5.71
Customer 2:	
"Commercial and Other" Customer with Equitable REU Assignment	
(10 REU's) with Monthly Usage of 92,000 Gallons	
Water Basic Facility Charge Per REU	$8.40
REU's	10
Total Basic Facility Charge	$84.00
Normal Usage Volumetric Rate Per 1,000 Gallons	
0 to 9,200 Gallons Per REU Per Month	$4.80
Usage (000's)	92.0
Total Volumetric Charges	$441.60
Total Water Bill	$525.60
Total Cost Per 1,000 Gallons	$5.71
Percent Difference from Residential Cost Per 1,000 Gallons	0.0%
Customer 3:	
"Commercial and Other" Customer with Excessive REU Assignment	
(23 REU's) Given Monthly Usage of Only 92,000 Gallons	
Water Basic Facility Charge Per REU	$8.40
REU's	23
Total Basic Facility Charge	$193.20
Normal Usage Volumetric Rate Per 1,000 Gallons	
0 to 9,200 Gallons Per REU Per Month	$4.80
Usage (000's)	92.0
Total Volumetric Charges	$441.60
Total Water Bill	$634.80
Total Cost Per 1,000 Gallons	$6.90
Percent Difference from Residential Cost Per 1,000 Gallons	20.8%

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Problem #2: MPW regularly adjusts its fixed vs. variable cost recovery. Whenever MPW chooses to increase its basic facility charges (BFC's), "Commercial and Other" customers with normal usage and excessive REU assignments receive a rate increase percentage that is almost double that of a residential customer and a "Commercial and Other" customer with a properly-sized REU assignment.

The following Table 2 shows historical MPW user rate increase activity from Fiscal Year 2014 to 2019. For a given fiscal year:

- Sometimes only BFC's are increased, such as the water and wastewater user rate increases in Fiscal Years 2015 and 2016.
- Sometimes only volumetric rates are increased, such as the water and wastewater user rate increases in Fiscal Year 2017 and water user rate increases in Fiscal Year 2019.
- Sometimes both BFC's and volumetric rates are increased, such as water and wastewater user rate increases in Fiscal Year 2018.

MPW aggressively increased BFC's from Fiscal Year 2014 to 2016 – a cumulative 140.2% increase in the water BFC per REU and a cumulative 56.1% increase in the wastewater BFC per REU.

TABLE 2: Historical MPW User Rate Increase Activity

	Fiscal Year Ending June 30,					
Description	2014	2015	2016	2017	2018	2019
Water Rates:						
Basic Facility Charge Per REU	$3.33	$6.00	$8.00	$8.00	$8.40	$8.40
Annual Increase in Water Basic Facility Charge Per REU		80.2%	33.3%	0.0%	5.0%	0.0%
Cumulative Increase in Water Basic Facility Charge Per REU		80.2%	140.2%	140.2%	152.3%	152.3%
Normal Usage Volumetric Rate Per 1,000 Gallons						
0 to 9,200 Gallons Per REU Per Month	$4.07	$4.07	$4.07	$4.35	$4.57	$4.80
Annual Increase in Normal Usage Water Volumetric Rate		0.0%	0.0%	6.9%	5.1%	5.0%
Cumulative Increase in Normal Usage Water Volumetric Rate		0.0%	0.0%	6.9%	12.3%	17.9%
Wastewater Rates:						
Basic Facility Charge Per REU	$8.97	$12.00	$14.00	$14.00	$14.70	$16.70
Annual Increase in Wastewater Basic Facility Charge Per REU		33.8%	16.7%	0.0%	5.0%	13.6%
Cumulative Increase in Wastewater Basic Facility Charge Per REU		33.8%	56.1%	56.1%	63.9%	86.2%
Normal Usage Volumetric Rate Per 1,000 Gallons						
Residential						
0 to 9,200 Gallons Per REU Per Month	$4.90	$4.90	$4.90	$5.25	$5.51	$5.89
Annual Increase in Wastewater Volumetric Rate - Residential		0.0%	0.0%	7.1%	5.0%	6.9%
Cumulative Increase in Wastewater Volumetric Rate - Residential		0.0%	0.0%	7.1%	12.4%	20.2%
Commercial and Other						
0 to 9,200 Gallons Per REU Per Month	$5.76	$5.76	$5.76	$6.16	$6.48	$6.48
Annual Increase in Wastewater Volumetric Rate - Commercial and Other		0.0%	0.0%	6.9%	5.2%	0.0%
Cumulative Increase in Wastewater Volumetric Rate - Commercial and Other		0.0%	0.0%	6.9%	12.5%	12.5%

While MPW has the right to adjust its fixed charge vs. variable charge recovery, MPW also has the burden of making sure that any rates adopted as a result of these changes are reasonable / equitable in compliance with South Carolina law and the utility's own equitability policy. By law, MPW cannot implement or charge unreasonable or inequitable rates.

The approximately 435 "Commercial and Other" class customers with excessive REU assignments collectively have REU values that are 132% higher than what they should be based on the 36-

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month average consumption reflected in an audit report provided by MPW. [Exhibit E at the end of this document]. As noted in MPW's impact fee calculation guide, MPW uses the amount of estimated water used per day to determine the number of REU's. [Exhibit F at the end of this document.] Historical average usage or consumption has been recognized by the utility industry as being fair and equitable for determining equivalent residential units as noted in a 1984 article published by the *Journal AWWA* entitled "The Common Denominator: Equivalent Residential Units." [Exhibit G at the end of this document.]

To illustrate how customers with excessive REU assignments are affected by MPW's BFC vs. volumetric charge increase decisions, consider the three customer types again:

- Customer 1: A residential customer (1 REU) with monthly usage of 9,200 gallons, which is considered by MPW to be the threshold of "normal usage."

- Customer 2: A "commercial and other" customer with an equitable REU value of 10 REU's given the customer's monthly usage of 92,000 gallons. This customer has 10 times the monthly water usage demand of the residential customer, hence the 10 REU's.

- Customer 3: A "commercial and other" customer with an excessive REU assignment of 23 REU's given monthly usage of only 92,000 gallons. This customer has only 10 times the monthly water usage demand of the residential customer, but paid impact fees for more REU's than it currently needs.

Two (2) billing scenarios are presented in the following Table 3:

Scenario 1: Adjusting only the water BFC per REU by 80.2% as MPW actually did in Fiscal Year 2015.

Scenario 2: Adjusting only the volumetric charge to recover the same amount of revenue from the residential Customer 1.

As discussed previously, Customer 3 with the excessive REU assignment already pays a significantly higher overall cost per 1,000 gallons when compared to those of Customers 1 and 2. With the 80.2% increase in the water BFC per REU actually implemented by MPW in Fiscal Year 2015, Customer 3 with the excessive REU assignment receives an overall 13.6% rate increase percentage that is more than double the 6.5% increase of the residential customer (Customer 1) and the "commercial and other" customer with an equitable REU assignment (Customer 2). It would be very difficult to suggest that the rates and associated costs per 1,000 gallons for Customer 3 with the excessive REU assignment are cost-based or equitable. Since MPW failed to proactively review, rebalance, and "right-size" REU values to avoid charging excessive BFC's, the "Commercial and Other" customers with excessive REU assignments have been paying unreasonable and unequitable rates that have exceeded the customers' proportionate share of MPW's costs for many years, or even decades.

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TABLE 3: Water Bill Comparison - Fiscal Year 2015 Rate Increase Scenarios

Description	SCENARIO 1: Adjust Basic Faciliy Charge Only 2014	SCENARIO 1: Adjust Basic Faciliy Charge Only 2015	SCENARIO 2: Adjust Volumetric Charge Only 2014	SCENARIO 2: Adjust Volumetric Charge Only 2015
Customer 1:				
Residential Customer (1 REU) with Monthly Usage of 9,200 Gallons				
Water Basic Facility Charge Per REU	$3.33	$6.00	$3.33	$3.33
REU's	1	1	1	1
Total Basic Facility Charge	$3.33	$6.00	$3.33	$3.33
Normal Usage Volumetric Rate Per 1,000 Gallons				
0 to 9,200 Gallons Per REU Per Month	$4.07	$4.07	$4.07	$4.36
Usage (000's)	9.2	9.2	9.2	9.2
Total Volumetric Charges	$37.44	$37.44	$37.44	$40.11
Total Water Bill	$40.77	$43.44	$40.77	$43.44
Bill Increase from Fiscal Year 2014 to 2015		6.5%		6.5%
Total Cost Per 1,000 Gallons	$4.43	$4.72	$4.43	$4.72
Customer 2:				
"Commercial and Other" Customer with Equitable REU Assignment (10 REU's) with Monthly Usage of 92,000 Gallons				
Water Basic Facility Charge Per REU	$3.33	$6.00	$3.33	$3.33
REU's	10	10	10	10
Total Basic Facility Charge	$33.30	$60.00	$33.30	$33.30
Normal Usage Volumetric Rate Per 1,000 Gallons				
0 to 9,200 Gallons Per REU Per Month	$4.07	$4.07	$4.07	$4.36
Usage (000's)	92.0	92.0	92.0	92.0
Total Volumetric Charges	$374.44	$374.44	$374.44	$401.12
Total Water Bill	$407.74	$434.44	$407.74	$434.42
Bill Increase from Fiscal Year 2014 to 2015		6.5%		6.5%
Total Cost Per 1,000 Gallons	$4.43	$4.72	$4.43	$4.72
Customer 3:				
"Commercial and Other" Customer with Excessive REU Assignment (23 REU's) Given Monthly Usage of Only 92,000 Gallons				
Water Basic Facility Charge Per REU	$3.33	$6.00	$3.33	$3.33
REU's	23	23	23	23
Total Basic Facility Charge	$76.59	$138.00	$76.59	$76.59
Normal Usage Volumetric Rate Per 1,000 Gallons				
0 to 9,200 Gallons Per REU Per Month	$4.07	$4.07	$4.07	$4.36
Usage (000's)	92.0	92.0	92.0	92.0
Total Volumetric Charges	$374.44	$374.44	$374.44	$401.12
Total Water Bill	$451.03	$512.44	$451.03	$477.71
Bill Increase from Fiscal Year 2014 to 2015		13.6%		5.9%
Total Cost Per 1,000 Gallons	$4.90	$5.57	$4.90	$5.19
Percent Difference from Residential Cost Per 1,000 Gallons	10.6%	18.0%	10.6%	10.0%

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The preceding Table 3 shows how the three customer types are affected when MPW decides to increase BFC's. Based on MPW's actual fixed vs. variable cost recovery decisions made over the

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past 15 years – Fiscal Years 2005 to 2019 – the effects on Customers 1 through 3 are summarized in the following Table 4:

TABLE 4: Effect of MPW Water User Rate Increases - Fiscal Years 2005 to 2019

Description	Customer 1 Residential Customer (1 REU) with Monthly Usage of 9,200 Gallons	Customer 2 "Commercial and Other" Customer with Equitable REU Assignment (10 REU's) with Monthly Usage of 92,000 Gallons	Customer 3 "Commercial and Other" Customer with Excessive REU Assignment (23 REU's) Given Monthly Usage of Only 92,000 Gallons
Cumulative Water Rate Adjustment	95.2%	95.2%	110.8%
Overall Cost Per 1,000 Gallons of Water Use	$5.71	$5.71	$6.90
Percent Difference from Residential Cost Per 1,000 Gallons	0.0%	0.0%	20.8%

As shown in the preceding Table 4, Customer 3 with the excessive REU assignment had a 15.6% higher cumulative water rate increase (110.8% - 95.2% = 15.6%) than Customers 1 and 2 based on MPW's decision-making over the past 15 years. Further, and as discussed previously, Customer 3's overall cost per 1,000 gallons is currently over 20% higher than that of Customers 1 and 2. Customer 3's overall cost per 1,000 gallons exceeds this customer's proportionate share of MPW's costs and, as such, this customer's rates are not fair or equitable.

The detail behind the calculations in Table 4 is shown in the following Table 5:

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TABLE 5: Water Bill Comparison - Fiscal Year 2005 vs. Fiscal Year 2019 MPW Rates

Description	Fiscal Year 2005	Fiscal Year 2019
Customer 1:		
Residential Customer (1 REU) with Monthly Usage of 9,200 Gallons		
Water Basic Facility Charge Per REU	$2.45	$8.40
REU's	1	1
Total Basic Facility Charge	$2.45	$8.40
Normal Usage Volumetric Rate Per 1,000 Gallons		
0 to 9,200 Gallons Per REU Per Month	$2.66	$4.80
Usage (000's)	9.2	9.2
Total Volumetric Charges	$24.47	$44.16
Total Water Bill	$26.92	$52.56
Bill Increase from Fiscal Year 2014 to 2015		95.2%
Total Cost Per 1,000 Gallons	$2.93	$5.71
Customer 2:		
"Commercial and Other" Customer with Equitable REU Assignment		
(10 REU's) with Monthly Usage of 92,000 Gallons		
Water Basic Facility Charge Per REU	$2.45	$8.40
REU's	10	10
Total Basic Facility Charge	$24.50	$84.00
Normal Usage Volumetric Rate Per 1,000 Gallons		
0 to 9,200 Gallons Per REU Per Month	$2.66	$4.80
Usage (000's)	92.0	92.0
Total Volumetric Charges	$244.72	$441.60
Total Water Bill	$269.22	$525.60
Bill Increase from Fiscal Year 2014 to 2015		95.2%
Total Cost Per 1,000 Gallons	$2.93	$5.71
Customer 3:		
"Commercial and Other" Customer with Excessive REU Assignment		
(23 REU's) Given Monthly Usage of Only 92,000 Gallons		
Water Basic Facility Charge Per REU	$2.45	$8.40
REU's	23	23
Total Basic Facility Charge	$56.35	$193.20
Normal Usage Volumetric Rate Per 1,000 Gallons		
0 to 9,200 Gallons Per REU Per Month	$2.66	$4.80
Usage (000's)	92.0	92.0
Total Volumetric Charges	$244.72	$441.60
Total Water Bill	$301.07	$634.80
Bill Increase from Fiscal Year 2014 to 2015		110.8%
Total Cost Per 1,000 Gallons	$3.27	$6.90
Percent Difference from Residential Cost Per 1,000 Gallons	11.8%	20.8%

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Problem #3: MPW has a different type of rate structure for the irrigation class. The irrigation class has BFC's based on meter size, not REU's. Because MPW "mixes and matches" rate structures for water service, reviewing, rebalancing, and "right-sizing" REU assignments is necessary to ensure that the rates for all water customers are reasonable / equitable. For many years, the BFC's for irrigation customers have been lower than they should have been based on implied REU values derived from actual usage. As such, residential and "Commercial and Other" customers have been subsidizing the irrigation class and have been overcharged for BFC's for an extended period of time. Since the BFC's for the irrigation class have been lower than they should be, the BFC's for the residential and "Commercial and Other" customers have had to make up the difference in BFC cost recovery. The BFC's for the residential and "Commercial and Other" customers have been higher than they should be.

As shown in Exhibit D at the end of this document, MPW charges BFC's to irrigation water customers based on meter size (a common practice), not REU's. However, MPW still calculates REU's for this class. The monthly BFC for an irrigation customer with a 5/8-inch or 3/4-inch meter is $8.40, the same monthly basic facility charge that is assigned to one (1) REU. A 5/8-inch or 3/4-inch meter is the same meter size that would be provided to a typical single-family residential customer. However, the actual usage per REU of the irrigation customer class supports a value of 1.8 REU's for a 5/8-inch or 3/4-inch irrigation meter as shown in the following Table 6:

TABLE 6: Comparison of MPW Monthly Water Usage Per REU - Residential Class vs. Irrigation Class [*]

Description	Fiscal Year 2005	Fiscal Year 2013
Residential		
Annual Water Usage (000's gallons)	1,559,768	1,648,929
Number of REU's	26,483	29,279
Monthly Water Usage Per REU gallons)	4,908	4,693
Irrigation		
Annual Water Usage (000's gallons)	269,227	342,195
Number of REU's	2,496	3,445
Monthly Water Usage Per REU (000's gallons)	8,989	8,278
Irrigation Water Usage Per REU Difference from Residential Water Usage Per REU	83%	76%
Implied REU Value of 5/8-inch or 3/4-inch Meter Irrigation Customer	1.8	1.8

[*] Amounts derived from Exhibit G at the end of this document.

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The information in the preceding Table 6 is derived from Exhibit H at the end of this document, which contains customer demand summaries for Fiscal Years 2005 and 2013 as compiled by MPW's rate consultant. As the preceding Table 6 indicates, the 1.8 REU value for a 5/8-inch or 3/4-inch meter has been consistent for at least the nine (9) years of data provided by MPW's rate consultant.

According to Page 5 of MPW's Cost Recovery Policy [Exhibit I at the end of this document], MPW's Basic Facility Charge *"is a charge for the reservation of capacity based on the total active REUs assigned to a property."* MPW failed to assign the equivalent of at least 1.8 REU's to a 5/8-inch or 3/4-inch meter irrigation customer and to increase the BFC's accordingly for irrigation customers with larger meter sizes. The BFC for a 5/8-inch or 3/4-inch customer should be at least 80% higher than the BFC per REU for the residential class. If MPW had properly assigned more implied REU's to the irrigation class, the water BFC per REU for the residential and "Commercial and Other" classes would have been lower since more BFC cost recovery would have been allocated to the irrigation class. (Less BFC recovery would have been allocated to the residential and "Commercial and Other" classes.) Because of MPW's **flawed** rate-setting methodology, the residential and "Commercial and Other" classes have been paying more water BFC's than what is fair and equitable for many years.

As an example, consider a hypothetical situation in which MPW had only three customers:

- Customer A: A residential customer (1 REU) with monthly usage of 9,200 gallons, which is considered by MPW to be the threshold of "normal usage."

- Customer B: A "Commercial and Other" customer with an equitable REU value of 10 REU's given the customer's monthly usage of 92,000 gallons.

- Customer C: An 5/8-inch meter irrigation customer with the same BFC as a residential customer – an implied 1 REU – even though actual usage data supports an implied 1.8 ERC's.

If the utility designated $1,500 in a given fiscal year to be recovered through BFC's, the following Table 7 shows how each of these customers would be affected if the irrigation customer were assigned an implied REU value of 1.0 vs. 1.8:

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TABLE 7: Irrigation Customer Bill Comparison: 1.0 REU vs. 1.8 REU

Description	Irrigation Customer Assigned 1.0 REU	Irrigation Customer Assigned 1.8 REU	Difference in BFC Cost Recovery
Annual Amount to Be Recovered from BFC's	$1,500.00	$1,500.00	
REU Assignment:			
Residential Customer A	1.0	1.0	
"Commercial and Other" Customer B	10.0	10.0	
Irrigation Customer C	1.0	1.8	
Total REU's	12.0	12.8	
Annual BFC's Per REU	$125.00	$117.19	-6.25%
Monthly BFC Per REU	10.42	9.77	-6.25%
Monthly BFC Per Customer			
Residential Customer A	$10.42	$9.77	-6.25%
"Commercial and Other" Customer B	104.17	97.66	-6.25%
Irrigation Customer C	10.42	17.58	68.75%
BFC Cost Recovery By Customer			
Residential Customer A	$125.00	$117.19	-6.25%
"Commercial and Other" Customer B	1,250.00	1,171.88	-6.25%
Irrigation Customer C	125.00	210.94	68.75%
Total Cost Recovery	$1,500.00	$1,500.00	0.00%

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The preceding Table 7 indicates that, if MPW had properly sized the irrigation customer BFC's, all residential and "Commercial and Other" BFC's would have been lower. As discussed previously, excessive BFC's being collected from "Commercial and Other" customers in MPW's case is due in part to flaws in the determination of the BFC per REU. The residential and "Commercial and Other" customers have been subsidizing the irrigation class for an extended period of time.

An excessive BFC per REU especially impacts negatively the "Commercial and Other" customers with excessive REU assignments. Just as MPW should have adjusted the BFC's of the irrigation customers so that the water rates would be equitable, MPW should have also regularly reviewed, rebalanced, and "right-sized" the REU assignments of customers with excessive REU's based on actual usage so that the rates would be fair and equitable.

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Problem #4: The "Commercial and Other" class includes many homeowners associations ("HOA's") with excessive REU assignments. Existing homeowners pay HOA utility bills from MPW indirectly through HOA fees. However, these existing homeowners do not benefit from paying for the HOA REU's that are: i) associated with capacity for future growth; or ii) not representative of the HOA's current usage. Existing homeowners have higher HOA fees because the HOA utility bills reflect excessive REU assignments that do not benefit the homeowners.

One of the "Commercial and Other" customers with excessive REU assignments is the Charleston County School District (the "District") with multiple accounts. The District is funded through property taxes. Existing taxpayers pay the District's utility bills from MPW indirectly through property taxes associated with the District. However, these existing taxpayers do not benefit from paying for the District's REU's that are: i) associated with capacity for future growth; or ii) not representative of District current usage. Existing taxpayers must pay higher property taxes because the District utility bills reflect excessive REU assignments that do not benefit the taxpayers.

Section 2 of MPW's Cost Recovery Policy states "*…rates must be as equitable as possible among customer classifications, and between existing and future customers.*" [Exhibit I at the end of this document] It is a violation of MPW's own equitability policy as well as the reasonableness / equitability requirements of South Carolina State law that existing homeowners and property taxpayers have been paying higher HOA fees and property taxes because of excessive REU assignments that provide no benefit.

The Charleston County School District has at least ten (10) accounts with excess REU assignments. [Exhibit E at the end of this document] Cumulatively, these District accounts have REU assignments totaling 161 but, based on their 36-month average consumption as identified in MPW's audit report, their usage supports REU assignments totaling 67. Existing taxpayers do not benefit from paying for the extra 94 REU's assigned to the Charleston County School District that are either for future growth or that are not representative of the existing taxpayers' proportionate use of MPW's utility system.

Problem #5: By not "right-sizing" REU assignments based on actual usage, MPW risks overbuilding treatment capacity, a situation which can lead to excessively high user rates for all of MPW's customers.

Unused or "stranded" capacity is the most expensive capacity, as customers pay the fixed costs for such capacity even though it is not needed. These fixed costs include:

- Salaries and benefits for the required staffing levels. The larger the treatment plant, the higher the required regulatory staffing levels.
- Ongoing maintenance and repair costs to keep the facility functional.
- Basic utilities (e.g., electricity).

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- Other fixed costs required for the facility to remain in a "ready-to-serve" condition.

Paying for more treatment capacity than is actually needed can lead to excessively high user rates for all of MPW's customers. MPW must regularly review the usage patterns of its existing customers, the projected usage of future customers, and the underlying REU level of service standards for capacity planning purposes. Many factors can lead to a permanent reduction in the usage per customer and a lower REU level of service standard for capacity planning purposes, such as:

- Continued water conservation pricing efforts.
- Changes in technology that lower water use requirements for household appliances (e.g., high-efficiency clothes washers and dishwashers), low-flow toilets, and water fixtures.
- Increases in customer densities to reduce the costs of construction that result in less pervious surface to irrigate.
- General customer awareness of the need to reduce water (e.g., installation of xeriscape landscaping).

MPW has historically lowered its REU level of service standards for capacity planning purposes. As shown in Exhibit J at the end of this document, MPW lowered its water REU level of service standard from 411 gallons per day to 300 gallons per day effective after 1989. Changing conditions and customer usage patterns necessitate the need for MPW to review, rebalance, and "right-size" REU assignments and capacity planning assumptions to avoid overbuilding treatment capacity. Right-sizing treatment capacity benefits all of MPW's customers.

Problem #6: MPW's current policies for reducing REU assignments and BFC's are potentially expensive or cost-prohibitive to customers.

Exhibit K at the end of this document contains an excerpt from an audit letter that MPW sent to one of its "Commercial and Other" customers regarding how the customer could reduce its REU assignment. In accordance with MPW's Policy 5.3.3:

"To add any reduced or lapsed REUs back to the property, impact fees or back BFCs must be paid at MPW's current rate…"

Having to pay impact fees or back BFC's at MPW's current rate could be expensive or cost-prohibitive to many customers. If customers have any doubts on whether they might need their REU's allocable to future growth, this policy could make the customers think twice before choosing to lower their REU assignments.

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Impact fee case law requires the impact fees charged to be proportionate to the benefit received. If a customer reduces its REU assignment and later decides that it needs the capacity already paid for with impact fees, there may be legal issues in requiring customers to potentially pay impact fees twice for the same capacity. Some of the customers with excessive REU assignments paid MPW's impact fees for capacity decades ago, and MPW's impact fees per REU have increased substantially over time as shown in the following table:

TABLE 8: History of MPW Water and Wastewater Impact Fees Per REU

Description	Year 1983 [1]	Year 2019 [2]	Difference
Water Impact Fee Per REU	$513.75	$2,295.00	346.72%
Wastewater Impact Fee Per REU	324.00	5,164.00	1493.83%

[1] Amounts derived from Exhibit H at the end of this document.

[2] Amounts derived from Exhibit D at the end of this document.

There is no Federal or State law requiring MPW to have BFC's that link to the impact fees paid based on pre-operational capacity assumptions. There is also no Federal or State law requiring public utilities such as MPW to charge impact fees – the imposition of impact fees is optional. MPW's rate structure and billing practices are the result of MPW's own decision-making. MPW could easily switch to a rate structure in which all customers are charged a BFC based on meter size. MPW could also adopt a volumetric-only structure with a minimum number of gallons billed to achieve revenue stability. MPW decided to implement policies, rate structures, and billing practices that are unfair to "Commercial and Other" customers with excessive REU assignments.

What should Mount Pleasant Waterworks have done to avoid charging excessive BFC's?

In accordance with South Carolina and its own equitability policy, MPW has always had the burden of making sure that its rates are reasonable / equitable and that no customer is being charged excessive BFC's. MPW's customers do not always have the technical expertise to understand the concept of an REU and whether their rates are reasonable / equitable. MPW should have regularly reviewed, rebalanced, and "right-sized" its REU assignments to avoid charging excessive BFC's to any customer. Moreover, MPW should have recognized the need to increase the implied REU values and BFC's for the irrigation class – based on actual irrigation usage trends – so that the residential and "Commercial and Other" classes would have paid a lower BFC per REU. MPW's **flawed** existing policies, methodologies, and practices have caused hundreds of "Commercial and Other" customers (and residential customers) to be charged excessive BFC's by MPW for many years, or even decades.

The City of Melbourne, Florida ("Melbourne") has a water and wastewater rate structure similar to MPW in that the base charges are on an equivalent residential connection ("ERC") basis. (An

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ERC is a more common name for an REU.) However, unlike MPW, Melbourne reviews, rebalances, and "right-sizes" its ERC assignments to keep its rates fair and equitable. As shown in Exhibit L at the end of this document, Section 58-133(a)(1) of Melbourne's Code of Ordinances pertaining to water service rates states:

"The rate charged for potable water service shall consist of a monthly service charge based on the equivalent residential connections (ERCs) determined by the City periodically for the premises or point of connection…."

Moreover, Section 58-133(b)(2)c. of Melbourne's Code of Ordinances states:

"The city shall have the right to adjust the determination of the amount of ERCs assigned to a customer based on the change in average monthly water consumption at least once per year, unless there is a change in the customer characteristics which would necessitate the need to determine additional capacity fees becoming due and the need to assign additional ERCs to the customer."

Melbourne has the same practices for its sewer rates. As shown in the attached Exhibit L at the end of this document, Section 58-243(a)(1) of Melbourne's Code of Ordinances pertaining to sewer service rates states:

"The rate charged for sewer service to each customer shall consist of a monthly service charge based on the number of equivalent residential connections (ERCs) being served at such connection as determined by the City periodically for the premise…."

Moreover, Section 58-243(b)(2)e. of Melbourne's Code of Ordinances states:
"The city shall have the right to adjust the determination of the amount of ERCs assigned to a customer based on the change in average monthly billed sewer flow or consumption at least once per year, unless there is a change in the customer characteristics which would necessitate the need to determine additional capacity fees becoming due."

In practice, Melbourne reviews and adjusts its ERC assignments annually based on billed flow or consumption.

Serious equity, fairness, and overcharging issues will persist unless MPW makes certain changes to its policies, rate structures / methodologies, and billing practices.

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TABLES
(Included Within Text)

TABLE 1: Water Bill Comparison Under Fiscal Year 2019 MPW Rates

TABLE 2: Historical MPW User Rate Increase Activity

TABLE 3: Water Bill Comparison – Fiscal Year 2015 Rate Increase Scenarios

TABLE 4: Effect of MPW Water User Rate Increases – Fiscal Years 2005 to 2019

TABLE 5: Water Bill Comparison – Fiscal Year 2005 vs. Fiscal Year 2019 MPW Rates

TABLE 6: Comparison of MPW Monthly Water Usage Per REU – Residential Class vs. Irrigation Class

TABLE 7: Irrigation Customer Bill Comparison: 1.0 REU vs. 1.8 REU

TABLE 8: History of MPW Water and Wastewater Impact Fees Per REU

EXHIBITS
(Attached to End of Document)

EXHIBIT A: Section 5-31-670 of the South Carolina Code of Laws Requiring Rates to Be Reasonable

EXHIBIT B: Definition of "Equivalent Residential Unit" from *The Water Dictionary* Published By the AWWA

EXHIBIT C: Excerpt Regarding Rate Equity from AWWA Publication Entitled "The Basics of Water Ratemaking"

EXHIBIT D: Existing Water and Wastewater Rates of MPW

EXHIBIT E: MPW Customers with Excessive REU Values Based on Actual Usage

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EXHIBITS (continued)

EXHIBIT F: **Excerpt from MPW's Impact Fee Calculation Guide Indicating That MPW Uses the Amount of Estimated Water Used Per Day to Determine the Number of REU's**

EXHIBIT G: ***Journal AWWA* Article Published in 1984 Entitled "The Common Denominator: Equivalent Residential Units" That Discusses How Historical Average Usage Is Used to Equitably Determine Equivalent Residential Units**

EXHIBIT H: **Customer Demand Summaries for Fiscal Years 2005 and 2013 as Compiled by MPW's Rate Consultant**

EXHIBIT I: **Excerpts from MPW's Cost Recovery Policy Revised in June 2018**

EXHIBIT J: **Excerpt from MPW Official Statement for Series 1992 Bonds Showing That Water REU Level of Service Standard Was Lowered from 411 Gallons Per Day to 300 Gallons Per Day Effective After 1989**

EXHIBIT K: **Excerpt from MPW Audit Letter Regarding MPW Policy 5.3.3 Pertaining to Management of Impact Fees**

EXHIBIT L: **Section 58-133 of City of Melbourne, Florida Code of Ordinances Pertaining to Monthly Water User Rates; Section 58-243 of City of Melbourne, Florida Code of Ordinances Pertaining to Monthly Wastewater Rates**

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SECTION 5-31-670. Furnishing water for compensation; sewerage charge.

Any city or town or special service district may, after acquiring a waterworks or sewer system, furnish water to persons for reasonable compensation and charge a minimum and reasonable sewerage charge for maintenance or construction of such sewerage system within such city or town or special service district.

HISTORY: 1962 Code Section 59-248; 1952 Code Section 59-248; 1942 Code Section 7280-1; 1935 (39) 2; 1957 (50) 225; 1964 (53) 2182.

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example, if the large-use customer is equivalent to 10 single-family use customers, the ratio is 10:1.

equivalent meter A means of expressing different sized water meters in terms of an equivalent number of "standard" size meters. The 5/8-inch or 3/4-inch meter size is often used as the standard in terms of which all other meters are expressed. For example, a 1-inch meter is equivalent in capacity to two and one half 5/8-inch meters. Equivalent meters are often used in ratemaking to assess customer monthly service charges based on meter size and to distribute capacity costs based on meter size in developing connection charges.

equivalent meter-and-service ratio The ratio of the capacity of larger meters and services to those of a base meter size, such as the 5/8-inch meter typically used for residential customers. *See also* equivalent meter.

equivalent pipes Two pipes or two systems of pipes in which the losses of head for equal rates of flow are the same. A single pipe is equivalent to a system of pipes when the same loss-of-head condition is satisfied.

equivalent residential unit A means of expressing different levels of residential customer demand for water in terms of an equivalent number of least-size residential demand accounts. If the base residential demand is 300 gallons (1,135 liters) per day per account, then other customer groups' accounts would be expressed in terms of the equivalent number of these least-size accounts. In this manner, the customer may be said to be paying for a proportionate share of the share of the capacity that customer is using. This concept is sometimes used to determine capacity costs for new accounts and to develop monthly service charges based on meter size. *See also* equivalent customer; equivalent meter.

equivalents per liter (eq/L) *See in the Units of Measure section.*

equivalent weight (eq, eq wt) A weight of a substance based on the formula weight and number of reactive protons associated with the substance. For an element, the equivalent weight is the atomic weight divided by the number of reactive protons. For example, calcium has an atomic weight of 40 and has two reactive protons, so its equivalent weight is 40/2 = 20. For a compound, the equivalent weight is the molecular weight divided by the number of reactive protons. For example, sodium chloride (NaCl) has a molecular weight of 58.5 and one reactive proton, so the equivalent weight is 58.5/1 = 58.5. Calcium carbonate ($CaCO_3$) has a molecular weight of 100 and two reactive protons (in the Ca^{2+} ion), so the equivalent weight is 100/2 = 50. Equivalent weight is also known as combining weight. *See also* oxidation number; valence.

erasable programmable read-only memory (EPROM) A read-only memory chip that can be erased, either electrically or by high-intensity ultraviolet light. After it is erased, the chip is reprogrammed in a read-only function mode.

Erlenmeyer flask A bell-shaped container used for heating and mixing chemicals and culture media.

erosion The wearing away of a material by physical means, often caused by the presence of abrasive particles in the stream.

erosion corrosion Deterioration of a surface by the abrasive action of moving fluids. This phenomenon is accelerated by the presence of solid particles or gas bubbles in suspension.

ERP *See* emergency response plan.

error A false or mistaken result in a study or experiment. In epidemiology, error refers to random error and bias (systematic error). *See also* bias; random error.

error control system A system for controlling equipment operation based on the difference between actual and desired values of the output. *See also* process error.

error estimates *See* standard error of the estimate.

erythema edema A redness of the skin and swelling as caused by chemical poisoning or sunburn.

erythematous nodule A nodule that has redness associated with it.

ES *See* effective size.

ESA *See* Endangered Species Act.

ESA (ethane sulfonic acid) *See under* alachlor ethane sulfonic acid.

escape A wasteway installed in a conduit to discharge, when necessary, all or part of the conduit's flow.

escarpment A more or less continuous series of cliffs or sharp slopes oriented in the same direction, often at the edge of a plateau, resulting from erosion or faults.

Escherichia coli (E. coli) A gram-negative, facultatively anaerobic, nonspore-forming bacillus commonly found in the intestinal tracts of humans and other warm-blooded animals. In environmental microbiology, *Escherichia coli* is considered the primary indicator of recent fecal pollution. *See also* coliform bacteria; fecal coliform.

***Escherichia coli (E. coli)* F-amp** A strain of *Escherichia coli* bacteria that contains the F-amp plasmid, which codes for resistance to ampicillin and streptomycin. This strain is used in the detection of F+ ribonucleic acid coliphages. *See also* male-specific host *Escherichia coli* F-amp.

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Objective	Increasing Block Rate	Uniform Block Rate*	Seasonal Block Rate	Flat Rate
Fairness	●	◎	●	○
Conservation	◎	●	◎	○
Equity	●	◎	●	○
Cost-of-Service Based	●	◎	●	○
Understandable	◎	◎	◎	◎
Feasible	◎	◎	◎	○
Defendable	◎	◎	●	○
Revenue Stability	○	●	○	◎
Cost Recovery	●	◎	●	●
Legal	●	◎	●	○

* Uniform Rate by Class

◎ **High** ● **Satisfactory** ○ **Low**

Figure 8: Sample Evaluation of Rate Design Criteria

The commodity portion of the bill can be simple or very complex. The M1 manual provides a number of chapters detailing different rate designs. Balancing all community goals, while preserving revenue sufficiency and rate equity needs, can be a difficult challenge. Rate equity itself is a challenging subject considering that it requires interclass (different classes), intraclass (within a class), and intergenerational (customers who contributed capital in different time periods) legal and technical considerations. The listed references provide more guidance on these subjects.

An example of the evaluation of preferred rate designs is illustrated in Figure 8. Evaluations can vary significantly among utilities.

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New Development/ Construction Fees

Please contact MPW's Engineering Department regarding fees due for new development and or construction and project submittal process.
engineering@mpwonline.com

Project Administration Fee:

Minimum Fee	$750.00
Commercial/Multi-Family/REU	$85.00
GIS Conversion Cost	$250.00
Single Family Residential	2.5% Construction Cost*
Pump Station Review	$5,000.00
Construction Meter Rental	$500.00
Construction Meter Inspection	$75.00
Service Line Cleaning	$500.00
MPW Asset Protection	$2,000.00

**Based on actual construction and engineering rates.*

Impact Fees:

Water/REU	$2,295.00
Wastewater/REU	$5,164.00

Developmental Impact Fees:

Belle Hall (Per REU)	$227.02
Long Point Road (Per Acre)	$10,269.07
Commercial SUSA (Per Acre)	$9,106.53
Broadway Street (Per Acre)	$17,189.61
Carolina Park Outparcel (Per Acre)	$789.74
Gregorie Ferry (Per Acre)	$616.13
Highway 17 Commercial Wastewater Extension (Per Acre)	$14,172.12
Hungry Neck (Per Acre)	$10,112.20

Pump Stations:

Standby Emergency Generator Fee (New Stations)	$5,000.00

24 Month Maintenance Bond

10% of Actual Const. and Engineering Cost of Water and Wastewater System (If Bond is more than $20,000; cash must *be posted for first $20,000 and a Letter of Credit may be posted for the balance.)*

Meter Tampering Charge:

1st Offense	
Meter Tampering Charge	$200.00
Administrative Fee	$500.00
Repeat Offenses	
Meter Tampering Charge	$200.00
Administrative Fee	$500.00
Escalation Fee	$500.00

(for each repeat offense)

*unaccounted or damaged meters may also be subject to a Meter Drop in Connection Charge or a Meter Installation Charge depending upon loss and/or damage to meter/meter box. Unaccounted or damaged sewer clean outs may also be subject to a Clean out Damage Fee as listed.

New Development/ Construction Fees (Cont'd)

Clean Out Damage Fee:

Shallow	$200.00
Deep	$500.00

Hydrant Tampering Fee: $500.00

Water Meter Fees:

Residential/Commercial

Drop In Connection:	
5/8"	$460.00
3/4"	$505.00
1"	$577.00
1-1/2"	$1,629.00
2"	$1,830.00
Over 2"	Actual Cost
Meter Installation:	
5/8"	$675.00
3/4"	$750.00
1 inch	$1,050.00
Over 1"	Actual Cost
Tap & Meter (same side)	
5/8 inch	$1,075.00
3/4 inch	$1,150.00
1 inch	$1,375.00
Over 1 inch	Actual Cost
Tap & Meter (All Others)	
5/8 inch	$1,250.00
3/4 inch	$1,300.00
1 inch	$1,550.00
Over 1 inch	Actual Cost
Meter Relocation Charge	
5/8 to 1 1/2 inch	$100.00
2 inch	$200.00

Wastewater Connection Fees:

Same Side Tap 6 and 8 inch	$500.00
All Other Tap 6 and 8 inch	$2,000.00
All Other Tap 6 and 8 inch Double lot (per lot)	$1,250.00

Inspection Fees:

Wastewater Tap	$75.00
Grease Trap (per inspection)	$90.00
Grease Trap (per re-inspection)	$45.00

FOG Program:

New Service Fee	$400.00
Annual Renewal Fee	$200.00

Additional Fees Due prior to Receiving Service:

Please refer to Account Fees for additional fees due at the time water/wastewater service is established.

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Mount Pleasant Waterworks

Annual Rate Schedule

Effective July 1, 2018—June 30, 2019

MOUNT PLEASANT WATERWORKS CLEAN WATER

WATER FOR LIFE

Mount Pleasant Waterworks
Post Office Box 330
1619 Rifle Range Road
Mount Pleasant, SC 29465-0330

Main Number and After Hours Emergency (843) 884-9626

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Customer Rates/Charges

1. WATER RATES:

A. Basic Facility Charge/REU	$8.40
Monthly Charge Based on REUs (Residential Equivalent Units) Assigned	
B. Volumetric Rates/1000 gals	
1st Tier (All gallons/mo.)	$4.80
Additional Excessive Use Charges	
2nd Tier *(9,201-18,400 gals/REU/mo.)*	$4.80
3rd Tier *(18,401-27,600 gals/REU/mo.)*	$9.60
4th Tier *(27,601 or more gals/REU/mo.)*	$14.40

2. WASTEWATER RATES:

IN TOWN	
A. Basic Facility Charge/REU	$16.70
Monthly Charge Based on REUS Assigned	
B. Volumetric Rates/1000 gals	
Single Family Residential	
1st Tier (All gallons/mo.)	$5.89
Additional Excessive use Charge	
2nd Tier (9,201-18,400 gallons/REU/mo.)	$5.89
All Other Customers (Per 1,000 gallons)	
1st Tier (All gallons/mo.)	$6.48
Additional Excessive Use Charge (	
2nd Tier (9,201-18,400 gals/REU/mo.)	$6.48
3rd Tier (18,407-27,600 gals/REU/mo.)	$12.96
4th Tier (27,607 gallons or more/REU/mo.)	$19.44
C. Wastewater Fee (No Meter)/month	$46.15
OUT OF TOWN	
A. Basic Facility Charge	
Monthly charge based on Residential Equivalent Units Assigned	
Single Family Residential /REU	$18.37
All Other Customers/REU	$33.40
B. Volumetric Rates/1,000 gallons	
Single Family Residential	
1st Tier (All gallons/mo.)	$6.48
Additional Excessive Use	
2nd Tier (9,201-18,400 gallons/REU/mo.)	$6.48
All Other Customers	
1st Tier (All gallons/mo.)	$12.96
Additional Excessive Use	
2nd Tier (9,201-18,400 gallons/REU/mo.)	$12.96
3rd Tier (18,401-27,600 gallons/REU/mo.)	$25.92
4th Tier (27,607 gallons or more/REU/mo.)	$38.88
C. Wastewater Fee (No Meter)/month	$50.75

D. HIGH STRENGTH WASTEWATER CHARGES:

BOD per pound	$0.38
TSS per pound	$0.42

Charges applied to non-domestic discharges per pound in excess of the domestic discharge concentrations as set by MPW.

3. IRRIGATION RATES:

A. Basic Facility Charge

Monthly Charge based on meter size

5/8" & 3/4"	$8.40
1"	$13.65
1-1/2"	$28.35
2"	$45.15
3"	$84.00
4"	$139.65
6"	$278.25
8"	$444.15

B. Volumetric Rates/1000 gals

Regular:	
1st Tier (All gallons/mo.)	$7.40
Additional Excessive Use Charge	
2nd Tier (9,201-18,400 gallons/REU)	$2.20
3rd Tier (18,401-27,600 gallons/REU)	$7.00
4th Tier (27,601 gallons or more/REU)	$11.80

4. IRRIGATION METER IMPACT FEES:

5/8" & 3/4"	**None**
with paid water impact fees	
5/8" & 3/4"	*$2,295.00
1"	$3,901.00
1-1/2"	$7,573.00
2"	$12,163.00
3"	$22,951.00
4"	$38,327.00
6"	$76,425.00
8"	$122,327.00

*Properties with a paid Water Impact Fee will not be charged an Irrigation Meter Impact Fee for 5/8" or 3/4" services. All other customers must pay applicable Irrigation Impact Fees.

5. NEW SERVICE REQUEST FEES:

A. Security Deposit/REU	$100.00
Residential and Commercial	
B. New Account Fee:	$60.00
C. Service Transfer Fee	$25.00

6. MISCELLANEOUS CUSTOMER CHARGES:

A. Service Call	$60.00
(Not MPW's responsibility)	
After-Hours Service Call	$75.00
B. Private Fire Hydrant Maint. Fee	$25.00
(per hydrant per year)	
C. Grinder Pump Maintenance Fee	
(per pump, per month)	
Residential	$25.00
Commercial	$85.00
D. Septage Tipping Fee *(per 100 gals)*	$7.00
E. Bacteriological Testing for Water Samples Test	$60.00
F. Private Fire Line (Monthly):	
2-inch line	$6.92
3-inch line	$12.67
4-inch line	$21.83
6-inch line	$43.67
8-inch line	$70.17

G. Cross-Connections Services (per device)	
Annual Back Flow Assembly Testing/Inspection	$50.00
Backflow Assembly Re-Testing	$10.00
H. Inactive Irrigation (Deactivation)	$75.00
I. Service Line Care Program	
Water and Wastewater (Per Month)	$5.95
Water or Wastewater Only (Per Month)	$4.95
Emergency Repair	$90.00
Shallow Clean Out Installation	$200.00
Deep Clean Out Installation	$500.00

7. HYDRANT METER

Permit Fee(s) *Due at time meter is applied for.*

7 Day	(5/8") $175.00	(2") $350.00
90 Day	(5/8") $350.00	(2") $650.00
90 Day Extension *(per month up to 3 months)*		
	(5/8") $100.00	(2") $260.00

For details on hydrant meter water gallons please see the Hydrant Use Policy.

Relocation Fee

(5/8") $100.00 (2") $200.00

Tanker ≤3,000 gallons $1,460.00/year (offsite additional $25.00)
Tanker >3,000 gallons $2,120.00/year (offsite additional $50.00)

8. RESIDENTIAL TAP FEES - NEW CONSTRUCTION ON EXISTING LOT:

A. Meter Box Already Installed (Drop in):

New Account Fee	$60.00
Wastewater Tap Inspection	$75.00
Meter Installation 5/8"	$460.00
Security Deposit	$100.00
Total Due	**$695.00**

B. No Meter Box Currently Installed:

New Account Fee	$60.00
Wastewater Tap Inspection	$75.00
Meter Installation 5/8"	$675.00
Security Deposit	$100.00
Total Due	**$ 910.00**

DELINQUENT ACCOUNT and PENALTY CHARGES:

A. Late Charge	**$5.00+2.5%**
B. Non-Payment Charge	**$65.00**
C. Return Check or ACH Transaction Fee (per check or ACH transaction)	**$30.00**

(After 3 checks or ACH transactions returned, only cash, cashier's check, or money order will be accepted)

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EXHIBIT E

MPW Customers with Excessive REU Values Based on Actual Usage

Line No.	Account Number	Description	Existing Residential Equivalent Units (REU's)	Revised Residential Equivalent Units (REU's)	REU Count Change
1	00010810 - 00155073	SIMMONS MARINE & SEAFOOD LLC	6	2	(4)
2	00010845 - 00155073	SIMMONS MARINE & SEAFOOD LLC	8	1	(7)
3	00012860 - 00168370	101 COLEMAN PARTNERS LLC	5	2	(3)
4	00013040 - 00171055	SALTWATER COWBOYS	6	1	(5)
5	00020070 - 00063503	JUSTIN O'TOOLE LUCEY PA	6	1	(5)
6	00020081 - 00010324	ANGELYN AVINGER	23	10	(13)
7	00020091 - 00171508	SMOKE ON THE CREEK LLC DBA THE MILL STREET TAVERN	7	1	(6)
8	00020095 - 00033697	BAILEY'S	3	1	(2)
9	00020280 - 00082485	ART'S BAR AND GRILL	5	3	(2)
10	00020460 - 00148610	BAMBOO ASIAN & SUSHI BAR LLC	9	3	(6)
11	00020490 - 00143543	BOTTLES LLC	5	1	(4)
12	00021675 - 00021335	MOSNER HOUSE	6	3	(3)
13	00051340 - 00000848	THE HOUSING AUTHORITY	27	20	(7)
14	00054375 - 00017427	FIRST BAPTIST CHURCH	3	1	(2)
15	00062870 - 00002433	JUDY J WHITFIELD	17	5	(12)
16	00063017 - 00137994	HERITAGE TRUST FEDERAL CREDIT UNION	5	1	(4)
17	00063040 - 00013499	TACO BELL #2838	11	3	(8)
18	00064080 - 00125298	418 MEETING STREET LLC	6	2	(4)
19	00064340 - 00096447	FAIRMONT HORIZONAL PROPER	24	12	(12)
20	00064350 - 00116641	VILLAGE OAKS OF MOUNT PLEASANT LLC	24	9	(15)
21	00070100 - 00160691	CIRCLE K STORES INC	8	1	(7)
22	00070680 - 00033722	OSCEOLA APARTMENTS	11	2	(9)
23	00071583 - 00040631	RIVERWOOD APTS	78	25	(53)
24	00071584 - 00040631	RIVERWOOD APTS	10	1	(9)
25	00072255 - 00121974	1233 EXECUTIVE SUITES HPR	4	1	(3)
26	00072264 - 00129854	VITRE LLC	11	2	(9)
27	00072273 - 00131242	WENDCHARLES I LLC	7	5	(2)
28	00072450 - 00132595	SEA ISLAND SUDS LLC	20	14	(6)
29	00072615 - 00015684	HARBOURTOWNE PLACE	8	1	(7)
30	00072910 - 00001102	BARBARA LEVINER	34	6	(28)
31	00073215 - 00085858	STELLA MARIS SCHOOL	7	5	(2)
32	00073481 - 00085857	CHRIST OUR KING CHURCH- FAMILY CENTER	5	2	(3)
33	00074252 - 00092822	CHRIS' DRY CLEANERS	12	6	(6)
34	00074948 - 00094862	RPWB LLC	10	2	(8)
35	00082405 - 00115252	MARSH GRASS HOA INC	15	7	(8)
36	00083300 - 00088588	LIGHTHOUSE FINANCIAL	3	1	(2)
37	00083355 - 00042152	SIMMONS POINT HOA	84	32	(52)
38	00083370 - 00042301	T COVE HORIZONTAL PROP	113	41	(72)
39	00090045 - 00158705	EAST COOPER MONTESSORI CHARTER SCHOOL	9	5	(4)
40	00092485 - 00105323	BAYCLUB HOMES LLC	162	47	(115)
41	00151050 - 00168426	JELLY SIDE UP	7	1	(6)
42	00151060 - 00128656	802 COLEMAN ASSOCIATES LLC	5	2	(3)
43	00151070 - 00164689	BEACH BROOKGREEN LLC C/O BEACH COMPANY	17	1	(16)
44	00151077 - 00147294	DARBY CAGLE LLC	4	1	(3)
45	00151090 - 00074301	STARBUCKS COFFEE CO #8405	4	1	(3)
46	00151860 - 00160752	PASTIME EQUITIES LLC	5	1	(4)
47	00151960 - 00095977	GDC	4	1	(3)
48	00180085 - 00101756	KEVIN ORTEGA	4	2	(2)
49	00180090 - 00092242	1218 PRINCE ST ASSOCIATES	4	1	(3)
50	00180095 - 00092240	1218 PRINCE ST ASSOC	4	2	(2)
51	00180110 - 00002489	TRULUCK PROPERTIES OF CHARLESTON	4	2	(2)
52	00180125 - 00148771	W F ASSOCIATES LLC	4	2	(2)
53	00180130 - 00054774	CHARLOTTE MEARES	4	2	(2)
54	00180135 - 00096298	THE LETO AGENCY LLC	4	2	(2)
55	00180140 - 00096298	THE LETO AGENCY LLC	4	2	(2)
56	00180150 - 00163080	PLEASANT PROPERTY RENTALS	4	2	(2)
57	00180165 - 00152842	RENT CHARLESTONCOM	4	1	(3)
58	00190061 - 00061010	RETAIL MT PLEAS SEAFOOD	6	3	(3)
59	00190062 - 00080261	WHITMAN PROPERTIES LLC	19	13	(6)
60	00190067 - 00053517	VICKERY'S BAR AND GRILL	19	13	(6)
61	00190071 - 00132638	FINZ LLC	6	3	(3)
62	00201034 - 00089445	BI-LO LLC #410	15	4	(11)
63	00201075 - 00162779	ALDI	16	1	(15)
64	00201088 - 00063627	BAMOZA LLC	16	1	(15)

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EXHIBIT E

MPW Customers with Excessive REU Values Based on Actual Usage

Line No.	Account Number	Description	Existing Residential Equivalent Units (REU's)	Revised Residential Equivalent Units (REU's)	REU Count Change
65	00201110 - 00114527	FIREHOUSE SUBS @ EAST COOPER PLAZA	4	2	(2)
66	00201172 - 00093875	SPORTS CORNER OF MOUNT PLEASANT	3	1	(2)
67	00220042 - 00152149	GPM SOUTHEAST LLC	4	2	(2)
68	00220050 - 00135504	KVH HOSPITALITY GROUP LLC	37	30	(7)
69	00220055 - 00018299	RUNAWAY BAY APTS	208	76	(132)
70	00220144 - 00014348	COLEMAN BLVD ASSOC	21	9	(12)
71	00220148 - 00163311	BNC BANK	5	1	(4)
72	00220152 - 00084643	BROTHERS PROPERTY MANAGMENT	5	2	(3)
73	00220170 - 00054626	BRIDGEVIEW SUITES	72	31	(41)
74	00220176 - 00057669	QUALITY INN & SUITES	33	28	(5)
75	00220180 - 00145475	BENCHMARK REAL ESTATE LLC	6	2	(4)
76	00220190 - 00099090	B & C ENTERPRISES	3	1	(2)
77	00222240 - 00131796	TITLEMAX OF SOUTH CAROLIA INC	6	1	(5)
78	00222950 - 00005716	LANSING EAST HPR	8	2	(6)
79	00222952 - 00005715	LANSING EAST HPR	11	5	(6)
80	00223235 - 00026443	PEACH ORCHARD ASSOCIATES	12	2	(10)
81	00223281 - 00057976	PACK RAT MINI STORAGE	2	2	(0)
82	00223320 - 00133200	LOUIS SHAW	5	3	(2)
83	00223330 - 00160691	CIRCLE K STORES INC	15	1	(14)
84	00223400 - 00017392	HARRIS TEETER STORE NO 19	9	7	(2)
85	00223402 - 00157502	The Beach Co Village Point Shopping Center	29	9	(20)
86	00223440 - 00156132	EMPIRE RESTAURANTS LLC	33	5	(28)
87	00223470 - 00052955	STAPLES INC #826	4	1	(3)
88	00223500 - 00161759	UPTOWN CHEAPSKATE OF MOUNT PLEASANT LLC	3	1	(2)
89	00223840 - 00047128	ICHIBAN RESTRAUANT INC	3	1	(2)
90	00223980 - 00028218	TOWNHALL ASSOCIATES	4	2	(2)
91	00224042 - 00158877	BW RRI II LLC	54	33	(21)
92	00224201 - 00040184	ANIMAL MEDICAL CLINIC/MT PLEASANT	4	2	(2)
93	00224220 - 00091590	WEST COLEMAN LLC	6	3	(3)
94	00224452 - 00017155	NORTHCUTT PLAZA	15	11	(4)
95	00224600 - 00145079	BRIDGEWATER CENTER HPR	9	5	(4)
96	00224780 - 00030699	STICKY FINGERS	9	7	(2)
97	00225302 - 00062902	NEMLORP LLC	40	8	(32)
98	00225318 - 00105311	GINN-LA FUND IV CHAS DBA	6	3	(3)
99	00225322 - 00082857	ESTATES MANAGEMENT CO	100	35	(65)
100	00225350 - 00042302	HARBOR POINTE APTS	344	148	(196)
101	00231700 - 00117932	MINI-SKOOL EARLY LEARNING CENTER	8	3	(5)
102	00232480 - 00137130	CELLULAR SALES	6	1	(5)
103	00240020 - 00041403	EAST COOPER PHYSICIANS LTD	13	5	(8)
104	00241610 - 00090661	MT PLEASANT FAMILY PRACTICE	6	1	(5)
105	00275502 - 00024836	SC ELECTRIC & GAS	4	1	(3)
106	00283820 - 00026047	SUPER SUDS CARWASH	14	8	(6)
107	00284150 - 00160940	UC BOWMAN LLC DBA URBAN COOKHOUSE	6	4	(2)
108	00285405 - 00033554	BUCKS EXXON FOOD SHOP	4	2	(2)
109	00285410 - 00024978	LOUIS V VICK JR	10	5	(5)
110	00300498 - 00008555	GREYSTONE HOA	50	19	(31)
111	00306253 - 00042015	THICKETT APARTMENTS	128	39	(89)
112	00306255 - 00040460	MONTCLAIR ASSOC LIMITED	200	96	(104)
113	00306256 - 00040460	MONTCLAIR ASSOC LIMITED	40	1	(39)
114	00321470 - 00041114	ANCHORAGE APARTMENTS	120	48	(72)
115	00340012 - 00098772	CHARLESTON COUNTY SCHOOL DISTRICT	4	1	(3)
116	00350022 - 00029725	BEAUMONT TOWNHOMES LTD P	110	55	(55)
117	00350024 - 00089063	JKM HOLDINGS LLC	7	4	(3)
118	00350025 - 00089063	JKM HOLDINGS LLC	17	11	(6)
119	00353890 - 00040158	SNEE FARM LAKES HOA	148	62	(86)
120	00356974 - 00164228	BENESSERE CLUBS LLC	3	1	(2)
121	00357003 - 00034244	BI-LO INC #286	25	5	(20)
122	00357009 - 00051107	HAMPTON INN SUITES	41	36	(5)
123	00357232 - 00035600	COUNTY OF CHARLESTON	5	3	(2)
124	00359509 - 00162943	GUADALAJARA BAR & GRILL	8	3	(5)
125	00359513 - 00064076	HOWELL ASSOCIATES	4	1	(3)
126	00359700 - 00120229	THE MERIDIAN OWNERS ASSOCIATION INC	16	5	(11)
127	00359701 - 00120229	THE MERIDIAN OWNERS ASSOCIATION INC	20	9	(11)
128	00359702 - 00120229	THE MERIDIAN OWNERS ASSOCIATION INC	20	8	(12)

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EXHIBIT E

MPW Customers with Excessive REU Values Based on Actual Usage

Line No.	Account Number	Description	Existing Residential Equivalent Units (REU's)	Revised Residential Equivalent Units (REU's)	REU Count Change
129	00359703 - 00120229	THE MERIDIAN OWNERS ASSOCIATION INC	20	6	(14)
130	00359704 - 00120229	THE MERIDIAN OWNERS ASSOCIATION INC	20	8	(12)
131	00359705 - 00120229	THE MERIDIAN OWNERS ASSOCIATION INC	14	6	(8)
132	00359706 - 00120229	THE MERIDIAN OWNERS ASSOCIATION INC	20	7	(13)
133	00359707 - 00120229	THE MERIDIAN OWNERS ASSOCIATION INC	14	6	(8)
134	00359708 - 00120229	THE MERIDIAN OWNERS ASSOCIATION INC	16	6	(10)
135	00359709 - 00120229	THE MERIDIAN OWNERS ASSOCIATION INC	5	2	(3)
136	00359710 - 00120229	THE MERIDIAN OWNERS ASSOCIATION INC	16	6	(10)
137	00359711 - 00120229	THE MERIDIAN OWNERS ASSOCIATION INC	16	4	(12)
138	00359712 - 00120229	THE MERIDIAN OWNERS ASSOCIATION INC	16	8	(8)
139	00359713 - 00120229	THE MERIDIAN OWNERS ASSOCIATION INC	16	6	(10)
140	00360004 - 00131883	FIVE STAR QUALITY CARE DBA SWEETGRASS VILLAGE/COURT	19	16	(3)
141	00360104 - 00081934	BEHIND THE SOFA LLC	8	3	(5)
142	00360107 - 00123368	14 CHAPEL LLC	3	1	(2)
143	00360230 - 00168701	MEGAS CORPORATION	5	1	(4)
144	00360242 - 00084914	TIDELANDS BANCSHARES INC	3	1	(2)
145	00360870 - 00162511	SAVJ REALESTATE LLC	16	2	(14)
146	00361156 - 00151456	MDO2 FITNESS LLC	16	11	(5)
147	00361160 - 00081560	CREEKSIDE CORP CENTRE	4	1	(3)
148	00361453 - 00101024	PUBLIX SUPER MARKETS INC	22	12	(10)
149	00361460 - 00036284	CHICK FIL A @ QUEENSBORO	15	12	(3)
150	00361468 - 00151999	RAFFIA/ ANDREA DALTON	4	1	(3)
151	00361900 - 00131004	SPIRIT HALLOWEEN SUPERSTORES LLC	10	3	(7)
152	00362481 - 00042298	CRICKENTREE APARTMENTS	152	41	(111)
153	00362485 - 00048019	CRICKENTREE INVESTMENT CO	11	9	(2)
154	00362492 - 00052271	ANDREWS AND SHULL LLC	3	1	(2)
155	00362500 - 00155112	735 JDB LLC IN C/O LEE AND ASSOCIATES	10	3	(7)
156	00362511 - 00063721	OUTBACK STEAKHOUSE	19	17	(2)
157	00362515 - 00155256	SOUTHERN FIRST BANK	3	1	(2)
158	00362604 - 00041116	PLANTERS PLACE REGIME	35	18	(17)
159	00362606 - 00101834	SANDPIPER INDEP & ASSIS LIVING LLC	133	39	(94)
160	00362725 - 00032805	FAIRMOUNT SHOPPING CENTER I	18	11	(7)
161	00362726 - 00151895	INNOLABS	6	1	(5)
162	00363150 - 00160089	CIAO GROUP LLC DBA CONGRESS	5	2	(3)
163	00363301 - 00161528	KETTLER MANAGEMENT	232	68	(164)
164	00365905 - 00131755	HIBBEN FERRY APARTMENTS LLC	304	126	(178)
165	00376980 - 00161774	EXTRA SPACE MANAGEMENT	5	1	(4)
166	00376982 - 00150556	SOL SOUTHWEST KITCHEN	20	11	(9)
167	00376988 - 00160691	CIRCLE K STORES INC	11	2	(9)
168	00377150 - 00139492	BRICCO BRACCO	8	4	(4)
169	00383501 - 00044163	PIDGEON SPIRE LLC	15	13	(2)
170	00385000 - 00082770	WCBD-TV 2	8	4	(4)
171	00385560 - 00048531	OMAR SHRINERS	8	1	(7)
172	00390020 - 00053261	EXTENDED STAY AMERICA	34	27	(7)
173	00390030 - 00054432	SLEEP INN	28	22	(6)
174	00390038 - 00125074	ZIFF PROPERTIES	13	2	(11)
175	00406011 - 00078632	MIKE CALDER'S PUB	3	1	(2)
176	00406013 - 00078632	MIKE CALDER'S PUB	4	2	(2)
177	00406030 - 00074697	YAMATO JAPANESE STEAK	18	9	(9)
178	00406040 - 00153758	HOMEWOOD SUITES	37	30	(7)
179	00406052 - 00140646	OPAL RESTAURANT	7	5	(2)
180	00425000 - 00074821	HARRIS TEETER #87	12	7	(5)
181	00425020 - 00076109	STARBUCKS # 8408	5	3	(2)
182	00425037 - 00082116	STEIN MART INC # 266	5	1	(4)
183	00430003 - 00119495	LONG POINT GRILL	8	4	(4)
184	00430040 - 00045138	THE SAWGRASS COMPANY	4	2	(2)
185	00430059 - 00165226	ENCORE MUSIC	3	1	(2)
186	00430070 - 00140063	QUANT SYSTEMS INC	7	3	(4)
187	00433610 - 00129301	WRS INC	3	1	(2)
188	00433700 - 00164295	EDGEWATER PLANTATION OWNER LLC	3	1	(2)
189	00438004 - 00156173	SUMMIT WORX LLC	5	1	(4)
190	00438008 - 00099440	GUS H BELL LLC	9	2	(7)
191	00440170 - 00104534	SEACOAST CHRISTIAN COMMUNITY CHURCH	5	3	(2)
192	00440171 - 00104534	SEACOAST CHRISTIAN COMMUNITY CHURCH	6	1	(5)

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EXHIBIT E

MPW Customers with Excessive REU Values Based on Actual Usage

Line No.	Account Number	Description	Existing Residential Equivalent Units (REU's)	Revised Residential Equivalent Units (REU's)	REU Count Change
193	00443230 - 00098772	CHARLESTON COUNTY SCHOOL DISTRICT	14	8	(6)
194	00443470 - 00131242	WENDCHARLES I LLC	12	5	(7)
195	00443482 - 00034025	WAFFLE HOUSE INC #951	6	4	(2)
196	00443483 - 00156430	BREAKWATER FITNESS LLC	14	1	(13)
197	00443495 - 00090804	DRIVE-IN USA (SONIC)	5	3	(2)
198	00443502 - 00145500	BMC DISTRIBUTORS OF SCLLC DBA BLUE WATER #18	4	2	(2)
199	00443506 - 00045395	EXXON FOOD MART #4	13	8	(5)
200	00443510 - 00168504	DEE NORTON LOWCOUNTRY CHILDRENS CENTER	3	1	(2)
201	00443550 - 00161002	SSA COOPER LLC	3	1	(2)
202	00443570 - 00162848	TBSH LLC	6	4	(2)
203	00443660 - 00056816	THE SUNSHINE HOUSE #52	8	5	(3)
204	00443681 - 00162284	MARK ANTMAN	4	2	(2)
205	00444442 - 00110379	PETSMART INC # 1250	6	4	(2)
206	00451300 - 00053401	LOWES OF MT PLEASANT #539	11	7	(4)
207	00451305 - 00118056	UNITED RESTAURANT GROUP DBA TGI FRIDAYS	19	15	(4)
208	00454520 - 00069648	CLASS TWO MANAGEMENT LLC	15	9	(6)
209	00454822 - 00150947	TT OF CHARLESTON INC DBA MOUNT PLEASANT CHEVROLET	6	4	(2)
210	00454890 - 00165360	COSIGN HAVEN	4	1	(3)
211	00454902 - 00040466	YE OLD FASHION ICE CREAM	4	2	(2)
212	00454908 - 00163754	TD & L SOUTH CAROLINA LLC	3	1	(2)
213	00454909 - 00069747	OFFICE DEPOT #2002	4	1	(3)
214	00455112 - 00037246	WAL-MART STORES #1-632	29	10	(19)
215	00455172 - 00169496	JIM N NICK'S CHARLESTON	15	12	(3)
216	00455174 - 00146704	CRESCOM BANK	9	1	(8)
217	00455200 - 00170795	STUART ENGALS HOTEL ASSOCIATES LLC	34	12	(22)
218	00455812 - 00098772	CHARLESTON COUNTY SCHOOL DISTRICT	14	9	(5)
219	00456110 - 00140742	NEW TOKYO SUSHI AND HIBACHI LLC	5	3	(2)
220	00456120 - 00140977	MICHAELS STORES INC STORE#1060	4	1	(3)
221	00456140 - 00163696	CHIPOTLE MEXICAN GRILL	5	3	(2)
222	00456190 - 00032959	T J MAXX	7	3	(4)
223	00457580 - 00145391	BURTON'S GRILL	20	10	(10)
224	00457606 - 00061802	COASTAL ONE INC ABC	6	4	(2)
225	00457608 - 00163155	RAINMAKER MGMT INC	6	4	(2)
226	00457684 - 00145496	MP PIZZERIA INC DBA GRIMALDI'S PIZZA	15	7	(8)
227	00457739 - 00070761	RARE HOSPITALITY INTERNAT	11	9	(2)
228	00457764 - 00159684	ORCHID MASSAGE LLC	3	1	(2)
229	00462980 - 00024998	HOBCAW VIEW CONDO ASSN	6	2	(4)
230	00462990 - 00037700	HOBCAW YACHT CLUB	10	1	(9)
231	00470011 - 00160691	CIRCLE K STORES INC	11	3	(8)
232	00470012 - 00146252	MAMMA BROWN'S BBQ	6	3	(3)
233	00474001 - 00158300	WANDO WASH INC	12	9	(3)
234	00474190 - 00089288	TROPICAL PLANTS	3	1	(2)
235	00480010 - 00046281	CHARLESTON NATIONAL COUNTRY CLUB	10	2	(8)
236	00480012 - 00046281	CHARLESTON NATIONAL COUNTRY CLUB	5	1	(4)
237	00485538 - 00154713	PALMETTO STATE ARMORY	13	1	(12)
238	00491838 - 00078767	O'BRION'S PUB AND GRILLE	5	3	(2)
239	00509490 - 00120013	LONG GROVE POA	3	1	(2)
240	00551721 - 00092729	BULLS BAY GOLF CLUB	11	3	(8)
241	00610002 - 00036905	BRICKYARD PLANTATION POA	10	3	(7)
242	00617149 - 00158458	MCCANN'S IRISH PUB	4	2	(2)
243	00622400 - 00101024	PUBLIX SUPER MARKETS INC	22	10	(12)
244	00631189 - 00103999	RIVERTOWNE POA	4	2	(2)
245	00632446 - 00081823	GINN-LA PARKERS ISLAND	13	3	(10)
246	00642999 - 00046122	PLANTERS POINTE HOA	7	2	(5)
247	00650025 - 00162574	DUNES WEST GOLF & RIVER CLUB	3	1	(2)
248	00651045 - 00121058	PARSONS ROAD LLC	10	1	(9)
249	00651385 - 00140705	TRIDENT TECHNICAL COLLEGE	3	1	(2)
250	00651920 - 00111285	SMITH INVESTMENTS PROPERTIES LLC	4	2	(2)
251	00652095 - 00119037	ETIWAN PT CONDOMINIUM COUNCIL OF OWNERS	4	1	(3)
252	00652105 - 00119037	ETIWAN PT CONDOMINIUM COUNCIL OF OWNERS	4	1	(3)
253	00652485 - 00151456	MDO2 FITNESS LLC	8	5	(3)
254	00652985 - 00113143	STARBUCKS CORP STORE # 8995	5	2	(3)
255	00655670 - 00155345	CHARLESTON BAGEL CO	3	1	(2)
256	00655805 - 00113568	BLUES HOUSE OF WINGS @ WYMBERLY CROSSING CENTER	8	2	(6)

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EXHIBIT E

MPW Customers with Excessive REU Values Based on Actual Usage

Line No.	Account Number	Description	Existing Residential Equivalent Units (REU's)	Revised Residential Equivalent Units (REU's)	REU Count Change
257	00656575 - 00103854	THE FRANKE HOME	14	9	(5)
258	00660001 - 00038013	BELLE HALL HOA INC (POOL)	5	3	(2)
259	00665398 - 00083738	BELLE HALL HOA	3	1	(2)
260	00733884 - 00025051	STOCKADE STORAGE	38	32	(6)
261	00734060 - 00097084	RAAJ KUMAR HOTEL INV LLC	67	60	(7)
262	00734070 - 00059300	BEST WESTERN PATRIOTS POINT	26	20	(6)
263	00734490 - 00104723	HOLLINGS CANCER CTR @ EAST COOPER	4	1	(3)
264	00734500 - 00152343	VIBRA HOSPITAL OF CHARLESTON LLC	98	60	(38)
265	00734520 - 00156609	HTA EAST COOPER MEDICAL ARTS CENTER LLC	10	3	(7)
266	00734540 - 00016854	RTM INC	9	3	(6)
267	00734560 - 00055232	EAST COOPER MED COMPLEX	24	3	(21)
268	00734580 - 00003429	CHARLESTON NURSING CENTER	60	31	(29)
269	00734740 - 00124495	929 BOWMAN ROAD LLC	4	1	(3)
270	00734820 - 00059267	DARBY DEVELOPMENT	100	37	(63)
271	00734860 - 00146535	FIVE STAR QUALITY CARE DBA PALMS AT MT PLEASANT	70	57	(13)
272	00734862 - 00146535	FIVE STAR QUALITY CARE DBA PALMS AT MT PLEASANT	26	7	(19)
273	00734864 - 00146535	FIVE STAR QUALITY CARE DBA PALMS AT MT PLEASANT	26	23	(3)
274	00734890 - 00131883	FIVE STAR QUALITY CARE DBA SWEETGRASS VILLAGE/COURT	34	26	(8)
275	00734900 - 00134437	PARISH PLACE CONDOMINIUM ASSOCIATION INC	4	1	(3)
276	00734940 - 00134437	PARISH PLACE CONDOMINIUM ASSOCIATION INC	4	2	(2)
277	00735020 - 00026297	RICHARD RITTER	4	2	(2)
278	00735060 - 00157223	MATHIS FERRY LLC	4	1	(3)
279	00735100 - 00157223	MATHIS FERRY LLC	4	2	(2)
280	00735140 - 00157223	MATHIS FERRY LLC	4	1	(3)
281	00735180 - 00157223	MATHIS FERRY LLC	4	1	(3)
282	00735220 - 00157223	MATHIS FERRY LLC	4	1	(3)
283	00735260 - 00157223	MATHIS FERRY LLC	4	1	(3)
284	00735300 - 00157223	MATHIS FERRY LLC	6	2	(4)
285	00735380 - 00098772	CHARLESTON COUNTY SCHOOL DISTRICT	11	7	(4)
286	00735460 - 00039574	OAKLEAF TOWNHOUSES	54	19	(35)
287	00735500 - 00025335	ROSEMEAD TOWNHOUSES	6	3	(3)
288	00735540 - 00025335	ROSEMEAD TOWNHOUSES	6	3	(3)
289	00735580 - 00022097	VILLAGE TOWNHOUSES(1055)	8	6	(2)
290	00735620 - 00021961	VILLAGE TOWNHOUSES (1051)	4	2	(2)
291	00735660 - 00022097	VILLAGE TOWNHOUSES(1055)	4	2	(2)
292	00735700 - 00022097	VILLAGE TOWNHOUSES(1055)	4	1	(3)
293	00735740 - 00022097	VILLAGE TOWNHOUSES(1055)	4	2	(2)
294	00735780 - 00022097	VILLAGE TOWNHOUSES(1055)	4	2	(2)
295	00735820 - 00022097	VILLAGE TOWNHOUSES(1055)	10	4	(6)
296	00735900 - 00170053	WAPPOO LLC	9	2	(7)
297	00735902 - 00170053	WAPPOO LLC	4	1	(3)
298	00735930 - 00149933	1156 BOWMAN LLC	11	3	(8)
299	00736020 - 00133614	JKS & K DBA MC DONALDS	24	4	(20)
300	00736300 - 00042026	S C STATE PORTS AUTHORITY	97	79	(18)
301	00736305 - 00075842	ROPER MT PLEASANT MED CTR	17	3	(14)
302	00736940 - 00033652	DCI EAST OF THE COOPER	15	12	(3)
303	00737020 - 00152253	PAWS IN PARADISE	5	3	(2)
304	00737874 - 00098772	CHARLESTON COUNTY SCHOOL DISTRICT	9	5	(4)
305	00737876 - 00098772	CHARLESTON COUNTY SCHOOL DISTRICT	5	2	(3)
306	00737940 - 00111246	EAST BRIDGE TOWN LOFTS HOA	200	73	(127)
307	00738100 - 00146835	SHRI ASAPURI DBA RODEWAY INN	47	41	(6)
308	00738300 - 00164916	HOLIDAY INN MT PLEASANT	68	47	(21)
309	00739497 - 00103854	THE FRANKE HOME	15	8	(7)
310	00739501 - 00151994	HARRIS TEETER #457	20	5	(15)
311	00740385 - 00168760	EMBER WOOD FIRED KITCHEN	5	2	(3)
312	00740390 - 00131756	MCALISTERS DELI	5	2	(3)
313	00740400 - 00131756	MCALISTERS DELI	3	1	(2)
314	00740405 - 00131756	MCALISTERS DELI	3	1	(2)
315	00740440 - 00103854	THE FRANKE HOME	19	8	(11)
316	00741155 - 00000268	MT PLEASANT PRESBYTERIAN CHURCH	4	1	(3)
317	00743415 - 00168760	EMBER WOOD FIRED KITCHEN	5	1	(4)
318	00743745 - 00135918	GREAT HARVEST BREAD CO	4	1	(3)
319	00744695 - 00155822	BRAVO & DELTA PIZZA INC	7	2	(5)
320	00745035 - 00118337	CITADEL INVESTMENTS LLC	4	1	(3)

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EXHIBIT E

MPW Customers with Excessive REU Values Based on Actual Usage

Line No.	Account Number	Description	Existing Residential Equivalent Units (REU's)	Revised Residential Equivalent Units (REU's)	REU Count Change
321	00746305 - 00119134	HOSPICE OF CHARLESTON INC	11	3	(8)
322	00746560 - 00160684	LOW COUNTRY KARATE LLC	3	1	(2)
323	00746565 - 00134880	RIO GRANDE 2	6	3	(3)
324	00747555 - 00161058	JEAR LOGISTICS LLC	4	1	(3)
325	00747970 - 00150386	SPPOTT INVESTMENTS LLC	10	2	(8)
326	00748310 - 00162574	DUNES WEST GOLF & RIVER CLUB	8	5	(3)
327	00752060 - 00123902	SOUTHEASTERN SPINE INSTITUTE REAL ESTATE PARTNERS LLC	5	3	(2)
328	00756065 - 00129266	STUART ENGALS II CONDO ASSOCIATION INC	5	2	(3)
329	00756745 - 00104534	SEACOAST CHRISTIAN COMMUNITY CHURCH	10	5	(5)
330	00756980 - 00121560	4 LARCH LN LLC	5	2	(3)
331	00757450 - 00124695	POINT HOPE UNITED METHODIST CHURCH	3	1	(2)
332	00760950 - 00122715	CARRABBA'S ITALIAN GRILL	16	14	(2)
333	00761965 - 00103854	THE FRANKE HOME	19	7	(12)
334	00762010 - 00128034	IMAGING SPECIALISTS OF CHARLESTON	4	1	(3)
335	00762725 - 00171235	RAINBOW CHILD CARE	4	1	(3)
336	00762880 - 00123589	AVIAN CONSERVATION CENTER	5	3	(2)
337	00762905 - 00155637	HTA TIDES MEDICAL ARTS CENTER LLC	19	5	(14)
338	00762965 - 00123902	SOUTHEASTERN SPINE INSTITUTE REAL ESTATE PARTNERS LLC	6	4	(2)
339	00763045 - 00124002	PORTSIDE CENTER HPR	9	2	(7)
340	00763120 - 00122916	PUBLIX @ BEN SAWYER BLVD # 1055	10	8	(2)
341	00764495 - 00123029	SUNTRUST BANK	24	1	(23)
342	00764520 - 00125517	GERMAIN DERMATOLOGY	5	2	(3)
343	00764580 - 00125751	TIDES HORIZONTAL PROPERTY REGIME INC	39	11	(28)
344	00764585 - 00125751	TIDES HORIZONTAL PROPERTY REGIME INC	42	13	(29)
345	00764590 - 00125751	TIDES HORIZONTAL PROPERTY REGIME INC	40	9	(31)
346	00764825 - 00127522	WAL-MART # 4384	18	16	(2)
347	00764985 - 00126723	MEDITERRANEAN SHIPPING CO INC	12	5	(7)
348	00767190 - 00127853	OAKLAND PROPERTIES LLC	10	6	(4)
349	00767445 - 00125074	ZIFF PROPERTIES	13	4	(9)
350	00767900 - 00129533	SOMERBY OF MOUNT PLEASANT AT PARKWEST	106	50	(56)
351	00767905 - 00127853	OAKLAND PROPERTIES LLC	3	1	(2)
352	00767910 - 00127853	OAKLAND PROPERTIES LLC	23	13	(10)
353	00767915 - 00127853	OAKLAND PROPERTIES LLC	8	5	(3)
354	00769125 - 00160705	JOEY BAG A DONUTS	3	1	(2)
355	00769175 - 00130817	CHICK FILET	11	6	(5)
356	00769680 - 00130297	ST BENEDICT CATHOLIC CHURCH	5	1	(4)
357	00770925 - 00124858	PALMETTO PRESBYTERIAN CHURCH	3	1	(2)
358	00770995 - 00132109	MELLOW MUSHROOM	15	6	(9)
359	00772890 - 00056605	EAST COOPER REGIONAL MEDICAL CENTER	100	62	(38)
360	00773815 - 00017427	FIRST BAPTIST CHURCH	8	3	(5)
361	00773860 - 00103854	THE FRANKE HOME	16	8	(8)
362	00773910 - 00137368	WESTBROOK BREWERY	24	20	(4)
363	00775630 - 00143397	HAMLIN MEDICAL OFFICES LLC	3	1	(2)
364	00775725 - 00144040	WASH WIZARD CAR WASH	13	10	(3)
365	00776240 - 00146349	UNIVERSITY MEDICAL ASSOCIATES OF MEDICAL UNIVERSITY OF SC	20	5	(15)
366	00776395 - 00145504	GREGORIE FERRY APARTMENT HOLDINGS LLC	32	18	(14)
367	00776400 - 00145504	GREGORIE FERRY APARTMENT HOLDINGS LLC	32	16	(16)
368	00776405 - 00145504	GREGORIE FERRY APARTMENT HOLDINGS LLC	32	17	(15)
369	00776410 - 00145504	GREGORIE FERRY APARTMENT HOLDINGS LLC	32	16	(16)
370	00776495 - 00156918	WINDWARD LONG POINT LLC	9	5	(4)
371	00776500 - 00156918	WINDWARD LONG POINT LLC	10	4	(6)
372	00776510 - 00156918	WINDWARD LONG POINT LLC	12	4	(8)
373	00776515 - 00156918	WINDWARD LONG POINT LLC	19	10	(9)
374	00776525 - 00156918	WINDWARD LONG POINT LLC	19	9	(10)
375	00776530 - 00156918	WINDWARD LONG POINT LLC	9	4	(5)
376	00776535 - 00156918	WINDWARD LONG POINT LLC	12	5	(7)
377	00776540 - 00156918	WINDWARD LONG POINT LLC	12	5	(7)
378	00776545 - 00156918	WINDWARD LONG POINT LLC	22	8	(14)
379	00776550 - 00156918	WINDWARD LONG POINT LLC	12	4	(8)
380	00776555 - 00156918	WINDWARD LONG POINT LLC	8	4	(4)
381	00776560 - 00145625	SAVVY YOHN	3	1	(2)
382	00778590 - 00149329	RIVERS WALK	50	28	(22)
383	00778980 - 00149329	RIVERS WALK	42	22	(20)
384	00779000 - 00149329	RIVERS WALK	50	30	(20)

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EXHIBIT E

MPW Customers with Excessive REU Values Based on Actual Usage

Line No.	Account Number	Description	Existing Residential Equivalent Units (REU's)	Revised Residential Equivalent Units (REU's)	REU Count Change
385	00779150 - 00084643	BROTHERS PROPERTY MANAGMENT	21	12	(9)
386	00779305 - 00152850	THE BOULEVARD APARTMENTS	76	26	(50)
387	00779575 - 00152850	THE BOULEVARD APARTMENTS	7	4	(3)
388	00779580 - 00152850	THE BOULEVARD APARTMENTS	62	29	(33)
389	00779585 - 00152324	CHILDREN'S DISCOVERY CENTER INC	6	4	(2)
390	00779630 - 00150619	CAROLINA PARK COMMUNITY ASSOCIATION INC	3	1	(2)
391	00779650 - 00150634	CAROLINA ONE OFFICE	3	1	(2)
392	00779690 - 00152850	THE BOULEVARD APARTMENTS	30	14	(16)
393	00779695 - 00152850	THE BOULEVARD APARTMENTS	6	3	(3)
394	00780275 - 00152324	CHILDREN'S DISCOVERY CENTER INC	6	3	(3)
395	00780325 - 00155740	PALMETTO TEXTILE RESTORATION	5	1	(4)
396	00781360 - 00160440	AVR CHARLESTON RIVIERA LLC	14	7	(7)
397	00781365 - 00160440	AVR CHARLESTON RIVIERA LLC	4	2	(2)
398	00781405 - 00160440	AVR CHARLESTON RIVIERA LLC	7	4	(3)
399	00782150 - 00160440	AVR CHARLESTON RIVIERA LLC	4	2	(2)
400	00782155 - 00160440	AVR CHARLESTON RIVIERA LLC	16	7	(9)
401	00782795 - 00098772	CHARLESTON COUNTY SCHOOL DISTRICT	14	10	(4)
402	00782830 - 00056605	EAST COOPER REGIONAL MEDICAL CENTER	18	5	(13)
403	00783065 - 00160440	AVR CHARLESTON RIVIERA LLC	4	2	(2)
404	00783070 - 00160440	AVR CHARLESTON RIVIERA LLC	15	7	(8)
405	00783390 - 00155531	RIVERSIDE SPORTS LLC	4	1	(3)
406	00783900 - 00160440	AVR CHARLESTON RIVIERA LLC	36	13	(23)
407	00783905 - 00160440	AVR CHARLESTON RIVIERA LLC	31	15	(16)
408	00783995 - 00159612	GRAY PROPERTY 5222 LLC	13	6	(7)
409	00784335 - 00165487	MID AMERICA APARTMENTS LP DBA 1201 MIDTOWN	31	1	(30)
410	00784340 - 00165487	MID AMERICA APARTMENTS LP DBA 1201 MIDTOWN	30	15	(15)
411	00784345 - 00165487	MID AMERICA APARTMENTS LP DBA 1201 MIDTOWN	29	13	(16)
412	00784350 - 00165487	MID AMERICA APARTMENTS LP DBA 1201 MIDTOWN	36	18	(18)
413	00784430 - 00159612	GRAY PROPERTY 5222 LLC	13	7	(6)
414	00785535 - 00083953	EAST COOPER BAPTIST CHURCH	3	1	(2)
415	00789315 - 00098772	CHARLESTON COUNTY SCHOOL DISTRICT	31	9	(22)
416	00789330 - 00098772	CHARLESTON COUNTY SCHOOL DISTRICT	31	9	(22)
417	00792060 - 00161962	GATEWAY MOUNT PLEASANT HOTEL LLC	37	26	(11)
418	00793130 - 00149329	RIVERS WALK	40	15	(25)
419	00793175 - 00165153	TIDES IV CONDOMINIUM ASSOCIATION	40	9	(31)
420	00793335 - 00163145	ML BRIDGESIDE APARTMENTS LLC	49	4	(45)
421	00793340 - 00163145	ML BRIDGESIDE APARTMENTS LLC	49	13	(36)
422	00793345 - 00163145	ML BRIDGESIDE APARTMENTS LLC	49	7	(42)
423	00795450 - 00164458	CHABAD OF CHARLESTON	3	1	(2)
424	00795850 - 00164964	JUPITER HOLDINGS LLC	35	17	(18)
425	00796515 - 00165440	MT PLEASANT SQUARE ASSOCIATES II	23	4	(19)
426	00796525 - 00165440	MT PLEASANT SQUARE ASSOCIATES II	7	1	(6)
427	00796530 - 00165440	MT PLEASANT SQUARE ASSOCIATES II	63	11	(52)
428	00796535 - 00165440	MT PLEASANT SQUARE ASSOCIATES II	33	6	(27)
429	00796540 - 00165440	MT PLEASANT SQUARE ASSOCIATES II	23	5	(18)
430	00799842 - 00012434	COMCAST OF CAROLINA INC	3	1	(2)
431	00800092 - 00169254	IN THE MOMENT LLC	5	2	(3)
432	00800127 - 00169375	BW DEVELOPMENT SC LLC	5	1	(4)
433	00800132 - 00162089	RPM MANAGEMENT	7	4	(3)
434	00800897 - 00170285	THE COMMONERS	7	1	(6)
435	00801617 - 00098772	CHARLESTON COUNTY SCHOOL DISTRICT	28	7	(21)
436		Total	8,884	3,827	(5,057)
			132% Higher		

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EXHIBIT F

An Introduction to Impact Fees

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Impact Fees:

Impact fees are collected to recover part of the cost of expanding the water and wastewater infrastructure to serve development . Impact fees offset the costs of developing the new service directly from the customers who will benefit from the service.

Impact Fees recover major costs associated with expanding water and wastewater facilities, including but not limited to:

- Water and wastewater treatment plants,
- Storage facilities,
- Pumps,
- Transmission mains and lines,
- Other capital equipment related to system capacity.*

***Impact Fees do NOT pay for subdivision infrastructure.**

What is Development?

Any improvement to a piece of land or existing building for residential, commercial, or industrial purposes, including such things as property subdivision and building retrofits.

Residential Equivalent Unit:

A Residential Equivalent Unit (REU) is a unit of measurement used to calculate the amount of water/wastewater a development uses. One REU is equal to 300 gallons per day (GPD). Impact fees are assessed on the proposed water and wastewater usage and divided by 300 gpd to calculate the REU.

REUs vary based on the type of development. MPW determines impact fees based on the guidelines for assessing water and wastewater usage shown on the chart on the following page.

Basic REU Calculation:

$$\frac{\text{Amount of Estimated Water Used Per Day}}{\text{300 GPD}} = \text{Number of REUs}$$

Current Impact Fees (Subject to change):

Water Impact Fee = $2,000/REU

Wastewater Impact Fee = $4,500/REU

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EXHIBIT G

The charges for water service in the new Tackett's Mill shopping center, Lake Ridge, Va., will be based on a formula derived from average single family residential use.

The Common Denominator: Equivalent Residential Units

John J. Woodcock

The Prince William County (Va.) Service Authority is basing both variable and fixed revenues for water and sewer services on a factor derived from the historical average daily water usage of single-family residences. A schedule of equivalent water units relates types of commercial and public facilities to the average usage of a single-family residence. The schedule is applied to initial fees for a proportionate share of capacity as well as ongoing monthly service charges. The concept appears to result in more equitable charges than those based on equivalent meters.

User charges and capacity charges, a portion of system costs, can be developed by a method that equates all properties served by the water system to a single-family residential unit. This is an alternative to relating fees to the size and capacity of water meters.

The theory of rates based on the equivalent residential unit (ERU) is that a user's initial payment to "buy in," or purchase, capacity in a water system should represent the actual purchase of a proportionate share of capacity, based on the user's estimated peak demand on that system. In addition, commercial users can be equated to a single-family residential unit.

Because the technology does not exist to allow every customer's peak daily usage to be economically monitored, the historical average daily usage, based on meter readings, is used to develop the factors with which an ERU schedule is established. The customer's historical or projected use of water can be used to determine the daily average demand that the connection will place on the water system. (The actual cost to physically connect to the system is a separate cost and is not discussed.)

The ERU concept of setting fees has been documented. It allows for flexibility, particularly if a new type of use occurs or a new user classification is created, such as through the location of a new business in the service area.

Equivalencies can be fairly calculated if care is exercised to use the actual flow data of similar water customers in lieu of theoretical values. Industrial usage has been excluded in the development of this concept because an industry would be considered on an individual basis that may not logically relate to this method.

Equivalent residential units: a practical application

The common denominator of user charges and capacity charges is the ERU, which is the unit used for the initial analysis and computation of capacity charges that are assessed for the user's proportionate share of capacity. Once allocated, the same number of equivalent units is used to bill monthly service charges.

The water use of all customers of the Prince William County (Va.) Service Authority is equated to the established average usage of a single-family residence. The single-family home, or its equivalent, represents one unit. Therefore, a nonresidential establishment, computed to be equivalent to 10 residential units, would be charged connection fees 10 times the fee of a single-family home and 10 times the monthly service charge. However, the nonresidential unit and the home would pay the same water and sewer rate per 1000 gallons of water usage.

The initial cost to purchase a proportionate share of capacity in the system is based on an equivalent usage schedule adopted in 1975. Modifications to the schedule are continually made because of the addition of new categories or because of data from recent studies.

This method of allocating costs by comparison with residential single-family homes has proved to be the equalizer in allocating costs.

Table 1 lists the number of water meters in the system and the annual consumption recorded by these meters. Also shown are the ERUs assigned to each type and class of users who are served by meters of the same size.

For purposes of comparison, Table 2 indicates the assignment of equivalency factors had they been determined by the capacity of water meters in the system—the method used to distribute the cost of capacity based on meter size.

Table 3 is a comparison of the two methods for distributing cost, i.e., by meter size versus type of usage. Table 3 shows that the ERU system currently in

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EXHIBIT G



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TABLE 1
Consumption—January 1981-December 1981

Water Meter Size	Number of Meters	Percent of Accounts	Equivalent Residential Units		Usage	
			Number of Units	Percent of Units	Consumption *1000 gal*	Percent of Usage
20 × 17 mm (¾ × ⅝ in.)						
Residential	14 193	93.6	14 193	60.0	941 876	60.9
Commercial	519	3.4	1 404	5.9	97 119	6.3
Subtotal	14 712	97.0	15 597	65.9	1 038 995	67.2
25 mm (1 in.)	136	0.9	767	3.2	37 186	2.4
40 mm (1½ in.)	138	0.9	1 755	7.4	122 152	7.9
50 mm (2 in.)	133	0.9	2 818	11.9	163 213	10.6
80 mm (3 in.)	26	0.2	849	3.6	51 840	3.4
100 mm (4 in.)	9	0.1	1 193	5.0	90 443	5.9
150 mm (6 in.)	6	0.0	686	2.9	41 600	2.7
Total	15 160	100.0	23 665	100.0	1 545 429	100.0

TABLE 2
Equivalent meter based on rated operating maximum capacity

Water Meter Size	Number of Meters	Maximum Capacity		Multiplier Based on 20-mm (¾-in.) Meter	Number of Equivalent Meters	Percent of Total
		L/s	*gpm*			
20 × 17 mm (¾ × ⅝ in.)						
Residential	14 193	1.26	20	1	14 193	80.0
Commercial	519	1.26	20	1	519	2.9
Subtotal	14 712	1.26	20	1	14 712	82.9
25 mm (1 in.)	136	3.15	50	2.5	340	1.9
40 mm (1½ in.)	138	6.30	100	5	690	3.9
50 mm (2 in.)	133	10.08	160	8	1 064	6.0
80 mm (3 in.)	26	20.16	320	16	416	2.3
100 mm (4 in.)	9	31.50	500	25	225	1.3
150 mm (6 in.)	6	63.00	1000	50	300	1.7
Total	15 160				17 747	100.0

TABLE 3
Comparison of equivalency methods

Water Meter Size	Number of Meters	Percent of Accounts	Equivalent Meters *percent*	Equivalent Residential Unit Usage *percent*	Annual Usage *percent*
20 × 17 mm (¾ × ⅝ in.)					
Residential	14 193	93.6	80.0	60.0	60.9
Commercial	519	3.4	2.9	5.9	6.3
Subtotal	14 712	97.0	82.9	65.9	67.2
25 mm (1 in.)	136	0.9	1.9	3.3	2.4
40 mm (1½ in.)	138	0.9	3.9	7.4	7.9
50 mm (2 in.)	133	0.9	6.0	11.9	10.6
80 mm (3 in.)	26	0.2	2.3	3.6	3.4
100 mm (4 in.)	9	0.1	1.3	5.0	5.8
150 mm (6 in.)	6	0.0	1.7	2.9	2.7
Total	15 160	100.0	100.0	100.0	100.0

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use provides a more equitable method of distributing cost.

Developing the user class system based on an equivalent residential unit schedule

The authority began its search for a new method of computing future capacity demands for different classes of customers because the method in use was not easily justified or indicative of a customer's actual usage.

The first indication that the schedule was not acceptable occurred in the restaurant category. The case was a fast-food restaurant that applied for connection. The fee charged was based on 189 L/d (50 gpd) per seat. The fee for the 88-seat restaurant for combined water and sewer capacity was $15 400. The applicant immediately filed a lawsuit. In the meantime, an even larger restaurant applied for connection and was also charged a fee based on 189 L/d (50 gpd) per seat. The fee for both water and sewer capacity was $77 000 for this 425-seat restaurant. The authority began to compare actual metered usages of established restaurants and found that the average historical daily usage of the various restaurants studied did not come close to the 189-L/d (50-gpd) per-seat factor. The difference in designing a user charge system for peak demand and designing one based on actual metered average daily usage was apparent.

The authority began a review of various types of users, grouping similar users such as restaurants, medical offices, public laundries, and office buildings. The purpose of this review was to gain an idea of the similarity of uses, to equate consumption to that of a single-family residential unit, and to establish criteria to be used in the future based on actual historical daily usage by generalized classes of customers. The equivalent usage schedule, shown in Table 4, is the result of that work.

Various methods of measurement were investigated, but none fit all categories of users. However, the overall square footage occupied by an enterprise was found to be an effective method of mea-

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TABLE 4
Equivalent usage schedule

Type of Establishment	Usage (gpd) per Unit of Measurement	Unit of Measurement
Banks	0.13	sq ft
Barber shops	0.19	sq ft
Bathhouses for swimming pools	10.2	Per swimmer
Beauty salons	0.41	sq ft
Bowling alleys	0.08	sq ft
Car dealerships	0.07	sq ft
Car washes	3.81	sq ft
Car washes—self service	0.693	sq ft
Child day-care centers	13.0	Per student
Churches	1.0	Per building
Churches with day-care schools	2.0	Use
Dental offices	0.48	sq ft
Department stores with and without food service	0.04	sq ft
Drug stores	0.09	sq ft
Dry cleaning pick-up and drop off	0.01	sq ft
Dry cleaning on-site	0.38	sq ft
Dry cleaning and laundry on-site	0.45	sq ft
Dry cleaning, laundry, and coin-wash	1.28	sq ft
Dry goods stores (clothing)	0.06	sq ft
Fire and rescue services	0.19	sq ft
Funeral homes	0.05	sq ft
Furniture stores	0.02	sq ft
Gasoline service stations	816.0	Per station
Hospitals	0.37	sq ft
Indoor tennis courts	153.0	Per court
Kennels and animal hospitals	0.15	sq ft
Laundromats	2.9	sq ft
Luxury campsites	114.0	Per campsite
Manufacturing—public water not used in processing	20.0	Per employee
Medical office buildings	0.30	sq ft
Medical practitioners metered separately	0.19	sq ft
Motels with restaurant	168.0	Unit
Motels without restaurant	117.0	Unit
Newspaper offices	16.0	Per employee
Nursery and garden centers	2.0	Site
Nursing homes	0.35	sq ft
Office buildings with cafeteria	0.20	sq ft
Office buildings without cafeteria	0.09	sq ft
Restaurants	0.59	sq ft
Retail stores (small, quick-service, convenience)	0.21	sq ft
Retirement homes	0.18	sq ft
Schools—elementary (186 days)	5.5	Per student
Schools—junior high (186 days)	9.5	Per student
Schools—public high (186 days)	6.5	Per student
Schools—private (186 days)	20.0	Per student
Single-family dwellings	243.0	Per dwelling
Supermarkets	0.12	sq ft
Swimming pools (bathhouse separate)	21.3	Per swimmer
Theaters—drive-in	2.52	Per car space
Theaters—walk-in	0.9	Per seat
Warehouses	0.01	sq ft

suring water usage for the majority of water-user categories. Additionally, square footage could be consistently used for various classes of water users, allowing a unit of measure from which to obtain data without the need to enter a structure. All inside areas, regardless of use, were considered in the total square footage used to develop a factor. The resulting factor per unit of measurement was determined by the average daily usage divided by the average square footage of the space occupied by users within the class. In many cases, extremely high or low usage was deleted from the computations to prevent the exception from affecting the overall average of the class.

A study of the historical usage during a specific time period of all single-family residential units supplied with a 17 × 20-mm (¾ × ⅝-in.) water meter was conducted. The result was an average use of 919 L/d (243 gpd), which became the common denominator for computing the ERUs. Thus: overall square footage of the structure × factor per unit of measurement ÷ 919 L/d (243 gpd) per single-family unit = number of ERUs.*

The authority established the ERU schedule as a tool with which to determine capacity fees. The cost per connection was derived by calculating the total cost of the system facilities to be constructed or expanded over a specified period of time and then dividing by the number of possible connections to those facilities.

The ERU schedule recognized several assumptions and facts.

- Consumption is constantly variable, depending on seasonal business and number of hours of operation.
- Restaurants are highly variable in styles and modes of operations; i.e., they can be sit-down, stand-up, fast-food, or carry-out establishments.
- Management-ownership may change, and thereby styles of operation change.
- A similar type of business may replace an existing one in the future without additional fees being charged.
- Basing the capacity fees on the historical average daily usage of similar establishments is fair and equitable, since similar establishments are in different stages of growth at any given time. The different stages present an average of the actual usage over the life of the establishment.
- Once capacity fees are paid and the establishment is connected with the water system, no further capacity fees will be paid unless use of the property changes, resulting in a higher use factor. If the system demand increases because of a different use, then additional capacity fees will be due.
- Once capacity is committed, it remains with the real property; i.e., there are no transfers and no refunds.

Because the purpose behind the ERU concept is revenue generation and the ERUs are applied to both revenue categories, the authority's revenue structure is discussed.

Revenues

The authority identifies revenues by two major categories: (1) capital revenues generated from capacity charges and depreciation rates, and (2) user charge revenues generated from water and sewer rates.

The most important revenue sources are the user charges for water and sewer services that support daily operations. The capital revenue charges are separately identified under a general heading of capacity charges. These charges are commonly referred to as connection fees or tap fees. The authority maintains that user charges should support daily operations and maintenance, whereas capacity charges are used to support customer growth through system replacements, improvements, expansions, or any project that enhances, improves, or expands the capacity available in the water and sewer systems.

User charges. The daily operational cost is supported by charges for services that a customer receives, allocated as

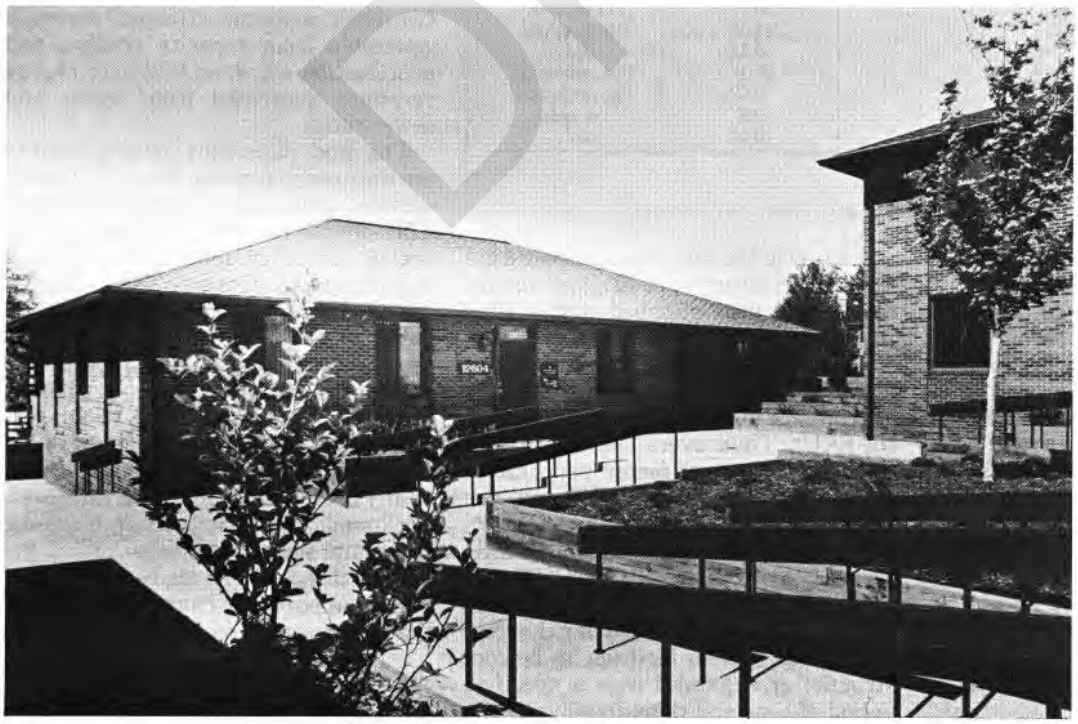
*ERUs are rounded to two decimal places.

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PHOTO BY WARREN MATTOX

The lifestyle of residents of Prince William County is expressed in a new professional office complex (below) as well as in multifamily housing.



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Equivalent residential unit water rates seem both realistic and aesthetically appropriate for the new Tackett's Mill shopping center.

equitably as possible among the houses and businesses served. The authority provides water service, wastewater service, and a combination of the two to its customers. Water costs determine water rates; wastewater costs determine wastewater rates. Expenses incurred by the authority are separated into three categories: (1) billing costs, (2) capacity costs, and (3) commodity costs. Billing costs result from service costs that include the labor, accounting, and administrative expenses required for billing and collecting. Capacity costs result from providing the water distribution system and wastewater collection system and keeping them in service. Commodity costs are those that vary directly with the amount of purchased water to be delivered to each customer, expressed in the form of a rate per 1000 gallons of metered and purchased water.

The user charge system was developed by breaking down the cost of the entire operation, both short-range and long-range, into cost categories. Water system costs are (1) daily operational costs, including the normal operational cost of administration, plant operations, engineering and inspections, and maintenance, and (2) prior debt cost.

Long-range capital financing costs are (1) major system replacement and rehabilitation, (2) system extensions, and (3) expansion or addition of capacity.

Sewer system costs are similarly categorized.

Fixed costs. The authority's monthly service charge was derived from the two fixed-cost categories of billing and capacity costs. This base charge, or minimum charge, represents a standby capacity charge but is referred to as a monthly service charge. The monthly service charge is independent of the amount of water used or the amount of wastewater flow generated by a customer. If a customer uses no water, the bill consists of the service charge only, currently $4.75 for each ERU for water ($2.25) and sewer ($2.50) standby service. This charge for standby service provides a constant, fixed source of monthly revenue, and it is applicable immediately after a property is certified for service.

For example, a builder must obtain a certificate of capacity from the service authority before a building permit can be obtained. The authority collects the capacity-connection fees at the time the certification of capacity is issued. The authority considers the capacity reserved and allocated to that property or lot; therefore, it immediately bills the monthly standby service charge to the builder, even if a physical connection has not yet been made. In exchange, the builder is not charged an additional connection fee should the authority's capacity-connection fees be increased before actual connection to the system occurs. If the monthly fee is not paid at the regular time, the certificate is revoked. In that case, the builder pays any additional fees or charges that may be approved before the property is recertified and connected to the system.

Many utilities use the term "connection fee" to represent the cost of labor and materials to make the tap onto the water or sewer main. This cost is represented by the property line fee. Water and sewer property line fees were established to offset the actual cost of making the physical connection to the system.

Variable, or commodity, costs. These expenses vary with the amount of water

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"Calvert at Lynnwood" retains traditional Virginian elegance in a home that is probably somewhat larger than an "equivalent residential unit."

purchased, and they are recovered in the form of a rate per 1000 gallons of metered water. For each unit of 1000 gallons registered on a water meter, the customer is charged $1.37 for water and $2.70 for sewer service.

Miscellaneous revenues. Other charges that offset the cost of providing the services are an application fee of $12 to initiate service, a water meter test fee of $5 (by customer request), a returned check fee of $15, and a delinquency fee of $35 for discontinuance of service. In addition, customers outside the service area's boundaries pay a 20 percent higher rate for water and a 50 percent higher rate for sewer service. Other revenues are generated by inspection fees and construction water-use fees.

Capital financing—capital improvements program. The capital improvements program is funded by capacity fees and charges and by revenue received from a depreciation rate added to the water and sewer rate. Capacity charges represent the initial cost of a new connection to the system and comprise several different charges that have been adopted separately over the years. These are (1) water and sewer availability fees, established to recover the original system cost; and (2) water capacity and sewer surcharges, established as an increase to the existing availability fees to pay for expansions and replacements once the capacity of the existing plants has been totally allocated. The premise behind these charges is that customers who place additional demands on the system should pay a proportionate share of the cost of the expansion necessary to accommodate their demand.

The initial investment in facilities for new customers, such as meters, services, and local distribution mains, has historically been provided by the developers or the customers as a contribution to the utility.

Depreciation reserve. Depreciation expense has been separated from the fixed billing and capacity cost and identified as a separate part of the commodity costs. Depreciation is accounted for as a part of the user charges. The water rate of $1.37/1000 gal includes $0.03 allocated to depreciation. The sewer rate of $2.70/1000 gal of metered water used includes $0.12 for the depreciation of sewer facilities. The total of $0.15 from the water and sewer rates allocated to depreciation is set aside in a reserve fund for capital improvements to replace existing facilities.

This financial approach was begun by the sanitary districts in 1975 and is being continued by the service authority. It is based on financing from current revenues and new connections. The approach allowed the financing of $7.9 million (the local share of 25 percent of the total $36 million of a federal grant) without having to borrow additional funds. The grant provided for replacement of six outdated sewage treatment plants with one advanced wastewater treatment plant.

This approach is also being used to purchase additional water system capacity from a wholesale supplier over a 30-year period. A water capacity charge per ERU is based on a pro rata share of the capacity being purchased to cover the first 20 years. Even though the payout period is 30 years, the collection period was set for 20 years because the capacity being purchased would be completely allocated by a projected 13 000 additional ERUs within 20 years. The water capacity charge is placed in a special fund to generate sufficient money, including interest on investments, so that at the end of the 20 years, the investment will cover the last 10 years of payments. After the authority sells capacity to the 13 000 additional ERUs over the 20-year period, no capacity will remain to be sold. At the end of this period, this charge should be abolished. It is conceivable, however, that it may be necessary for the utility to purchase additional capacity prior to the end of the twentieth year. Should such a situation occur, the water capacity charge would be modified.

Conclusion

The concept of attaching both variable and fixed revenues to a factor that relates all system users to the basic single-family residential unit is a method of recovering costs that is both logical and fair for the majority of system users. Simply put, the ERU concept represents an equitable share in the cost of a system, based on the historical average use by each customer class. The method of arriving at the ERU can be altered depending on applicability, new information, or political needs. Although the administrative expenses of handling the ERU concept are somewhat greater than for other methods, it has proved to be the best method for this authority in terms of overall fairness and increased recovery of costs. Precise duplication of the methods described should not be assumed to work in other utility systems. This system was tailored for the authority and will be altered as needs dictate. Each utility system attempting to use the concept of the ERU should be prepared to invest the time necessary to conduct research and to arrive at the specific equivalency factors that apply directly to its situation.



About the author: *John J. Woodcock is the comptroller for the Prince William County Service Authority, located at 14610 Jefferson Davis Highway, Woodbridge, VA 22191. He has been developing and implementing the equivalent unit theory of rate-making for the past 10 years at this utility. A member of AWWA, Woodcock was a keynote speaker at the Virginia Section's fiftieth annual conference in 1983. He is also a member of the Government Finance Officers Association and the National Association of Accountants.*

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Mt Pleasant Waterworks Financial Planning Model
Schedule D-2
Customer Demand

Preliminary Draft

FILE NAME: MPSC Rate Model v20 (post client meeting)

WATER (1000's gallons)	(1) Actual Demand 2005 1000's Gallons	Demand Baseline	Current Year FY 2006	Rate Year FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Residential								
Rate Tier 1	1,387,280	**1,387,000**	1,428,610	**1,471,468**	1,515,612	1,561,081	1,607,913	1,656,151
Rate Tier 2	116,849	**117,000**	120,510	**124,125**	127,849	131,685	135,635	139,704
Rate Tier 3	25,417	**25,000**	25,750	**26,523**	27,318	28,138	28,982	29,851
Rate Tier 4	30,222	**30,000**	30,900	**31,827**	32,782	33,765	34,778	35,822
Residential Water Total	1,559,768	**1,559,000**	1,605,770	**1,653,943**	1,703,561	1,754,668	1,807,308	1,861,528
Commercial								
Rate Tier 1	491,435	**491,000**	505,730	**520,902**	536,529	552,625	569,204	586,280
Rate Tier 2	46,043	**46,000**	47,380	**48,801**	50,265	51,773	53,327	54,926
Rate Tier 3	14,051	**14,000**	14,420	**14,853**	15,298	15,757	16,230	16,717
Rate Tier 4	28,247	**28,000**	28,840	**29,705**	30,596	31,514	32,460	33,433
Commercial Water Total	579,775	**579,000**	596,370	**614,261**	632,689	651,670	671,220	691,356
Irrigation								
Rate Tier 1	123,446	**123,000**	126,690	**130,491**	134,405	138,438	142,591	146,868
Rate Tier 2	52,784	**53,000**	54,590	**56,228**	57,915	59,652	61,442	63,285
Rate Tier 3	27,081	**27,000**	27,810	**28,644**	29,504	30,389	31,300	32,239
Rate Tier 4	65,915	**66,000**	67,980	**70,019**	72,120	74,284	76,512	78,807
Irrigation Total	269,227	**269,000**	277,070	**285,382**	293,944	302,762	311,845	321,200
All Others	N/A	**-**	-	**-**	-	-	-	-
Total Water Demand (1000's Gall	2,408,770	**2,407,000**	**2,479,210**	**2,553,586**	**2,630,194**	**2,709,100**	**2,790,373**	**2,874,084**
				3.0%	*3.0%*	*3.0%*	*3.0%*	*3.0%*

WASTEWATER (1000's gallons)	Actual Demand 2005 1000's Gallons	Demand Baseline	FY 2006	Rate Year FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Residential	1,478,012	**1,478,000**	1,522,340	**1,568,010**	1,615,051	1,663,502	1,713,407	1,764,809
Commercial	544,319	**544,000**	560,320	**577,130**	594,443	612,277	630,645	649,564
All Others	-	**-**	-	-	-	-	-	-
Total Wastewater Demand	**2,022,332**	**2,022,000**	**2,082,660**	**2,145,140**	**2,209,494**	**2,275,779**	**2,344,052**	**2,414,374**
				3.0%	*3.0%*	*3.0%*	*3.0%*	*3.0%*

(1) Demand data is extracted from MPW billing database reports for December 2004 through November 2005.
Seasonal Demand percentages below are from Schedule E-1, 'Model Inputs' .

	July-December	January-June
Non-Residential	41%	59%
Residential	53%	47%
Non-Residential+Residential	51%	49%
Irrigation	62%	38%

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Mt Pleasant Waterworks Financial Planning Model
Schedule D-3
Customer Accounts and Residential Equivalent Units

Preliminary Draft

	Historical Nov 2005	FY 2006	**Rate Year FY 2007**	FY 2008	FY 2009	FY 2010	FY 2011
RESIDENTIAL EQUIVALENT UNIT'S							
Water							
Residential	26,483	26,500	**26,500**	27,295	28,114	28,957	29,826
Commercial	10,151	10,200	**10,200**	10,506	10,821	11,146	11,480
Irrigation	2,496	2,500	**2,500**	2,575	2,652	2,732	2,814
All Others	-	-	**-**	-	-	-	-
Total Water REUs	**39,130**	**39,200**	**39,200**	**40,376**	**41,587**	**42,835**	**44,120**
Wastewater							
Residential	25,157	25,200	**25,200**	25,956	26,735	27,537	28,363
Commercial	9,716	9,700	**9,700**	9,991	10,291	10,599	10,917
All Others	-	-	**-**	-	-	-	-
Total Wastewater REUs	**34,873**	**34,900**	**34,900**	**35,947**	**37,025**	**38,136**	**39,280**

#OF ACCOUNTS (used for developing peaking factor allocations)

Water	Historical Nov 2005	FY 2006	**Rate Year FY 2007**	Growth Rate
Residential	26,416	26,400	**27,192**	3.0%
Commercial	1,993	2,000	**2,060**	3.0%
Irrigation	2,453	2,500	**2,575**	3.0%
All Others	-	-	**-**	0.0%
Total Water REUs	**4,446**	**30,900**	**31,827**	

REU data is extracted from MPW billing database reports for December 2004 through November 2005.

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EXHIBIT H

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Mount Pleasant Waterworks
Financial Planning Model
Customer Demand

FILE NAME: MPW CURRENT RATE MODEL RFC FY16 Initial 12-8-2014_JC

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
	Actual	*Actual*	*Actual*	*Actual*	*Actual*
Residential Equivalent Units					
Water		Total	Active REU		
Residential	30,979	31,069	28,626	29,279	30,077
Commercial	10,975	11,046	10,749	11,153	11,350
Irrigation	3,938	3,947	3,439	3,445	3,456
All Others	-	-		-	
Subtotal: Water	45,892	46,062	42,814	43,877	44,883
Additional Units		170	(3,248)	1,063	
Wastewater		Total	Active REU		
Residential	29,569	29,721	27,552	28,209	29,012
Commercial	11,024	11,112	10,721	11,109	11,281
All Others	-	-			
Subtotal: Wastewater	40,593	40,833	38,273	39,318	40,293
Additional Units		240	(2,560)	1,045	

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
	Actual	*Actual*	*Actual*	*Actual*	*Actual*
Number of Accounts					
Water					
Residential	30,762	31,036	28,661	29,272	
Commercial	2,436	2,495	2,098	2,334	
Irrigation	3,275	3,336	2,838	2,838	
All Others	-	-			
Subtotal: Water	36,473	36,867	33,597	34,444	-
		394	(3,270)	847	
Wastewater					
Residential				28,224	
Commercial				2,012	
All Others	-	-			
Subtotal: Water	-	-	-	30,236	-
		-	-	30,236	

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EXHIBIT H

Mount Pleasant Waterworks
Financial Planning Model
Customer Demand

FILE NAME: MPW CURRENT RATE MODEL RFC FY16 Initial 12-8-2014_JC

	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Actual	FY 2014 Actual
Water and Wastewater Demand					
Water (kgal)					
Residential					
Included in BFC - Up To gal	-	-	-	-	
Rate Tier 1	1,002,219	1,541,106	1,533,217	1,498,058	1,508,813
Rate Tier 2	129,369	137,408	145,461	112,440	116,746
Rate Tier 3	32,853	27,586	33,863	22,551	25,052
Rate Tier 4	41,693	20,031	24,397	15,880	17,779
Subtotal: Residential Water	1,206,134	1,726,131	1,736,938	1,648,929	1,668,390
Commercial					
Included in BFC - Up To gal	-	-	-	-	
Rate Tier 1	323,886	492,755	487,791	522,603	507,655
Rate Tier 2	31,735	36,090	38,328	43,222	40,435
Rate Tier 3	8,199	4,660	9,008	9,058	9,744
Rate Tier 4	12,354	13,167	9,776	12,849	13,262
Subtotal: Commercial Water	376,174	546,672	544,904	587,731	571,096
Irrigation					
Rate Tier 1	134,273	168,604	175,062	133,294	144,782
Rate Tier 2	69,737	73,992	76,390	59,350	60,782
Rate Tier 3	38,693	38,500	40,619	30,975	30,808
Rate Tier 4	85,564	98,063	92,246	76,080	70,279
Subtotal: Irrigation Water	328,267	379,159	384,316	299,700	306,651
Municipal Irrigation	-	-	-	42,495	35,756
Total: Water Demand	**1,910,575**	**2,651,962**	**2,666,158**	**2,578,855**	**2,581,893**
% Change					
Wastewater (kgal)					
Residential					
Included in BFC - Up To gal					
Rate Tier 1	1,422,181	1,458,491	1,458,377	1,445,306	1,465,512
Rate Tier 2	183,579	130,042	138,360	108,480	113,395
Rate Tier 3	46,619	26,107	32,210	21,757	24,333
Rate Tier 4	59,164	18,957	23,206	15,321	
Subtotal: Residential Water	1,711,543	1,633,597	1,652,154	1,590,864	1,(

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EXHIBIT H

Mount Pleasant Waterworks
Financial Planning Model
Customer Demand

FILE NAME: MPW CURRENT RATE MODEL RFC FY16 Initial 12-8-2014_JC

Commercial					actua
Included in BFC - Up To gal					
Rate Tier 1	490,353	495,792	493,169	518,125	
Rate Tier 2	48,046	36,312	38,751	42,851	39,816
Rate Tier 3	12,413	4,689	9,108	8,980	9,595
Rate Tier 4	18,704	13,248	9,884	12,739	13,059
Subtotal: Residential Water	569,515	550,041	550,911	582,695	562,362
All Others					
Rate Tier 1	-	-			
Rate Tier 2	-	-	-	-	
Rate Tier 3	-	-	-	-	
Rate Tier 4	-	-	-	-	
Subtotal: Residential Water	-	-	-	-	-
Total: Wastewater Demand	**2,281,058**	**2,183,638**	**2,203,065**	**2,173,560**	**2,182,871**

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Introduction

This document contains the Cost Recovery Policies of the Commissioners of Public Works for the Town of Mount Pleasant, South Carolina herein after referred to as "the Commission". By virtue of SC Code of Laws, *Section 5-31-250,* conducting the financial affairs of the Commission is vested with the elected Commissioners. This document, adopted and approved by the Commissioners, includes the public policies whereby the Commission will recover the cost of providing water and wastewater services to its customers.

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Section 1. Purpose

This policy document provides clear public policies used as guidance by the Commissioners when making financial decisions and plans relating to the provision of water and wastewater service to existing and future customers. These policies are designed to create long-term financial stability for a public utility, while ensuring that the charges for services are as fair, reasonable and equitable as possible. Adopted during the course of public meetings, this document is also amended through the public meeting process.

Section 2. Cost Recovery Philosophy

Policy 2.1 Cost Recovery

To fully and as equitably as possible recover all costs of operating, maintaining, and expanding the water and wastewater utilities from the customers of the service area while maintaining financial stability and sufficiency.

The mission of the Commission is to provide excellent quality water and wastewater services to its customers, while meeting all applicable Federal, State and local laws and regulations. All of the costs to provide these services must be fully recovered by the Commission. In addition, rates must be as equitable as possible among customer classifications, and between existing and future customers. Financial stability ensures that rates remain reasonable, and that the utility's borrowing ability is maintained.

Policy 2.2 Fund Disbursement

To the nearest extent practical, funds received by the Commission will be used to pay for the services that benefit the customers whose payments generated those funds.

The Commission has two categories of customers, existing and future. Cost of the ongoing operation of the system and renewal and replacement (R&R) of the existing assets are recovered through the monthly rates and charges to existing customers. Other charges are levied for specific services provided such as connection services, new customer account set up and management and other miscellaneous ancillary services. Cost recovery for the extension and expansion (E&E) of the utility infrastructure to serve future customers is recovered through impact fees and system development charges.

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Section 3. Cost Recovery Administration

Policy 3.1 Authority to Set Rates, Fees and Charges

The authority to set rates, fees, and charges rests with the elected Board of Commissioners of Mount Pleasant Waterworks (South Carolina Code 5-31-250).

Policy 3.2 Authority to Grant Exceptions to Adopted Rates, Fees and Charges

The authority to grant exceptions to adopted rates, fees and charges rests with the elected Board of Commissioners of Mount Pleasant Waterworks and may be delegated to the General Manager.

The Commission will not provide free services nor waive adopted rates, fees or charges to any customer or group of customers because to do so is arbitrary and discriminatory. Special payment schedules based on hardship may be requested in writing to any elected member of the Board of Commissioners or the General Manager. Approval of such requests will be discretionary.

Policy 3.3 Set Rates to Maintain Financial Sufficiency

The Commission will establish rates sufficient to meet the operating expenses, reasonable capital improvements to the utility infrastructure and mandatory debt service coverage ratios as required in the existing bond ordinance.

Policy 3.4 Establish a Rate Structure to Maintain Financial Stability

The Commission will establish a rate structure to recover revenue from the customer base in a way that provides for financial stability and the maintenance of the minimum cash reserves. This structure will include fixed charges and variable charges as approved by the Commissioners.

Section 4. Policy Review and Amendment

Policy 4.1 Policy Review

The Commission will review its cost recovery policies prior to preparation of the annual budget and revise the policy document as often as necessary to maintain consistency with actual cost recovery practices. A comprehensive, independent cost recovery review of rates, fees and charges will be conducted at least every 5 years or more frequently if deemed necessary.

Cost recovery studies will be conducted more frequently if major changes occur in: 1) cost forecasts, 2) regulations governing system operations, 3) operating technologies, or 4) customer base demographics. The independent review will, at a minimum, produce a comprehensive schedule of rates, fees and charges that reflect stated policies and provide documentation of the calculations used in designing the rates, fees and charges.

Policy 4.2 Policy Amendment

The Cost Recovery Policies may be amended from time to time depending on financial circumstances. The Commission will hold a public hearing on any amendments to the policies and adopt any changes in a public meeting of the Commission.

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Section 5. Financial Plan

Policy 5.1 Financial Plan

The Commission will update its Ten-Year Financial Plan annually, to assess the financial feasibility of planned and budgeted activities as they relate to cost recovery objectives.

The Commission develops two budgets annually, the operating budget and the capital improvements budget. The capital improvements budget includes a) renewal and replacement projects and expenses for existing assets and b) expansion and extension projects and expenses for future service. The Commission forecasts these projects and expenses into the future through use of our financial rate model. This model establishes the overall financial plan for the Commission.

Section 6. Customer Classifications

Policy 6.1 Customer Classifications

The customer classification system will be reviewed prior to each cost recovery study and revised as often as necessary.

Customers are classified into homogeneous groups for development of cost allocations and applications of charges. Customer classifications will be developed if and when customer groups are deemed to differ.

Policy 6.2 Out of Town Wastewater Customers

The Commission will charge an Out of Town Wastewater rate for all customers that receive wastewater service that are not within the corporate limits of the Town of Mount Pleasant as specified by Town Ordinance 11011.

February 8, 2011, the Town of Mount Pleasant amended the Sewer Use Ordinance by adopting Ordinance 11011 that added Section 51.093 which states the following:

Out-Of-Town Wastewater Rates and Charges
(A) *Single-family residential.* For each out-of-town connection to the public wastewater system, the person applying for and/or receiving service shall pay one and one-tenth (1.1) times the current in-town wastewater rates and charges as may be set and determined from time to time by the Commission.

(B) *All other.* For each out-of-town connection to the public wastewater system, the person and/or business applying for and/or receiving service shall pay two times the current in-town wastewater rates and charges as may be set and determined from time to time by the Commission.

Policy 6.3 Municipal Irrigation Customer

The Commission will charge the Town of Mount Pleasant irrigation accounts a Municipal Irrigation rate that is equal to the regular residential water volumetric rate.

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Effective April 2012, the Commission approved the Municipal Irrigation rate that equals the regular residential volumetric rate. Furthermore, an allocation of REUs was approved to prevent all selected irrigation accounts from paying excessive use charges. Each account will be charged the appropriate basic facility charge.

Section 7. Establishing Rates and Charges

The basic principles the Commission will use in calculating rates, fees and charges are as follows:

- All costs incurred will be considered investments of resources. These resources include the capital costs of developing facilities and capacity for providing services, the operational costs of providing services from these facilities, and the administrative costs of programs and activities related to the facilities and services provided.
- Utility services are goods and their full costs will be recovered. Rates will be reviewed annually and updated as often as necessary to fully recover costs and meet the requirements of the cost recovery policies.
- As a responsible public entity, the Commission will price its services to recover costs without generating a profit over time.
- The entire pricing system will be as equitable as practicable.

Policy 7.1 Maintain Equitable Charging Practices

The Commission will strive for equity among customer classifications and between existing and future customers when setting rates, fees, and other charges.

- *The Commission will help ensure equity between existing and future customers by following a flow of funds system that indicates the sources of funds, where funds are deposited and held, and where funds are distributed.*
- *Impact fees and other connection charges will be used for system expansion, to ensure that to the extent possible "growth pays for growth".*
- *Costs will be controlled and the rate program will be planned such that increases in typical monthly bills will not exceed 15 percent in any given fiscal year. Exceptions will be made to this policy only as necessary to meet mandatory requirements.*

The Commission operates as a business enterprise independent of other revenue sources. The utility is managed as an enterprise fund, and prices will approximate those that would prevail in a competitive market.

Policy 7.2 Basic Facility Charge (BFC)

Water and Wastewater Basic Facility Charges will recover an amount equal to or greater than the sum of the annual Renewal and Replacement (R&R) debt service expense, a portion of the capital expenditures for the system, a portion of operation and maintenance costs, and a portion of general administrative costs.

The Commission incurs fixed costs for providing services to its customers including, but not limited to, Renewal and Replacement (R&R) debt service, capital costs, operating and maintenance costs, and general administrative costs.

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The BFC is a charge for the reservation of capacity based on the total active REUs assigned to a property. To ensure the purchased capacity remains available, all BFCs must be paid.

Policy 7.3 Volumetric Rates

Water and wastewater volumetric rates will be set to recover all costs and funding requirements that are not recovered from other rates, fees and charges, including minimum fund balance requirements.

In the interest of encouraging conservation of water resources, water and wastewater rate schedules include flow-based charges. Thus, the customers who use more water and generate more wastewater pay more than those who use less. Volumetric rates for water and wastewater are calculated and levied per 1,000 gallons of metered water per account, rounded downward to the nearest 100 gallons.

Policy 7.4 Application of Volumetric Rates

Water volumetric rates will be applied to all metered water use.

Some public utilities do not charge the water volumetric rate for lost water or metered water that was wasted due to an extraneous circumstance, such as a broken faucet. Because the utility bears the cost of water lost on the utility's side of the meter, it is equitable for individual customers to bear the cost of water lost on the customer's side of the meter. Thus, the customer will be held directly responsible for all metered water at their household or business. The wastewater volumetric rate may be waived on lost water if the customer can show that the lost water was not discharged to the wastewater system.

Policy 7.5 Excessive Use Charge

An excessive use charge[1] will be levied on all water and wastewater customer classifications as follows:

Residential Customers

- *100% of the water and wastewater volumetric rate for monthly metered water usage in excess of 9,200 gallons per REU*
- *200% of the water volumetric rate for monthly metered water usage in excess of 18,400 gallons per REU*
- *300% of the water volumetric rate for monthly metered water usage in excess of 27,600 gallons per REU*

[1] The Commission uses the term "excessive use charge" rather than "conservation rate" because this charge is a penalty for excessive water and wastewater use. Unlike the Commission's other charges, the excessive use surcharge is not a cost-of-service rate.

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logical relationship between projected new connections to the System and the improvements needed to serve new customers and existing customers.

In South Carolina the statutory authorization to impose water "rates" does not specifically include a reference to "impact fees" and there has been no judicial confirmation of any implied power to impose such fees.

In 1988, prior to commencing the Series 1989 bond issue for the reverse osmosis treatment plants, the Commission had the consulting engineering firm CH2M Hill conduct a water and wastewater rate and impact fee study. The study recommended a phased rate increase which the Commission adopted by Resolution No. 1-89 on March 20, 1989.

In March 1991, the Commission engaged CH2M Hill to perform an updated water and wastewater rate and impact fee study. A full report of that study was presented to the Commission in June 1991, which recommended revised water and wastewater rates and impact fees for Fiscal Year 1992. Such rates were adopted by Resolution dated July 1, 1991. The current rates were adopted by resolution dated June 29, 1992. The rate and impact fee changes are summarized in the following tables:

Impact Fee History

IMPACT FEES	1983	1984	1986	1989	1991
Water	$1.25/gallon* ($513.75/REU)	$1.25/gallon ($513.75/REU)	$1.41/gallon ($579.51/REU)	$715/REU**	$848/REU
Sewer	$1.08/gallon ($324.00/REU)	$1.19/gallon ($357.00/REU)	$4.38/gallon ($1314.00/REU	$1314/REU	$1452/REU

*REU = Residential Equivalent Unit
Water = 411 gallons per day
Sewer = 300 gallons per day

**After 1989 REU for water was 300 gallons per day

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EXHIBIT K

Basic Facility Charges per month

You are currently paying $669.90 per month in Basic Facility Charges. Lowering your REUs to the average month of your highest quarter would lower your monthly Basic Facility Charges to $300.30 per month.

To decrease your capacity allocation to 13 REUs

Please visit our website to fill out the Reduction of Residential Equivalent Unit Form and submit it by email. Please complete this action within two weeks of receiving this notification.

Steps:

- visit mountpleasantwaterworks.com
- click on the Customers tab at the top of the page
- Look for the section titled Customer Service Forms
- Click on the *Reduction of Residential Equivalent Unit Form*
- Fill out the form and submit via email.
- Once we receive your form and make the change to your account you will receive a confirmation email from Account Management confirming this change (this process may take up to one week).

The next opportunity to lower your REUs will occur in March of 2019. All future requests for reduction of REUs must be received in writing (by form submittal) by MPW prior to March 15th each year. Should the request for reduction be approved, the effective date of the reduction shall be July 1st of the year the request was submitted.

MPW Policy 5.3.3

MPW's Policy 5.3.3- Impact Fee Management can be found on our website. It explains in detail the management of Impact Fees and REUs.

If you reduced the number of REUs or if the REUs have lapsed you may adjust active REUs once per year to a number that does not exceed the REUs originally assigned to the property. To add any reduced or lapsed REUs back to the property, impact fees or back BFCs must be paid at MPW's current rate in accordance with Policy 5.3.2 (whichever is less).

We are here to help

If you would like to meet to discuss your account options or we can provide you additional information please email Kelly Rourk Account Management Supervisor at kellyrourk@mpwonline.com.

Sincerely,

MOUNT PLEASANT WATERWORKS

Nicole Bates

Nicole Bates
Customer Services Manager

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EXHIBIT L

Sec. 58-133. - Water service rates.

(a) *Description of rate structure.*

(1) The rate charged for potable water service to each customer shall consist of a monthly service charge based on the number of equivalent residential connections (ERCs) determined by the city periodically for the premises or point of connection, which shall serve as the minimum bill, and a gallonage charge for each unit of 1,000 gallons or portion thereof as metered at the premises or point of connection. Such charges shall be due and payable on a monthly basis. The property owner for the premises that receives the potable water service from the city shall be the customer except during such time that service is requested by a tenant customer, located at such premises, as allowed by the property owner. The rates for potable water service are charged based on the customer's location. Customers located within the city limits are charged the inside city rate. Customers located outside the city limits are charged the outside city rate.

(2) As long as service is provided to the premises of the property owner, the property owner shall be considered as the customer, except as noted above. Service shall be considered as being provided to the premises if there is installed a water meter available to measure potable water service to such premises. The temporary discontinuance of service at the request of a customer, whether the property owner or new owner/tenant customer, does not render a customer inactive from service availability and billing basis and shall not be considered as the discontinuance of service to such premises and the customer shall be responsible for all monthly charges due for the provision of service.

(b) *Monthly service charge.*

(1) Each customer connected to the city's potable water system shall pay a monthly service charge based on the number of equivalent residential connections (ERCs) and the effective rate per ERC being served at such connection as determined by the city for each potable water customer as defined in the following table:

	Rate per ERC - All Customers	
Effective Date	Inside City	Outside the City
October 1, 2013	$7.58	$8.34
October 1, 2014	$8.00	$8.80
October 1, 2019	$8.44	$9.28
October 1, 2020	$8.90	$9.79

(2) The determination of the ERCs shall be calculated as follows:

a. Individually metered residential service customers includes all connections for individually metered dwelling units as defined by appendix D, article IV, chapter 3, section 3.46. Each such individually metered residential unit shall equate to one equivalent residential connection or ERC for the application of the monthly service charge. One ERC shall represent an average daily potable water flow of 240 gallons per day.

b. All other customers not classified as individually metered residential service customers shall be calculated individually for the determination of the number of ERCs applicable at a metered premises.

For existing customers classified under this customer designation, the determination of the total ERCs shall be based on the greater of:

1. The monthly average water consumption divided by the monthly potable water allowance per ERC of 7,000 gallons, but not less than one ERC; or
2. The ERCs implied by the size of the meter serving the premises using the meter ERC factor determined by using meter equivalent factors based on information published by the American Water Works Association (AWWA) regarding meter capacities in the following amounts shown below. For new customers that have no previous water consumption history based at the premises (newly constructed unit or a redeveloped unit that changed the nature of the property use and which an impact fee was calculated per section 58-131), the number of ERCs to be assigned to the respective customer will be based on the daily potable water flow requirements of the customer determined during the permitting process by the city expressed on an average monthly basis or determined in accordance with the formula above for existing customers.

Meter Size (inches)	ERC per AWWA
0.75	1
1.0	3
1.5	5
2.0	8

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EXHIBIT L

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3.0	15
4.0	25
6.0	50

All meters larger than six inches will be charged a maximum of 50 ERCs.

c. The city shall have the right to adjust the determination of the amount of ERCs assigned to a customer based on the change in average monthly water consumption at least once per year, unless there is a change in the customer characteristics which would necessitate the need to determine additional capacity fees becoming due and the need to assign additional ERCs to the customer.

d. Meter sizing shall be independent of any ERC calculation for the application of the monthly service charge.

(c) *Gallonage charge.* In addition to the above established service charge, each customer shall pay a monthly gallonage charge per unit for each 1,000 gallons, or portion thereof, of water as metered at the customer's premises in accordance with the schedule set forth below:

Effective Date	Inside City	Outside City
October 1, 2013	$4.33	$4.76
October 1, 2014	$4.57	$5.02
October 1, 2019	$4.82	$5.30
October 1, 2020	$5.08	$5.59

(Code 1980, § 36-47; Code 1984, § 32-73; Ord. No. 83-10, § 1, 4-12-1983; Ord. No. 85-20, § 3, 4-9-1985; Ord. No. 86-38, § 3, 6-10-1986; Ord. No. 86-70, § 1, 10-14-1986; Ord. No. 87-48, § 1, 9-8-1987; Ord. No. 87-57, § 1, 10-27-1987; Ord. No. 88-47, § 1, 10-25-1988; Ord. No. 89-20, § 1, 5-23-1989; Ord. No. 89-53, § 1, 10-10-1989; Ord. No. 90-45, § 1, 10-23-1990; Ord. No. 91-48, § 7, 10-8-1991; Ord. No. 91-59, § 1, 10-22-1991; Ord. No. 92-50, § 1, 10-27-1992; Ord. No. 92-61, § 1, 12-22-1992; Ord. No. 93-41, § 1, 10-12-1993; Ord. No. 93-46, § 1, 10-26-1993; Ord. No. 94-15, § 1, 3-22-1994; Ord. No. 94-50, § 1, 8-23-1994; Ord. No. 94-56, §§ 1, 2, 10-11-1994; Ord. No. 96-21, § 1, 4-23-1996; Ord. No. 98-30, § 1, 7-28-1998; Ord. No. 2001-36, § 10, 7-24-2001; Ord. No. 2002-46, § 1, 7-9-2002; Ord. No. 2007-58, § 2, 7-24-2007; Ord. No. 2009-20, § 2, 5-26-2009, eff. 10-1-2009; Ord. No. 2012-19, § 8(32-73), 5-22-2012; Ord. No. 2013-24, § 1(32-73), 4-9-2013; Ord. No. 2015-46, § 1, 9-22-2015; Ord. No. 2016-62, § 1, 9-29-2016; Ord. No. 2017-45, § 1, 10-10-2017; Ord. No. 2018-45, § 1, 10-9-2018)

DRAFT

EXHIBIT L

Sec. 58-243. - Sewer service rates.

(a) *Description of rate structure.*

(1) The rate charged for sewer service to each customer shall consist of a monthly service charge based on the number of equivalent residential connections (ERCs) being served at such connection as determined by the city periodically for the premise, which shall serve as the minimum bill, and a gallonage charge for each unit of 1,000 gallons or portion thereof based on the quantity of potable water metered at the premises. Such charges shall be due and payable on a monthly basis. The property owner for the premises that receives the sewer service from the city shall be the customer except during such time that service is requested by a tenant customer, located at such premise, as allowed by the property owner. The rates for sewer service are charged based on the customer's location. Customers located within the city limits are charged the inside city rate. Customers located outside the city limits are charged the outside city rate.

(2) As long as service is provided to the premises of the property owner, the property owner shall be considered as the customer, except as noted above. Service shall be considered as being provided to the premises if there is installed a water meter available to measure potable water service to such premises. The temporary discontinuance of service at the request of a customer, whether the property owner or new owner/tenant customer, does not render a customer inactive from service availability and billing basis and shall not be considered as the discontinuance of service to such premises and the customer shall be responsible for all monthly charges used for the provision of service.

(b) *Monthly service charge.*

(1) Each customer connected to the city's sewer system shall pay a monthly service charge based on the number of equivalent residential connections (ERCs) and the effective rate per ERC determined by the city for each sewer customer defined in the following table:

	Rate per ERC - All Customers	
Effective Date	Inside City	Outside the City
October 1, 2013	$11.21	$14.01
October 1, 2014	$11.83	$14.78
October 1, 2019	$12.48	$15.59
October 1, 2020	$13.16	$16.45

(2) The determination of the ERCs shall be determined in accordance with the following:

a. Individually metered residential service customers includes all connections for individually metered dwelling units as defined by appendix D, article IV, chapter 3, section 3.46. Each such individually metered residential unit shall equate to one equivalent residential connection or ERC for the application of the monthly service charge. One ERC shall represent an average daily sewer flow of 240 gallons per day.

b. All other customers not classified as individually metered residential service customers shall be calculated individually for the determination of the number of ERCs applicable at a metered premises. For existing customers classified under this customer designation, the determination of the total ERCs shall be performed periodically and shall be based on the greater of:

1. The monthly average billed sewer consumption divided by the average monthly billed sewer allowance per ERC of 7,000 gallons, but not less than one ERC; or
2. The ERCs implied by the size of the meter serving the premises using the meter ERC factor determined by using meter equivalent factors based on information published by the American Water Works Association (AWWA) regarding meter capacities in the following amounts shown below.

c. For new customers that have no previous billed sewer flow or consumption history based at the premises (newly constructed unit or a redeveloped unit that changed the nature of the property use and which an impact fee was calculated per section 58-242), the number of ERCs to be assigned to the respective customer will be based on the daily sewer flow requirements of the customer as determined as part of the permitting process expressed on an average monthly basis or determined in accordance with the formula above for existing customers:

Meter Size (inches)	ERC per AWWA
0.75	1
1.0	3
1.5	5
2.0	8

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EXHIBIT L

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3.0	15
4.0	25
6.0	50

All meters larger than six inches will be charged a maximum of 50 ERCs.

d. The city shall have the right to adjust the determination of the amount of ERCs assigned to a customer based on the change in average monthly billed sewer flow or consumption at least once per year, unless there is a change in the customer characteristics which would necessitate the need to determine additional capacity fees becoming due.

e. Where a customer has received a permit for and has installed an individual gray water disposal system, a credit equal to 50 percent of the monthly service and gallonage charges shall be allowed. Provided, however, that if the gray water system is abandoned for any reason, this credit will no longer be allowed.

(c) *Gallonage charge.* Each customer connected to the city's sewer system to whom a monthly bill shall be rendered for water furnished by the city's water system shall pay a charge per 1,000 gallons, or portion thereof, of water passed through the water meter for sewer services in accordance with the schedule set forth below:

Effective Date	Inside City	Outside the City
October 1, 2013	$6.49	$8.11
October 1, 2014	$6.85	$8.56
October 1, 2019	$7.22	$9.03
October 1, 2020	$7.62	$9.52

(d) *Adjustments to bills.* The city manager or his designee shall be authorized to provide adjustments to sewer bills resulting from excessive water consumption because of leaks in the water service lines, defective plumbing fixtures, filling of a swimming pool, or unusual circumstances where the water did not enter the sanitary sewer system as waste pursuant to the following conditions:

(1) Excessive water consumption is defined as water consumption resulting from one of the above described causes, where the billed consumption exceeds the average monthly consumption for the previous six months by at least 100 percent and is a minimum of 10,000 gallons above said monthly average.

(2) The account holder shall submit a written request for adjustment within 60 days of the date of the bill for which adjustment is requested.

(3) The account holder must establish that the water did not flow through the sanitary sewer system.

(4) An adjustment to a sewer bill has not been granted in the previous 12 months.

(5) In the event the excessive water consumption crosses two billing cycles, the calculation for the adjustment shall be based upon the average monthly consumption which exceeds two times the average monthly consumption for the previous six months pursuant to the limitations described in subsection (d)(1) of this section. An adjustment that is provided in this subsection shall only be authorized when the customer demonstrates that corrective action is taken within ten days of the billing date when the excessive consumption first occurred.

(Code 1984, § 32-308; Ord. No. 99-47, § 57, 10-12-1999; Ord. No. 99-61, § 5, 11-30-1999; Ord. No. 2002-46, § 2, 7-9-2002; Ord. No. 2007-58, § 5, 7-24-2007; Ord. No. 2009-20, § 4, 5-26-2009, eff. 10-1-2009; Ord. No. 2012-5-2012, § 12(32-308), 5-22-2012; Ord. No. 2013-24, § 2(32-308), 4-9-2013; Ord. No. 2015-46, § 2, 9-22-2015; Ord. No. 2016-62, § 2, 9-29-2016; Ord. No. 2017-45, § 2, 10-10-2017; Ord. No. 2018-45, § 2, 10-9-2018)

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BRYAN A. MANTZ, CMC, CGFM
PRESIDENT

PROFESSIONAL CERTIFICATIONS:

- CMC – Certified Management Consultant, No. 12237146
- CGFM – Certified Government Financial Manager, No. 15636
- Series 50-Qualified Municipal Advisor Representative

EDUCATION:

- MBA with Honors, Finance, Rollins College, 1999
  - Awarded Merit Scholarship
- B.S., Economics, University of Pennsylvania, Wharton School of Business, 1996
- B.A.S., Management and Technology, University of Pennsylvania, School of Engineering and Applied Science, 1996

PROFESSIONAL AFFILIATIONS:

- American Water Works Association (AWWA)
  - Active Member of National Rates and Charges Committee
- Association of Government Accountants (AGA)
- Government Finance Officers Association (GFOA)
- Institute of Management Consultants USA (IMC-USA)
- Water Environment Federation (WEF)

PROFESSIONAL HONORS:

- Two-Time National Best Paper Award: AWWA Management and Leadership Division (2012 and 2013)

Profile

Mr. Mantz serves as the President of GovRates, a utility, financial, rate, and management consulting firm that primarily serves governments. He has 23 years of financial and accounting experience, most of which have been spent as a rate and financial consultant to local governments. He has successfully completed hundreds of rate and financial projects for local government entities.

As a certified management consultant (CMC), Mr. Mantz has a long history of delivering results and excellent performance based on client testimonials, references, and repeat business. The CMC certification is awarded by the Institute of Management Consultants to select consultants who have met global standards for competence, ethics, and results, and is recognized by the insurance industry as reducing risk.

Mr. Mantz is also a certified government financial manager (CGFM). The CGFM is a professional certification awarded by the Association of Government Accountants (AGA) to recognize the unique skills and specialized knowledge required of today's government financial managers.

GovRates is registered as a municipal advisor with the Securities and Exchange Commission (SEC), and the Municipal Securities Rulemaking Board (MSRB), and Mr. Mantz is a Series 50-qualified municipal advisor representative. As such, he can legally provide advice and recommendations on the structure, timing, and terms of various financing options available to local governments.

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BRYAN A. MANTZ, CMC, CGFM - PRESIDENT (continued)

Profile (continued)

A recognized expert in rate and financial issues, Mr. Mantz has been published in the *Journal AWWA*, the *Journal of Government Financial Management*, *Government Finance Review*, and the *Florida Water Resources Journal*, and his publications have been translated into other languages and used in university settings. He has been a coauthor or contributing author of several American Water Works Association (AWWA) manuals of practice, including *M1: Principles of Water Rates, Fees, and Charges*; *M29: Water Utility Capital Financing*; *M52: Water Conservation Programs – A Planning Manual*; and *M54: Developing Rates for Small Systems*. Mr. Mantz has served as a technical reviewer for AWWA's *M5: Water Utility Management* as well as the *Manual of Practice (MOP) 27: Financing and Charges for Wastewater Systems* published by the Water Environment Federation (WEF). He has also served as a peer reviewer of several articles submitted to the *Journal AWWA*.

Mr. Mantz is the recipient of both the 2012 and the 2013 national AWWA Management and Leadership Division Best Paper Award. He is frequently invited to be a speaker at national and state conferences. Mr. Mantz is an active member of the AWWA national Rates and Charges Committee and the WEF national Utility Management Committee, and he has also served as a member of the AWWA national Water and Wastewater Rate Survey Advisory Committee.

Mr. Mantz is a graduate of the Management and Technology Program of the University of Pennsylvania, an Ivy League school in Philadelphia. This program, the most competitive and selective academic offering at the university, enabled him to earn an undergraduate business degree from the Wharton School of Business and an undergraduate engineering degree from the School of Engineering and Applied Science. He later earned an MBA with Honors from Rollins College, which he attended via merit scholarship.

Publications and Presentations

AWWA Manuals of Practice

- Coauthor of *AWWA Manual of Practice 1 (M1): Principles of Water Rates, Fees, and Charges*, Seventh Edition. Published in 2017.

BRYAN A. MANTZ, CMC, CGFM - PRESIDENT (continued)

Publications and Presentations (continued)

AWWA Manuals of Practice (continued)

- Technical reviewer of *AWWA Manual of Practice 5 (M5): Water Utility Management*, Third Edition. Published in 2018.
- Coauthor of *AWWA Manual of Practice 29 (M29): Water Utility Capital Financing*, Fourth Edition. Published in 2014. Wrote brand new, comprehensive chapter entitled "Preparing the Utility for Financing" that discusses certain utility best management practices and the characteristics of highly-rated or financially strong utilities, especially the factors over which utility managers have control.
- Contributing author of *AWWA Manual of Practice 52 (M52): Water Conservation Programs – A Planning Manual*, Second Edition. Published in 2017.
- Coauthor of *AWWA Manual of Practice 54 (M54): Developing Rates for Small Systems*, Second Edition. Published in 2016.

WEF Manuals of Practice

- Technical reviewer of *WEF Manual of Practice 27 (MOP 27): Financing and Charges for Wastewater Systems*. Published in 2018.

Papers / Articles

- "Utility Rates and the Political Environment." *Journal AWWA*. August 2011. **Winner of national 2012 AWWA Management & Leadership Division Best Paper Award.**
- "Utility Impact Fees: Practices and Challenges." *Journal AWWA*. April 2012. **Winner of national 2013 AWWA Management & Leadership Division Best Paper Award.**
- "Optimal Debt Management Practices for Local Government Enterprises." *Journal of Government Financial Management*. Fall 2012.

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BRYAN A. MANTZ, CMC, CGFM - PRESIDENT (continued)

Publications and Presentations (continued)

Papers / Articles (continued)

- "Utility Transfers to the General Fund: What Is Reasonable, Fair, and Legal?" Journal AWWA. October 2012.
- "The Finance Director's Role in Helping Public Enterprises Look Their Best." *Government Finance Review*. October 2012.
- Developing a Management Dashboard for Local Government Enterprise Funds." *Journal of Government Financial Management*. Winter 2016 to 2017. Reprinted by the *fmi-igf e-Journal* of the Financial Management Institute of Canada in March 2017.

Presentations

The following presentations were given at national and state conferences:

- "Preparing for Rate Studies and Bond Financings: Is Your Utility Ready?" Paper for presentation became article published in May 2013 edition of *Florida Water Resources Journal*.
- "Utility Rates and the Political Environment: Establishing the Utility Business Foundation and Managing the Rate Approval Process."
- "Utility Infrastructure Financing."
- "Financial Planning for Enterprise Funds: Tips and Strategies."
- "Managing Utility Growth: A Financial Perspective."
- "Revenue Enhancement Opportunities for Enterprise Funds."

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EXHIBIT Z

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

SNEE FARM LAKES HOMEOWNER'S ASSOCIATION, INC., individually and on behalf of those similarly situated,	:	CASE NO. 2018-CP-10-2764
Plaintiff	:	
vs.		
THE COMMISSIONERS OF PUBLIC WORKS FOR THE TOWN OF MOUNT PLEASANT d/b/a MOUNT PLEASANT WATERWORKS,	:	
Defendant		

DEPONENT: CLAY DUFFIE
DATE: DECEMBER 9, 2020
TIME: 10:00 a.m.
LOCATION: ALL PARTIES PRESENT VIDEO TELECONFERENCE
REPORTED BY: CAROL T. LUCIC, RPR, RMR
CLARK & ASSOCIATES, INC.
CHARLESTON, SC 29405
843-762-6294
WWW.CLARK-ASSOCIATES.COM

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A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF:

McCULLOUGH KHAN, LLC
BY: ROSS A. APPEL, ESQ.
359 KING STREET, SUITE 200
CHARLESTON, SC 29401

and

McGOWAN, HOOD & FELDER, LLC
BY: JAMES L. WARD, JR., ESQ.
321 WINGO WAY, SUITE 103
MT. PLEASANT, SC 29464

ON BEHALF OF THE DEFENDANT:

ROSEN HAGOOD
BY: DAVID G. JENNINGS, ESQ.
151 MEETING STREET, SUITE 400
POST OFFICE BOX 893 (29402)
CHARLESTON, SC 29401

and

GALLIVAN, WHITE & BOYD, P.A.
BY: AMY L.B. HILL, ESQ.
1201 MAIN STREET
P.O. BOX 7368 (29202)
COLUMBIA, SC 29201

PRESENT: NICOLE BATES

MARK COFFIN

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CLAY DUFFIE

DECEMBER 9, 2020

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(Exhibits attached.)

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their capacity that they have, they can do that within our policy, and then if they want to go back to their full capacity or a partial return to capacity, they can do so, but the BFC would be required or new impact fees, whichever is less.

Q. If it turns out that a customer uses substantially less REUs over a period of time -- let's just use Snee Farm Lakes HOA as an example.

Snee Farm Lakes HOA was assigned 148 REU back in 1982. In 2018 they received a letter from MPW suggesting the HOA consider a reduction to 76 REU. If it is the case that Snee Farm Lakes HOA's actual use records suggest 76 REU and it has been that case since before I was born, why would there be any need for this customer to ever increase back up their REU after making a reduction in line with actual use? Why would a customer ever want to increase their REU after having reduced them at the first instance?

A. Well, the capacity, Ross, is assigned to the property, so it is an asset that is assigned to the property. Let's just use Snee Farm Lakes for example. If they wanted to build an extension to Snee Farm Lakes and if they had X number of gallons of capacity and they wanted to use that capacity

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customers to know that they're undersized since they run the risk of not just paying excessive use charges, but increased excessive use charges if they don't make an upwards adjustment on their REU assignments by paying additional impact fees; right?

A. They would be subject to wastewater excessive use charges, and it appeared based on their account that they would be subject to those charges and they would see a marked increase in their monthly water bill.

Q. Would you agree with me that the folks that were notified about their accounts being undersized are more or less what CDM Smith was referring to when it pointed out that 90 customers used less than their assigned REU?

A. Yes.

Q. During the time that this wastewater excessive use communication outreach effort happened did MPW do anything to notify the folks on the other side who had been determined to use less water than their REU assignments would suggest? In other words, the folks that correspond to the 700 customers that CDM Smith --

MS. HILL: Object to the form.

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	
	)	PROOF OF ADR OR EXEMPTION
Snee Farm Lakes Homeowner's Association, Inc., individually and on behalf of those similarly situated,	)	
Plaintiff,	)	
	)	
vs.	)	FILE NO.: 2018-CP-10-2764
	)	
The Commissioners of Public Works for the Town of Mount Pleasant d/b/a Mount Pleasant Waterworks	)	
Defendant.	)	
	)	

(An original and copy of this form is to be completed and filed with the Office of the Clerk of Court and a copy forwarded to the attorneys for the parties within 10 days of the conclusion of ADR, or within 300 days of the filing date of the action, whichever is earlier.)

PURSUANT to the South Carolina Alternative Dispute Resolution Rules (SCADR):

A. _____ I certify that this case is exempt from ADR for the following reason and the parties wish to exercise that exemption:

Plaintiff/Attorney for Plaintiff	Defendant/Attorney for Defendant
Print Name	Print Name
Phone/Fax	Phone/Fax

Date: _____

B. X 1. Alternative Dispute Resolution (ADR) was conducted in the form of:

Mediation

(Note: If binding arbitration has been chosen by the parties but not yet completed, an appropriate order of dismissal must be attached hereto.)

2. The neutral(s) was/were: (Name of arbitrator/mediator):
Costa M. Pleicones, mediator

3. The ADR was conducted on 11 12 2020

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4. As a result of ADR, this case should be considered (please check one);

( ) Fully Settled.

( ) by Consent Judgment, to be filed by _____

or ( ) Voluntary Dismissal to be filed by _____

( ) Partially Settled.

(X) At an Impasse.

( ) In need of further ADR I ☐ am ☐ am not willing to continue as a neutral. I recommend that ADR resume as of _____ .

5. Plaintiff(s) ☒ Was/were present ☐ Was/were not present
Defendant(s) ☒ Was/were present ☐ Was/were not present

6. Other partcipants were:

X Lawyer(s) for _____
_____ Defendant(s)
X Lawyer(s) for Plaintiff(s) _____
X Representative for Insurance Carrier _____
_____ Guardian *ad Litem* _____
_____ Experts
_____ Others _____

7. Choice of the neutral was by:

X Stipulation
_____ Court Order

8. The total number of hours spent in ADR was: 4.5 hours.

9. Further comments of the neutral:

_____

_____
Neutral's Signature

Date: April 6, 2021

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STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON Snee Farm Lakes Homeowner's Association, Inc., Individually and on Behalf of those Similarly Situated, Plaintiff, v. The Commission of Public Works for the Town of Mount Pleasant d/b/a Mount Pleasant Waterworks, Defendant.	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CIVIL ACTION NO. 2018-CP-10-2764 **DEFENDANT'S REPLY TO PLAINTIFF'S RESPONSE TO THE MOTION FOR SUMMARY JUDGMENT**

Defendant The Commission of Public Works for the Town of Mount Pleasant d/b/a Mount Pleasant Waterworks ("MPW"), by and through undersigned counsel, submit the following Reply to the Response filed by Plaintiff to MPW's Motion for Summary Judgment and dismissing the allegations against it pursuant to Rule 56 of the South Carolina Rules of Civil Procedure.

MPW takes issue with many of the "facts" presented in Plaintiff's response and believes that this case is much simpler than appears in Plaintiff's brief.[1] Importantly for purposes of this Motion, many of the facts presented by Plaintiff do not satisfy SCRCP Rule 56 evidentiary

[1] MPW strongly disagrees with and objects to Plaintiff's introduction and description of evidence involving the circumstances surrounding the settlement between MPW and a customer in 2014 whereby Plaintiff claims the customer "discovered that although it had been using only four REUs, MPW had been charging it for fifteen REUs." See Plaintiff Response p. 4. Introduction of evidence relating to settlement is generally not admissible to prove liability under SCRCP Rule 408. Without waiving its objection, MPW notes that this description is contrary to the documents Plaintiff submitted as Exhibit 14 to Commissioner Rick Crosby's deposition. For instance, MPW (Confidential) – 09511, an MPW internal memorandum references the reasoning for the settlement and noted that the customer had previously requested a reduction in their REUs and MPW determined that the prior request went unanswered. Further, MPW (Confidential)-09538, is a letter from the customer to MPW claiming that he had called multiple times over the years complaining about his bill. The fact that this particular customer knew how many REUs he was assigned and that the number was higher than his regular REU usage contradicts Plaintiff's claims that they did not understand or were not aware of MPW's billing practices or their water usage compared with the number of REUs assigned. However, even if the circumstances of this settlement were as Plaintiff described and the evidence was admissible, this court should still grant summary judgment in favor of MPW.

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requirement, but, even if admitted and considered in the light most favorable to Plaintiff, cannot defeat summary judgment.

The General Assembly, through S.C. Code Ann. § 5-31-670, provides municipalities with the liberty to determine and set the rate structure for their publicly owned water and sewer systems. The court has the ability to review a municipality's current rate system to determine whether such a rate system violates the municipality's authority or statutory requirement. If the court finds that the rate structure does not violate MPW's authority or a South Carolina statute, it is not for the court to supplant the General Assembly and invalidate MPW's rate methodology. Thus, in reviewing MPW's rate structure, the court should only determine whether or not the rate structure is permitted pursuant to South Carolina statute. If the answer is yes, then the analysis ends and there should be no discussion of more optimal rate structures or different ways to design MPW's rates. As discussed below in reply to Plaintiff's response, MPW's rate structure does not violate any South Carolina statute.

However, even if the Court examines MPW's rate structure and finds that it violates South Carolina law, Plaintiff's case should be dismissed in its entirety for any of the following reasons: 1) Plaintiff's claim for damages is barred by the voluntary payment doctrine, 2) Plaintiff's claim for damages is barred by the application of the South Carolina Tort Claims Act, 3) Plaintiff's claim is barred by the doctrine of waiver and estoppel, 4) Plaintiff's claims are barred by its failure to mitigate damages and 5) Plaintiff's claims are barred by the applicable statute of limitations. For the reasons stated herein and accepting the facts in the light most favorable to Plaintiff, summary judgment should be granted in MPW's favor.

I. MPW's Ratemaking Methodology Does not Violate Applicable South Carolina Statutes.

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S.C. Code Ann. §5-31-250, which grants a "board of commissioners of public works or any city or town" the authority to create, operate and manage a waterworks and "require payment…of such rates, tolls and charges as it may establish for the use of water…." Further, S.C. Code Ann. § 5-31-670 requires only that the charge for use of the water to be "reasonable compensation and charge a minimum and reasonable sewer charge for maintenance and construction of such sewerage system…."

Here, the Town of Mount Pleasant, empowered by the statute *supra*, has chosen to use its authority to have MPW handle the town's water and sewer systems. S.C. Code Ann § 5-3-210 enables MPW governance by five elected commissioners who serve staggered terms of six years, and it has been MPW's commissioners that have chosen the REU rate structure for the Town of Mt. Pleasant.[2] Therefore under the terms of the statute the General Assembly granted municipalities wide ranging freedom to determine how MPW's commissioners will set rates and which rate methodology they will employ.

In its Response, Plaintiff cites S.C. Code Ann § 6-1-300(6) and the case, *Azar v. City of Columbia*, 414 S.C. 307, 778 S.E.2d 315, (2015) to support its claim that MPW's rates violates state statues because allegedly the rates are not paid in return for a particular government service or program made available to the Plaintiff. Plaintiff's Response, p. 9. However, both the S.C. Code Ann. 6-1-300(6) and *Azar* relate to the way the funds collected are spent, not the rate structure or method of collection. In *Azar*, the City of Columbia transferred fees collected for water and sewer services to the City's general fund in order to pay for economic development expenditures. *Azar*, 414 S.C. at 312-314. In denying the City's motion for summary judgment, the *Azar* Court, found that there must be some nexus between the provision of water and sewer

[2] Notably, Mt. Pleasant's REU rate structure has been in place since the early 1990s.

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services and the underlying purpose of each expenditure or transfer of water and sewer funds. *Id*. at 317. However, in this case there are no allegations that the amounts collected were spent on anything other than water and sewer related expenses.[3] In fact, Plaintiff admits in its Response that, "the BFC are used to finance MPW's general operations and maintenance, which will confer benefits generalizable to all customers…." Plaintiff's Response p. 13. Plaintiff states, "…the payers of excessive BFC are garnering no more or different benefit." *Id*. Rather, Plaintiff's claim rests on its position that MPW should only collect funds from customers based solely on actual volumetric water use. Plaintiff's Response p. 9. Thus, the question of whether or not the funds collected represent a rational nexus between what customers are paying relative to what they are receiving is admittedly answered in the affirmative. Plaintiff's share of BFC is higher than Plaintiff believes it should be, but Plaintiff's receipt of services has not be diminished and there are no allegations that the money collected is spent on anything other than water and sewer related services and expenses. S.C. Statute § 6-1-300(6) and any related statutes are not applicable to the facts in this case.

Thus, ultimately, the question becomes whether the collection of charges from Plaintiff in accordance with MPW's rate structure of basing BFC on a customer's number of REUs is reasonable pursuant to S.C. Code Ann. § 5-31-670. In general, "water rates are entitled to a presumption of reasonableness, and a reviewing court will defer to the municipal corporation as long as the rates are nondiscriminatory, and are not arbitrary and capricious." 12 McMillian Mun. Corp. § 35:57 (3d ed.) (citation omitted) (attached as **Exhibit A**). "Generally speaking, water rates as set by a municipality are presumed to be valid and reasonable until the contrary

[3] Plaintiff's expert, Bryan Mantz, testified that he took no issue with the collection of the funds, rather he believes charges should be allocated differently among MPW's customer base according to actual customer use. *See* **Exhibit B**, Deposition of Bryan Mantz, 1/20/21 pp. 57-58, ll. 25-25.

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has been established; and the burden of overcoming the presumption of validity and reasonableness rests with the challenging party." *Id*. In South Carolina the "test of the reasonableness of rates established by a public service district is the service received." *H.A. Sack Company, Inc. v. Forest Beach Public Service District* 272 S.C. 235, 238, 250 S.E.2d 340, 341 (1978) citing *Simons v. City Council of Charleston et al.*, 181 S.C. 353, 187 S.E. 545 (1936). "The burden of proof of the unreasonableness or arbitrariness of rates is upon the person attacking the rate schedule." *Id*. citing *Shirk v. City of Lancaster*, 313 Pa. 158, 169 A. 557 (1933). In this litigation, Plaintiff has presented no allegations that it has any issues with the quality of service it has received or continues to receive. For this reason, the analysis could end at this point.

However, even if the court were to review the actual rate structure as to its reasonableness regardless of the service provided, Plaintiff has presented no reliable evidence that MPW's rates are unreasonable. Rather, a review of Plaintiff's own expert Bryan Mantz's testimony regarding the MPW's REU rate structure as compared to other BFC rate structures shows that MPW's rate structure is reasonable. If this Court finds MPW's rate structure to be reasonable, Plaintiff's case must be dismissed in its entirety.

Plaintiff's expert testified that it is reasonable to have a rate structure that includes non-volumetric use charges.

BFCs (or similarly named charges), which are based on something other than volumetric use, are customary in the industry to allow utilities to have a stable source of revenue for fixed costs of providing services when volumetric charges vary based on the customers' fluctuation in water usage. *See* **Exhibit C**, Deposition of Bryan Mantz held on 1/13/21 pp. 57-58 ll. 16-19. In order to increase revenue stability, MPW's BFCs are specifically not tied directly to volumetric water use. Plaintiff's own expert recommends a fixed charge as a part of utility's rate system.

Exhibit C, Mantz Deposition 1/13/21 p. 116, ll. 5-8, pp. 116-117, ll. 20-4, p. 90, ll. 12-25, pp. 92-93 ll. 18-7, pp. 96-97 ll. 24-5. When asked why it is important to have a fixed charge component, Mantz testified it is important for revenue stability because salaries and benefits, as well as debt service, are all fixed costs for the utility regardless of customer usage. *See* Exhibit C, Mantz Deposition 1/13/21 p. 90-91, ll. 7-9. Mantz further testified, "[BFC is] a fixed cost…regardless of how much [water] [the customers] use, [the customers] have to pay it." Exhibit C, Mantz Deposition 1/13/21, pp. 96-97, ll. 24-5. So, according to Plaintiff's own expert, it is reasonable to have at least a portion of a customer charge based on something other than volumetric use. The fact that MPW's BFC rate is not directly tied to actual water use cannot be the basis for a finding that MPW's rates violate state statutes.

MPW's BFC Rate Structure is not Unreasonable Simply Because it is Based on REUs.

Importantly, the American Water Association has not designated or adopted only one method of creating a BFC charge. *See* Exhibit C, Mantz Deposition 1/13/21 p. 89-90, ll. 9-2. Mantz testified that he was unaware of any state or local laws that excluded particular types of BFCs rate structures. *See* Exhibit C, Mantz Deposition 1/13/21 p. 90, ll. 3-6. Plaintiff claims that MPW's rate methodology may not be the majority approach, but what Plaintiff fails to address is that just because MPW's rate methodology may be used less often *does not make it illegal or unreasonable*. In fact, because municipalities are granted such wide ranging liberty in constructing their rate systems, it follows that there may be *several* rate methodologies that may be *reasonable* under the statute. *See* **Exhibit D**, 3/19/21 Report of William Zieburtz p. 2 ("The process of selecting the most appropriate rate structure for a particular utility is not simple. The selection is complex because there are so many types of rate structures. No one rate structure

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meets all utility objectives equally, and not all objectives are valued the same by the utility or its customers.").

If a Water Meter Size BFC System is Reasonable Then a BFC System Based on a Customer's Number of REUs is Also Reasonable.

The one type of BFC charge that Plaintiff and its expert tout as a "reasonable" BFC rate structure is the common system of basing BFC on a customer's water meter size. When asked if a BFC based on a customer's water meter size was both fair and reasonable, Plaintiff's expert responded, "yes." *See* Exhibit C, Mantz Deposition 1/13/21 p. 49 ll. 13-19. Understanding that Plaintiff believes the water meter size BFC rate structure to be acceptable, below is a comparison of the REU BFC rate structure with a water meter size BFC structure and Plaintiff's expert's cometary on the same.

- *Like the REU Rate Structure, Water Meter Size Rate Structures Calculate BFC Based on Future Demand.*

Water meter size BFC rates calculate a customers fixed rate based on the size of the water meter. Mantz testified that in a water meter size rate structure, the initial assignment of a particular water meter size is based on "potential of the [customer's] demand"…. See Exhibit C, Mantz Deposition 1/13/21 pp. 23-25, ll. 14-25, pp. 45-46, ll. 12-6. The assignment of a larger water meter size is necessary for larger intended water usage. If the customer's fixed rate is based on the size of the customer's water meter, the fixed rate is necessarily based on future potential demand. In fact, Mantz testified that in a water meter size rate structure, if the customer does not use the water, their BFC charge remains the same. See Exhibit C, Mantz Deposition 1/13/21 pp. 30-31, ll. 5-20. Similarly, the number of REUs assigned to a customer at the time an account is established or a property is developed is based on the projected amount of water a customer may use in the future. See Exhibit C, Mantz Deposition 1/13/21 pp. 66-67, ll.

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20-5. Thus simply because the BFC is based on potential future demand or a reservation of capacity rather than actual use does not prove the rate system is unreasonable. [4]

- *Like MPW's REU Rate Structure System, Water Meter Size Rate Structures do Not Unilaterally Right Size According to Customer's Actual Volumetric Use.*

According to Mantz, in a water meter size BFC rate structure, it is up to the customer, who may use less water than the original size allowed by their water meter, to later chose to right-size their water meter in order to decrease the customer's monthly BFC. See Exhibit C, Mantz Deposition 1/13/21 pp. 29-30, ll. 3-4, pp. 31-32, ll. 21-4, pp. 45-46, ll. 12-2, pp. 55-56, ll. 7-6, pp. 100-101, ll. 14-6, pp. 103-104, ll. 24-9, p. 173, ll. 14-23. For example if a customer purchases a building originally built to serve as a hotel with the intent to now use the space as office space, the water need will likely be drastically reduced, but unless the customer installs a new water meter, the BFC will remain the same under a water meter size rate structure. It is up to the customer and Mantz affirmed that the utility has no responsibility to alert the customer to the possibility of reducing their water meter size. Exhibit C, Mantz Deposition 1/13/21 pp. 31-32, ll. 1-4. Water utilities using the water meter size rate structure do not unilaterally right size a customer's water meter size based on the customer's water usage. *Id*.

Similarly, MPW requires the customer to initiate a request to reduce their assigned REUs if the customer's water usage is lower than the assigned REUs as originally estimated. Thus, in comparison with the water meter size rate structure, MPW's requirement that the customer right

[4] Plaintiff's characterization that there was "quite a bit of dispute, even within MPW itself, how this idea of capacity reservation fits into the BFC calculation and whether MPW's utilization is reasonable" is not supported by the evidence. Plaintiff cites to an email thread by Joe Crea from Raftelis Financial Consultants (MPW's rate consultant at that time) as evidence that Crea disagreed with the BFC as some type of capacity reservation fee. However, a close reading of the entire document and conversation of emails makes it clear that there is no dispute. Rather, there was simply some discussion about what to call a fee required to be paid when a customer seeks to reinstate their REUs after decreasing the same. See **Exhibit E** Raftelis _002124-002125. There are no communications that indicate MPW or its rate consultants considered it unreasonable to charge BFC based on REUs assigned to a particular property. Of course, even if such a dispute existed, it does not render MPW's BFC rate structure unreasonable.

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size its REU assignment cannot be the basis for finding the rate structure unreasonable.[5] Both rate structures require the customer to seek an adjustment of either the water meter or the REUs assigned in order to lower their fixed charge.

In summation, Plaintiff claims that MPW's BFC rate structure is unreasonable for the following reasons 1) the REUs exceed actual customer use and 2) MPW does not periodically unilaterally readjust assigned customer REUs. Based on Plaintiff's own expert's testimony regarding the water meter size rate structure, which he testified is "reasonable" and comparing that rate structure with MPW's REU rate structure, Plaintiff cannot meet its burden of proving that MPW's rate structure is unreasonable pursuant to the applicable statutes.

There is no case law that indicates MPW's rate structure is unreasonable.

In support of Plaintiff's claims that MPW's rate structure is unreasonable, Plaintiff cites to *Simons v. City Council of Charleston*, 181 S.C. 353, 187 S.E. 545 (1936), one of two South Carolina cases that discusses reasonableness in the context of water utility rates.[6] In *Simons*, the Supreme Court analyzed "whether a municipality has the power to make a pledge of income derived from a revenue producing project in the absence of a specific statutory grant of authority." *Id.* at 546. The plaintiff in that case, a taxpayer, alleged that the municipality did not have the authority to use revenues derived from its waterworks system to repay the costs of a

[5] To support its argument Plaintiff also makes reference to the Brunswick-Glynn Joint Water and Sewer Commission in Georgia. See Plaintiff's Response p. 15. This evidence is likely inadmissible at trail and thus MPW objects to its introduction and respectfully requests the Court not to consider it for purposes of Summary Judgment because a "genuine issue of fact… can be created only by evidence which would be admissible at trial." *Hansen v. DHL Lab'ys, Inc.*, 316 S.C. 505, 510, 450 S.E.2d 624, 627 (Ct. App. 1994), *cert. granted, decision aff'd*, 319 S.C. 79, 459 S.E.2d 850 (1995) (citations omitted). However, more importantly, simply because one utility in Georgia right sizes its customer's REUs for purposes of BFC does not set an industry standard or establish a duty for a South Carolina utility to do the same.

[6] The other case, *Sloan v. City of Conway*, 347 S.C. 324, 555 S.E.2d 684, (2001), discusses S.C. Code Ann. § 5-31-670 in determining the reasonable rate requirement for water service to nonresidents – an issue that is not present in this case.

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project to increase the town's water supply. *Id*. While the court did note that a municipality is bound by the rule of reasonableness, it further elaborated that the proposed method in which the city chose to allocate those funds was within the *discretion of the city council* and "so long as the revenues it uses for the purposes named are derived from "reasonable" rates, *the court will not interfere with the discretion sought to be exercised*. *Id*. (emphasis added). In support of this contention the court added that "it is incumbent upon a municipal corporation to exercise its judgment in a manner that will inure to the greatest benefit of the city and its inhabitants." *Id*. Further, as mentioned previously in this brief, "[t]he service received is the test" as to reasonableness, not the profit or amount collected by the utility. *Id.* at 547 and 45, citing 67 C.J. 1243.

Here, Plaintiff is not alleging that MPW is setting the rates in order to pay off bonds for a project like the municipality in *Simons* - it is alleging that MPW's rate structure is unreasonable.[7] And, as a result of those rates, Plaintiff believes that MPW's commercial customers have been overcharged and Plaintiff is entitled to a refund. Yet, again, Plaintiff has not alleged any complaints regarding the quality of service received, only that they believe they have paid too much for said service or "water rent" as the *Simons* court describes it. *Id.*

MPW agrees that municipalities are "bound by reasonableness" and asserts that it has kept within those bounds in terms of its rate methodology – its elected commissioners have set up a rate structure that they think benefits the water users in the Town of Mt. Pleasant. Thus, like the municipality in *Simons*, MPW should be afforded the opportunity to exercise its judgment regarding its rate structure.

[7] When asked if he believed MPW has collected too much revenue over all, Plaintiff's expert responded in the negative. See Exhibit C, Mantz Deposition 1/13/21, p. 129 ll. 7-24.

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Plaintiff also cites to *City of Commerce v. Duncan & Godfrey, Inc.*, 277 S.E.2d 266 (Ga.Ct.App. 1981) for the position that the city has a legal duty to disclose to the customer the availability of a more favorable rate. However, the case cited is a Georgia case and there are no similar South Carolina cases creating such a duty.

For all the reasons stated above, there is no genuine dispute of material fact as to the reasonableness of MPW's rates and rate structure pursuant to South Carolina law, and therefore summary judgment should be granted in favor of MPW.

II. Plaintiff's claims are barred by the voluntary payment doctrine.

Plaintiff's response to MPW's assertion of the voluntary payment doctrine is to essentially argue that because MPW's rate structure violated state statutes, the voluntary payment doctrine does not apply. As discussed at length above, MPW's rates comply with South Carolina law. Further, there is no case law that negates the application of the voluntary payment doctrine based on those circumstances.

Plaintiff also argues that because "you can't live without water and sewer," payment for water and sewer services is never voluntary. Plaintiff Response, p. 16. However, this argument misconstrues the principals behind the voluntary payment doctrine. The point is not that Plaintiff is paying for a service it needs, but rather that Plaintiff never asked that its rate be lowered or its REUs be reduced. See **Exhibit F**, Deposition of Lona Vest held on 5/23/19 p. 44-45, ll. 21-1.

It is Plaintiff's burden to allege and prove that the money at issue was paid under fraud, duress, or extortion and without meeting that burden; Plaintiff's complaint should be dismissed. *Hardaway v. Southern Ry. Co*., 90 S.C. 475, 488-89, 73 S.E. 1020, 1025 (1912). In South Carolina, "[i]t is well-settled law that money voluntarily paid with full knowledge of all material

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facts and without any fraud, duress, or extortion cannot be recovered, although there was no legal obligation to make such payment." *Shockley v. Wickliffe*, 148 S.E. 476, 477 (S.C. 1929) (citing *Hardaway v. S. Ry.*, 73 S.E. 1020, 1025 (S.C. 1912)). All class members' water bills included the number of REUs assigned to the particular account as well as the number of gallons used for each particular billing cycle. Additionally, the back side of each water bill contains an explanation that "[o]ne REU equals 9,200 gallons per month" and that "[a] Basic Facility Charge for residential and commercial customers is a monthly base charge on the number of Residential Equivalent Units (REUs) assigned." The back of the bill also includes a further reference to MPW's website and phone number to call for more information on other rates, fees and charges. See **Exhibit G**, Snee Farm Lakes water bill dated November 14, 2018. In fact, in its Response, Plaintiff admits that the policies for reducing REUs is "squirreled away on MPW's website…." Plaintiff's Response p. 17. While, MPW denies such a description, even accepting it as true, Plaintiff, who employs a sophisticated property management company that manages multi-family units throughout the Charleston area, admits it had access to the information. Further, Plaintiff's property manager also testified that that *she knew* another property in Mt. Pleasant, Bay Club, managed by Dawn Lord, one of Ms. Vest's co-managers of Snee Farm, reduced its REUs with MPW. See Deposition of Lona Vest 5/25/19 p. 118, ll. 10-23. Plaintiff, knew or could easily have determined that Plaintiff could reduce its REUs and thus reduce its BFCs, yet Plaintiff continues to pay its charges to MPW without any attempt to reduce its REUs, even after receiving the letter from MPW pointing out to Plaintiff the disparity between the REUs assigned to Plaintiff's account and Plaintiff's actual water usage.

Plaintiff's claims must be dismissed pursuant to the voluntary payment doctrine defense.

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III. Plaintiff's claims for conversion and for money had and received are barred by the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-60 (4) & (5), among others.

Plaintiff's claims are barred by the South Carolina Tort Claims Act because MPW cannot be held liable for the losses or damages incurred resulting from the adoption or enforcement of any law, whether it is valid or invalid, including any ordinance, resolution, regulation or written policies. S.C. Code § 15-78-60 (4) & (5). As discussed above, the rates that are the subject of Plaintiff's causes of action were passed in accordance with authority granted by South Carolina law giving MPW the power to set and collect rates for water and wastewater service. For this reason, even if MPW's rates are invalid, Plaintiff cannot recover alleged monetary damages pursuant to any tort claims as a result of such rates.

IV. Plaintiff's claims are barred by the doctrine of waiver.

As has been discussed previously, Plaintiff retained a sophisticated property management company to manage its expenses and invoices. It is readily apparent on MPW's bills the number of REUs assigned to an account as well as the amount of water used. Plaintiff knew or should have known of MPW's policies allowing for adjustment of the number of REUs yet Plaintiff did nothing to rectify the number of REUs assigned to its account. In fact, even after Plaintiff received the letter from MPW in February 2018, Plaintiff continued to do nothing to adjust the number of REUs assigned to its account. Thus, Plaintiff has waived its right to any refund regarding the same.

V. Plaintiff's causes of action should be dismissed due to Plaintiff's failure to mitigate damages.

Plaintiff's claim that to reduce its REUs would require Plaintiff to prejudice itself by complying with illegal practices is not persuasive. Plaintiff takes issue with MPW's policy of requiring a customer who chooses to reduce REUs in order to reduce their BFC. Plaintiff asserts

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that having to give us something it previously paid for is "illegal." However, again, this situation is akin to the water meter right sizing, which Plaintiff's expert deems reasonable. Not unlike the customer who is required to replace its larger water meter in order to reduce its BFCs based on water meter size, MPW's requirement that a customer give up assigned REUs in order to reduce its BFC is reasonable pursuant to the applicable statutes.

Mantz testified that in a water meter size rate structure if the customer chooses to right size, the customer is responsible for paying for and installing a new water meter. See Exhibit C, Mantz Deposition 1/13/21 pp. 31-32, ll. 21-15. Thus, the customer must immediately come out of pocket in order to right size a water meter that is larger than the customer's current water needs. Mantz further testified that the utility should not have to pay for the customer's smaller water meter because it is costly – an even greater deterrent to the customer who wishes to reduce its BFC charge. Exhibit C, Mantz Deposition 1/13/21 pp. 33, ll. 1-11.

Pursuant to MPW's policies, MPW's customers are required to give up REUs they previously purchased in order to right size. Unlike a water meter size customer, MPW's customers have no out of pocket expense upon deciding to right size their REUs. The only expense MPW's customer may have occurs if they later determine they wish to increase the number of REUs assigned to their property. In that case, MPW requires customers to repurchase REUs or back pay unpaid BFC in order to have the REUs reinstated (whichever is less). See **Exhibit H**, MPW Policy 5.3.3. Plaintiff claims that to require customers to reduce their BFC by giving up their REUs is illegal. However, if the water meter size structure is reasonable and legal, as testified to by Plaintiff's expert, then MPW's system cannot be the basis for Plaintiff's refusal to mitigate its alleged damages.

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If someone purchases something but then decides to give up that asset, it cannot be illegal for the person to then be required to pay to repurchase the same asset. Similarly, it cannot be illegal to require a water meter customer who may chose in the future to go back to a larger water meter, to purchase the larger meter. These are all business decisions that sophisticated commercial customers, like Plaintiff with the help of its employed property manager, must make in order to determine what is best for their own business and individual future needs. Giving up REUs would presumably benefit the business by reducing their BFC. So, determining whether to reduce REUs even if it means possibly repurchasing the same in the future is not an illegal choice, but rather a business decision similar to the accepted policy of paying to purchase and install a smaller water meter. Yet, Plaintiff complains because it wants the benefits of both retaining its REUs and having its BFC reduced.

VI. Plaintiff's Breach of Contract Cause of Action must be dismissed because MPW did not violate state law.

MPW seeks to have Plaintiff's breach of contract claim dismissed because Plaintiff has not identified the relevant contract or the terms of such contract. In Plaintiff's Response, while still failing to identify the contract or the relevant terms of the contract, Plaintiff takes the position that the contract is breached because MPW breached state law by establishing its particular REU BFC rate structure. As has been discussed in detail, MPW's rate structure does not violate state law and thus there is no breach of contract pursuant to Plaintiff's own description of the contract at issue.

VII. Even if Plaintiff's causes of action can proceed, Plaintiff's alleged damages are barred by the applicable statute of limitations.

Even assuming Plaintiff could proceed despite Defendant's arguments in favor of Summary Judgment above, Plaintiff knew or should have known that it had unused REUs

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assigned to its account and such information is available on each one of Plaintiff's bills received from MPW. See Exhibit F, Lona Vest Deposition p. 12, ll. 1-12. As noted above, Plaintiff retains a sophisticated property management company for the purposes of reviewing and managing its expenses and invoices. See Exhibit F, Lona Vest Deposition p. 12, ll. 13-21. Lona Vest, owner of the property management company running Plaintiff's property, testified that she knew that MPW charged a basic facility charge. See Exhibit F, Lona Vest Deposition p. 12, ll. 1-12. Pesumably, Ms. Vest could have easily determined simply by reviewing the bill that the gallons of water represented by the REUs exceeded Plaintiff's actual water usage. Thus, Plaintiff was on notice of the discrepancy and knew or should have known that it could inquire further or take additional actions to remedy the situation. Plaintiff was on notice more than three years (or two years if the Tort Claims Act applies) prior to the filing of this lawsuit that its REU assignment was greater than the volume of water. To the extent that this discrepancy supports a valid cause of action against Plaintiff, the same should be dismissed for Plaintiff's failure to timely file this action.[8]

CONCLUSION

If the court were to step in and invalidate MPW's rate making structure, a function statutorily granted to municipalities, it would frustrate the intent of the General Assembly and MPW's elected officials would be stripped of their authority. Thus, Plaintiff should not be allowed to seek redress via the court system; if customers of MPW want to challenge MPW's rate structure, then they may do so before the commission by attending MPW's public meetings to voice their concerns, or they may contact their local representatives to have the laws changed.

[8] In order to claim a legal duty to disclose to the customer the availability of a more favorable rate, Plaintiff again cites the Georgia case of *City of Commerce v. Duncan & Godfrey, Inc*, 277 S.E.2d 266 (Ga.Ct.App. 1981), which is not controlling case law in South Carolina.

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Plaintiff should not ask the court to extend its powers beyond its judiciary function by examining MPW's rate structure as if it were MPW's elected commissioners themselves.

There are no questions of fact regarding the above issues. Rather, a review of the facts viewed in the light most favorable for Plaintiff indicates that the applicable law dictates Plaintiff's claims must be dismissed in total. For these reasons, Defendant respectfully asks this Court to dismiss Plaintiff's Complaint. This Motion is based upon the pleadings, applicable statutory and case law as well as a memorandum in support and possible affidavits, which will be filed by MPW in a timely fashion prior to the hearing on this Motion.

Respectfully summited,

/s/Amy L.B. Hill
Gray T. Culbreath, SC Bar #11907
Amy L.B. Hill, SC Bar #68541
Eleanor L. Jones, SC Bar #104678
Gallivan White & Boyd, PA
PO Box 7368
Columbia, SC 29202
(803) 779-1833
gculbreath@gwblawfirm.com
ahill@gwblawfirm.com
ejones@gwblawfirm.com
-And-
David G. Jennings, SC Bar #2986
James A. Bruorton IV, SC Bar #71300
Timothy J.W. Muller, SC Bar #74601
ROSEN, ROSEN & HAGOOD, LLC
151 Meeting Street, Suite 400
P.O. Box 893
Charleston, SC 29402
djennings@rosenhagood.com
cbruorton@rosenhagood.com
tmuller@rosenhagood.com
(843) 577-6726

ATTORNEYS FOR DEFENDANT

April 13, 2021

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EXHIBIT A

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12 McQuillin Mun. Corp. § 35:57 (3d ed.)

McQuillin The Law of Municipal Corporations | August 2020 Update

Chapter 35. Municipal Ownership of Public Utilities

§ 35:57. Rates and service charges—Reasonableness and nondiscrimination required

West's Key Number Digest

West's Key Number Digest, Electricity 11.3
West's Key Number Digest, Gas 14.2
West's Key Number Digest, Municipal Corporations 712(8)
West's Key Number Digest, Public Utilities 38, 50, 119
West's Key Number Digest, Water Law 2166 to 2175
West's Key Number Digest, Water Law 2184

Legal Encyclopedias

Am. Jur. 2d, Public Utilities §§ 77 to 82, 97 to 110

The rates charged by a municipal utility must be fair, reasonable, just, uniform and nondiscriminatory,[1] and the same rules in regard to the reasonableness of private utility companies[2] apply.[3] Water rates must not be confiscatory.[4] The rate charged must have a reasonable relation to the value of the service rendered, either as actually consumed or as readily available.[5] An overcharge occurs when the rate charge is unreasonable in and of itself regardless of the rate charged other similarly situated consumers, or when the rate charged is in excess of rates established for particular consumers or businesses.[6] When determining the reasonableness of a rate, a court may look to rates charged by other utilities for similar service.[7] A municipality cannot impose arbitrary charges under penalty of forfeiture of the right to use the supply.[8] Further, the public service commission may, after notice and hearing, grant a municipal utility an interim rate increase for one reason and later reduce that rate increase retroactive to the date of its interim order for other reasons in its final order.[9] Judicial review may usually be had as to the reasonableness of the rates,[10] but the court may not engage in rate-making since this is a legislative function.[11] Neither connecting to the water system, nor securing an allocation of water or wastewater capacity pursuant to an ordinance or bylaw, shields a developer or consumer from otherwise lawful changes in rates.

However, judicial review is afforded to both extraterritorial and intraterritorial users with respect to municipal water or wastewater system's rates. Courts presume that water and wastewater rates established by a lawful rate-fixing body are reasonable. The statute governing municipal water rates affords municipal waterworks broad authority to determine what kinds

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of uses they will charge, such as, for example, reserved allocations, and whether they will charge based on annual fees or meter service. Water rates are entitled to a presumption of reasonableness, and a reviewing court will defer to the municipal corporation as long as the rates are nondiscriminatory, and are not arbitrary and capricious.[12] Generally speaking, water rates set by a municipality are presumed to be valid and reasonable until the contrary has been established; and the burden of overcoming the presumption of validity and reasonableness rests with the challenging party.[13]

That a municipal authority's rates be reasonable and uniform, does not apply when the authority contracts with another authority.[14]

Reasonable discretion must abide in the officers whose duty it is to fix rates.[15] Rate-making, however, is an inexact science[16] and their determination should not be disturbed if there is any reasonable basis for that determination,[17] or unless it is proved that the rates are excessive and the action of the rate-fixing officers illegal and arbitrary.[18] It will be presumed, in the absence of any showing to the contrary, that the municipality acted properly.[19] A rate lawfully established is assumed to be reasonable in the absence of a showing to the contrary,[20] or a showing of mismanagement,[21] fraud[22] or bad faith, or that the rate is capricious, arbitrary, or unreasonable.[23] Each case must be decided on its own facts.[24] The burden of proof is on the party claiming unreasonableness or discrimination.[25] A city has no duty to justify or explain its actions in setting rates until the party contesting their validity shows their invalidity by competent evidence.[26] Once the contesting party shows invalidity, the city must show lawful conditions that justify the rate differential based upon logic and equity.[27]

Municipal utility rates may include a profit margin.[28] The profit may be transferred to the general fund and used for purposes other than supplying the utility service.[29] This transfer does not turn the amount of profit into unauthorized taxes.[30]

On the theory that it is the duty of a municipal electric company to serve the public in a nondiscriminatory manner analogous to the duty of common carriers to provide equal and impartial service, the view has been taken that a municipality cannot be prevented from collecting the correct amount for services provided but under billed, whether by estoppel or by counterclaim based on negligence.[31]

A city may provide through ordinance that residential water users who pay their water bills on time get a discount.[32] City water board's power may not include the authority or power to issue bill credits to certain classes of homeowners in order to defray the costs of the public benefit services supplied by the water and sewer system.[33]

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Footnotes

1 **U.S.**
General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995) (applying North Carolina law)
Ariz.
Jung v. City of Phoenix, 160 Ariz. 38, 770 P.2d 342 (1989) (statute implying that charges will be at reasonable rates, citing this treatise)
Cal.
Even if the transportation rate charged by water authority to district water users was a capacity charge requiring voter approval if there was question as to its reasonableness, the charge was reasonable, as it did not exceed the cost of providing the service. Rincon Del Diablo Mun. Water Dist. v. San Diego County Water Authority, 121 Cal. App. 4th 813, 17 Cal. Rptr. 3d 666 (4th Dist. 2004)

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Fla.

City of Gainesville v. State, 863 So. 2d 138 (Fla. 2003)

Electric utility was not necessarily bound to charge development customers the same amount it charged other customers outside the development if the utility could show that higher cost was justified because of the difference in cost to it of furnishing electricity to development residents. Arvida Corp. v. Jacksonville Elec. Authority, 369 So. 2d 672 (Fla. 1st DCA 1979).

Fla.

I-4 Commerce Ctr, Phase II, Unit I v. Orange County, 46 So. 3d 134 (Fla. 5th DCA 2010)

Ill.

Schroeder v. City of Grayville, 166 Ill. App. 3d 814, 117 Ill. Dec. 681, 520 N.E.2d 1032 (5th Dist. 1988); West v. City of Batavia, 155 Ill. App. 3d 925, 108 Ill. Dec. 547, 508 N.E.2d 1124 (2d Dist. 1987); Inland Real Estate Corp. v. Village of Palatine, 146 Ill. App. 3d 92, 99 Ill. Dec. 906, 496 N.E.2d 998 (1st Dist. 1986)

Iowa

State v. City of Iowa City, 490 N.W.2d 825, 78 Ed. Law Rep. 1022, 139 Pub. Util. Rep. 4th (PUR) 162 (Iowa 1992) (quoting this treatise)

Kan.

Eudora Development Co. of Kansas v. City of Eudora, 276 Kan. 626, 78 P.3d 437 (2003); Mitchell v. City of Wichita, 270 Kan. 56, 12 P.3d 402 (2000)

La.

Restructuring of rates to retain large customer that employs many residents is permissible and not unreasonable. Liberty Rice Mill, Inc. v. City of Kaplan, 674 So. 2d 395 (La. Ct. App. 3d Cir. 1996), writ denied, 681 So. 2d 1263 (La. 1996)

Mich.

Trahey v. City of Inkster, 311 Mich. App. 582, 876 N.W.2d 582 (2015) City's water and sewer rates, which included an amount for debt reduction, were not unreasonable under provision of city charter requiring rates to be reasonable, even though there may have been improper interfund transfers between several of city's departments

N.Y.

Prometheus Realty Corp. v. New York City Water Bd., 37 N.Y.S.3d 362 (Sup 2016)(city water board's power may not include the authority or power to issue bill credits to certain classes of homeowners in order to defray the costs of the public benefit services supplied by the water and sewer system, therefore, water board exceeded its authority, and acted in an arbitrary, capricious, and unreasonable manner).

Kinkead v. Village of Round Lake, 187 A.D.2d 905, 591 N.Y.S.2d 80 (3d Dep't 1992)

N.C.

General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995); City of Wilson v. Carolina Builders of Wilson, Inc., 94 N.C. App. 117, 379 S.E.2d 712 (1989)

Pa.

The Scott Tp. Sewer and Water Authority v. Ease Simulation, Inc., 2 A.3d 1288 (Pa. Commw. Ct. 2010)

Beaver Falls Mun. Authority v. Municipal Authority of the Borough of Conway, 689 A.2d 379 (Pa. Commw. Ct. 1997); Highridge Water Authority v. Lower Indiana County Mun. Authority, 689 A.2d 374 (Pa. Commw. Ct. 1997); Allegheny Ludlum Corp. v. Municipal Authority of Westmoreland County, 659 A.2d 20 (Pa. Commw. Ct. 1995); Ridgway Tp. Municipal Authority v. Exotic Metals, Inc., 88 Pa. Commw. 637, 491 A.2d 311 (1985) (rate unreasonable)

Tex.

City of El Paso v. Public Utility Com'n of Texas, 916 S.W.2d 515 (Tex. App. Austin 1995), writ dismissed pursuant to agreement, (Mar. 13, 1996); Black v. City of Killeen, 78 S.W.3d 686 (Tex. App. Austin 2002)

Va.

Estes Funeral Home v. Adkins, 266 Va. 297, 586 S.E.2d 162 (2003)

Wash.

Hillis Homes, Inc. v. Public Utility Dist. No. 1 of Snohomish County, 105 Wash. 2d 288, 714 P.2d 1163 (1986)

Wyo.

Laramie Citizens for Good Government v. City of Laramie, 617 P.2d 474 (Wyo. 1980)

2

U.S.

General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995) (applying North Carolina law)

Ill.

Village of Niles v. City of Chicago, 82 Ill. App. 3d 60, 37 Ill. Dec. 142, 401 N.E.2d 1235 (1st Dist. 1980) (citing this treatise)

N.C.

General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995)

Va.

Town of Leesburg v. Giordano, 280 Va. 597, 701 S.E.2d 783 (2010)(town presented sufficient evidence to meet its burden under the fairly debatable standard that town ordinance imposing a 100% surcharge on water and sewer consumption rates charged to residents of county who resided outside of the town was reasonable)

See also §§ 34:185 to 34:210.

3

U.S.

General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995) (applying North Carolina law)

Ala.

Campbell v. Water Works and Sanitary Sewer Bd. of City of Montgomery, 270 Ala. 33, 115 So. 2d 519, 32 Pub. Util. Rep. 3d (PUR) 34 (1959)

Ark.

Delony v. Rucker, 227 Ark. 869, 302 S.W.2d 287, 19 Pub. Util. Rep. 3d (PUR) 260 (1957); City of Malvern v. Young, 205 Ark. 886, 171 S.W.2d 470 (1943)

Colo.

Western Heights Land Corp. v. City of Fort Collins, 146 Colo. 464, 362 P.2d 155 (1961)

Fla.

Cooksey v. Utilities Commission, 261 So. 2d 129 (Fla. 1972) (just and reasonable rates for utility services)

Ga.

City of Calhoun v. North Georgia Elec. Membership Corp., 233 Ga. 759, 213 S.E.2d 596 (1975); Jarrett v. City of Boston, 209 Ga. 530, 74 S.E.2d 549, 99 Pub. Util. Rep. (NS) 211, 40 A.L.R.2d 1327 (1953); Collier v. City of Atlanta, 178 Ga. 575, 173 S.E. 853 (1934)

Ill.

Conner v. City of Elmhurst, 28 Ill. 2d 221, 190 N.E.2d 760 (1963) (water and sewer service charges); Inland Real Estate Corp. v. Village of Palatine, 107 Ill. App. 3d 279, 63 Ill. Dec. 234, 437 N.E.2d 883 (1st Dist. 1982); Amalgamated Trust and Sav. Bank v. Village of Glenview, 98 Ill. App. 3d 254, 53 Ill. Dec. 426, 423 N.E.2d 1230, 1981-2 Trade Cas. (CCH) ¶ 64279 (1st Dist. 1981)

Ind.

City of Logansport v. Public Service Commission, 202 Ind. 523, 177 N.E. 249, 76 A.L.R. 838 (1931)

Kan.

Holton Creamery Co. v. Brown, 137 Kan. 418, 20 P.2d 503 (1933)

Md.

Home Owners' Loan Corp. of Washington, D.C. v. Mayor and City Council of Baltimore, 175 Md. 676, 3 A.2d 747 (1939)

Mich.

Chocolay Charter Tp. v. City of Marquette, 138 Mich. App. 79, 358 N.W.2d 636 (1984)

Miss.

Almaras v. City of Hattiesburg, 181 Miss. 752, 180 So. 392 (1938)

Neb.

Erickson v. Metropolitan Utilities Dist., 171 Neb. 654, 107 N.W.2d 324, 38 Pub. Util. Rep. 3d (PUR) 483 (1961); Carr v. Fenstermacher, 119 Neb. 172, 228 N.W. 114 (1929)

N.H.

Chicopee Mfg. Corp. v. Manchester Bd. of Water Com'rs, 97 N.H. 109, 81 A.2d 837 (1951)

N.J.

Culver v. Jersey City, 45 N.J.L. 256, 1883 WL 8084 (N.J. Sup. Ct. 1883)

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N.Y.

Town Bd. of Town of Poughkeepsie, on Behalf of Arlington Water Dist. v. City of Poughkeepsie, 22 A.D.2d 270, 255 N.Y.S.2d 549 (2d Dep't 1964); Village of Boonville v. Maltbie, 156 Misc. 6, 281 N.Y.S. 787 (Sup 1935)

N.C.

General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995); Town of Taylorsville v. Modern Cleaners, 34 N.C. App. 146, 237 S.E.2d 484 (1977) (citing this treatise)

Ohio

Fairway Manor, Inc. v. City of Akron, 13 Ohio App. 3d 233, 468 N.E.2d 927 (9th Dist. Summit County 1983)

Pa.

Yezioro v. North Fayette County Municipal Authority, 193 Pa. Super. 271, 164 A.2d 129 (1960); Shirk v. City of Lancaster, 313 Pa. 158, 169 A. 557, 90 A.L.R. 688 (1933)

S.C.

The test of the reasonableness of rates established by a public service district is the service received. H. A. Sack Co., Inc. v. Forest Beach Public Service Dist., 272 S.C. 235, 250 S.E.2d 340 (1978)

Tex.

Hatten v. City of Houston, 373 S.W.2d 525 (Tex. Civ. App. Houston 1963), writ refused n.r.e., (Apr. 22, 1964); Wiggins v. City of Texarkana, Tex., 239 S.W.2d 212 (Tex. Civ. App. Texarkana 1951), judgment aff'd, 151 Tex. 100, 246 S.W.2d 622 (1952); Black v. City of Killeen, 78 S.W.3d 686 (Tex. App. Austin 2002)

Utah

Fjeldsted v. Ogden City, 83 Utah 278, 28 P.2d 144 (1933)

Vt.

In re Dixon, 123 Vt. 111, 183 A.2d 522 (1962) (nonresident customers of village-owned utility could resort to equity for relief against unjust discrimination in matter of rates)

Federal legislation requiring state regulatory authorities and unregulated public utilities to accept or reject lower "lifeline" rates for the elderly and needy, see §§ 34:198, 34:199.

4 **Me.**

City of Bangor v. Public Utilities Commission, 156 Me. 455, 167 A.2d 6, 38 Pub. Util. Rep. 3d (PUR) 51 (1960)

Md.

Arbitrator could set retroactive rate where retroactive rates are permitted by statute. Baltimore County v. Mayor and City Council of Baltimore, 329 Md. 692, 621 A.2d 864 (1993)

5 **Cal.**

Even if the transportation rate charged by water authority to district water users was a capacity charge requiring voter approval if there was question as to its reasonableness, the charge was reasonable, as it did not exceed the cost of providing the service. Rincon Del Diablo Mun. Water Dist. v. San Diego County Water Authority, 121 Cal. App. 4th 813, 17 Cal. Rptr. 3d 666 (4th Dist. 2004)

Fla.

I-4 Commerce Ctr, Phase II, Unit I v. Orange County, 46 So. 3d 134 (Fla. 5th DCA 2010)

City of Gainesville v. State, 863 So. 2d 138 (Fla. 2003)

N.Y.

Dorfman v. City of Salamanca Bd. of Public Utilities, 138 A.D.3d 1424, 30 N.Y.S.3d 774 (4th Dep't 2016); Prometheus Realty Corp. v. New York City Water Bd., 37 N.Y.S.3d 362 (Sup 2016) (2.1 percent increase in its rate schedule for upcoming fiscal year, which bore no direct relationship to the cost of furnishing water and was unauthorized tax)

Pa.

The Scott Tp. Sewer and Water Authority v. Ease Simulation, Inc., 2 A.3d 1288 (Pa. Commw. Ct. 2010)

Allegheny Ludlum Corp. v. Municipal Authority of Westmoreland County, 659 A.2d 20 (Pa. Commw. Ct. 1995); Ridgway Tp. Municipal Authority v. Exotic Metals, Inc., 88 Pa. Commw. 637, 491 A.2d 311 (1985)

Tex.

City of El Paso v. Public Utility Com'n of Texas, 916 S.W.2d 515 (Tex. App. Austin 1995), writ dismissed pursuant to agreement, (Mar. 13, 1996); Black v. City of Killeen, 78 S.W.3d 686 (Tex. App. Austin 2002)

Vt.

Jones v. Town of Proctor, 2014 WL 4851492 (Vt. 2014) (town was not required to base water or sewer charges on actual usage, size of property, or number of fixtures; statute allowed several different methods for imposing sewer charges or any other equitable basis or any combination of these bases, so long as the combination was equitable)

Va.

Estes Funeral Home v. Adkins, 266 Va. 297, 586 S.E.2d 162 (2003)

6 **N.Y.**

Dorfman v. City of Salamanca Bd. of Public Utilities, 138 A.D.3d 1424, 30 N.Y.S.3d 774 (4th Dep't 2016) (determination of city's public utilities board, doubling rates charged for water for consumers with one-inch or larger water meters, lacked rational basis, even though size of water meter was rational basis upon which to determine charge for water)

Tex.

Collerain v. City of Granbury, 760 S.W.2d 364 (Tex. App. Fort Worth 1988)

7 **U.S.**

General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995) (applying North Carolina law)

N.C.

General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995)

Tex.

Black v. City of Killeen, 78 S.W.3d 686 (Tex. App. Austin 2002) (not determinative factor)

Utah

Walker v. Brigham City, 856 P.2d 347 (Utah 1993)

8 **N.J.**

Culver v. Jersey City, 45 N.J.L. 256, 1883 WL 8084 (N.J. Sup. Ct. 1883)

9 **Wis.**

Statute governing retroactive effect of reduction in rate charged by utility authorized public service commission to make changes in utility's rates resulting from a change in charges as prescribed by federal authority. Cities and Villages of Algoma, Eagle River, New Holstein, Stratford, Sturgeon Bay and Two Rivers v. Public Service Commission, 91 Wis. 2d 252, 283 N.W.2d 261 (Ct. App. 1978)

10 **U.S.**

General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995) (applying North Carolina law)

Ala.

Water Works and Sanitary Sewer Bd. of Montgomery v. Sullivan, 260 Ala. 214, 69 So. 2d 709 (1953) (courts cannot fix rates)

Colo.

Krupp v. Breckenridge Sanitation Dist., 19 P.3d 687 (Colo. 2001)

Ill.

City of Chicago v. Northwestern Mut. Life Ins. Co., 218 Ill. 40, 75 N.E. 803 (1905); West v. City of Batavia, 155 Ill. App. 3d 925, 108 Ill. Dec. 547, 508 N.E.2d 1124 (2d Dist. 1987); Inland Real Estate Corp. v. Village of Palatine, 146 Ill. App. 3d 92, 99 Ill. Dec. 906, 496 N.E.2d 998 (1st Dist. 1986)

Although self-regulating, municipally owned utility systems' rates are subject to review by the courts. Village of Niles v. City of Chicago, 82 Ill. App. 3d 60, 37 Ill. Dec. 142, 401 N.E.2d 1235 (1st Dist. 1980).

Fla.

I-4 Commerce Ctr, Phase II, Unit I v. Orange County, 46 So. 3d 134 (Fla. 5th DCA 2010)

Ind.

State ex rel. City of Marion v. Grant Circuit Court, 239 Ind. 315, 157 N.E.2d 188 (1959) (sewer service rates)

Iowa

State v. City of Iowa City, 490 N.W.2d 825, 78 Ed. Law Rep. 1022, 139 Pub. Util. Rep. 4th (PUR) 162 (Iowa 1992) (citing this treatise)

Kan.

Eudora Development Co. of Kansas v. City of Eudora, 276 Kan. 626, 78 P.3d 437 (2003); Mitchell v. City of Wichita, 270 Kan. 56, 12 P.3d 402 (2000)

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Ky.

City of Mt. Vernon v. Banks, 380 S.W.2d 268 (Ky. 1964) (water rate increase reasonable)

Md.

Lewis v. Mayor and City Council of Cumberland, 189 Md. 58, 54 A.2d 319 (1947) (upholding reasonableness of water rates)

Mich.

Chocolay Charter Tp. v. City of Marquette, 138 Mich. App. 79, 358 N.W.2d 636 (1984)

Neb.

Erickson v. Metropolitan Utilities Dist., 171 Neb. 654, 107 N.W.2d 324, 38 Pub. Util. Rep. 3d (PUR) 483 (1961)

N.H.

Chicopee Mfg. Corp. v. Manchester Bd. of Water Com'rs, 97 N.H. 109, 81 A.2d 837 (1951)

N.J.

Meglino v. Township Committee of Eagleswood Tp., 103 N.J. 144, 510 A.2d 1134 (1986); Culver v. Jersey City, 45 N.J.L. 256, 1883 WL 8084 (N.J. Sup. Ct. 1883)

N.C.

General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995)

Ohio

Butler v. Karb, 96 Ohio St. 472, 117 N.E. 953 (1917)

Pa.

The Scott Tp. Sewer and Water Authority v. Ease Simulation, Inc., 2 A.3d 1288 (Pa. Commw. Ct. 2010)
Rankin v. Chester Municipal Authority, 165 Pa. Super. 438, 68 A.2d 458 (1949); Highridge Water Authority v. Lower Indiana County Mun. Authority, 689 A.2d 374 (Pa. Commw. Ct. 1997)

Tex.

Black v. City of Killeen, 78 S.W.3d 686 (Tex. App. Austin 2002)

Wash.

Public Utility Dist. No. 2 of Pacific County v. Comcast of Washington IV, Inc., 184 Wash. App. 24, 336 P.3d 65 (Div. 1 2014), review denied, 183 Wash. 2d 1015, 353 P.3d 641 (2015) (judicial review of municipal utility choices is limited to whether the particular contract or action was arbitrary or capricious, or unreasonable. "Arbitrary and capricious" refers to willful and unreasoning action, taken without regard to or consideration of the facts and circumstances surrounding the action; where there is room for two opinions, an action taken after due consideration is not arbitrary and capricious even though a reviewing court may believe it to be erroneous)

Wis.

City of De Pere v. Public Service Com'n, 266 Wis. 319, 63 N.W.2d 764 (1954) (charge for making new connections to water main after certain date held unreasonable and discriminatory)

11 **Colo.**

Krupp v. Breckenridge Sanitation Dist., 19 P.3d 687 (Colo. 2001)

Fla.

City of Pompano Beach v. Oltman, 389 So. 2d 283 (Fla. 4th DCA 1980)

Iowa

State v. City of Iowa City, 490 N.W.2d 825, 78 Ed. Law Rep. 1022, 139 Pub. Util. Rep. 4th (PUR) 162 (Iowa 1992) (quoting this treatise)

Kan.

Eudora Development Co. of Kansas v. City of Eudora, 276 Kan. 626, 78 P.3d 437 (2003); Mitchell v. City of Wichita, 270 Kan. 56, 12 P.3d 402 (2000)

N.C.

City of Wilson v. Carolina Builders of Wilson, Inc., 94 N.C. App. 117, 379 S.E.2d 712 (1989) (municipality merely agent of general assembly in promulgating regulations of public enterprises belonging to municipalities)

Ohio

Fairway Manor, Inc. v. Board of Com'rs of Summit County, 36 Ohio St. 3d 85, 521 N.E.2d 818 (1988) (citing this treatise)

Pa.
The Scott Tp. Sewer and Water Authority v. Ease Simulation, Inc., 2 A.3d 1288 (Pa. Commw. Ct. 2010)

12 **Vt.**
Vermont North Properties v. Village of Derby Center, 197 Vt. 130, 2014 VT 73, 102 A.3d 1084 (2014) (village's water rates were fair and reasonable, notwithstanding property developer's claim that rates were not dependent on actual cost; village had a finite water supply, village deemed it proper to charge fees for water reservations to discourage speculators and to discourage individuals from holding on to such reservations unnecessarily and unreasonably, and village applied its fees uniformly and in a nondiscriminatory manner)

13 **Kan.**
Eudora Development Co. of Kansas v. City of Eudora, 276 Kan. 626, 78 P.3d 437 (2003)
Pa.
The Scott Tp. Sewer and Water Authority v. Ease Simulation, Inc., 2 A.3d 1288 (Pa. Commw. Ct. 2010)
Va.
Town of Leesburg v. Giordano, 280 Va. 597, 701 S.E.2d 783 (2010)(town presented sufficient evidence to meet its burden under the fairly debatable standard that town ordinance imposing a 100% surcharge on water and sewer consumption rates charged to residents of county who resided outside of the town was reasonable)

14 **Pa.**
Beaver Falls Mun. Authority v. Municipal Authority of the Borough of Conway, 689 A.2d 379 (Pa. Commw. Ct. 1997); Highridge Water Authority v. Lower Indiana County Mun. Authority, 689 A.2d 374 (Pa. Commw. Ct. 1997)

15 **Colo.**
Krupp v. Breckenridge Sanitation Dist., 19 P.3d 687 (Colo. 2001)
Conn.
Barr v. First Taxing Dist. of City of Norwalk, 151 Conn. 53, 192 A.2d 872, 50 Pub. Util. Rep. 3d (PUR) 389 (1963)
Fla.
I-4 Commerce Ctr, Phase II, Unit I v. Orange County, 46 So. 3d 134 (Fla. 5th DCA 2010)
City of Gainesville v. State, 863 So. 2d 138 (Fla. 2003)
Ill.
Inland Real Estate Corp. v. Village of Palatine, 146 Ill. App. 3d 92, 99 Ill. Dec. 906, 496 N.E.2d 998 (1st Dist. 1986)
Iowa
State v. City of Iowa City, 490 N.W.2d 825, 78 Ed. Law Rep. 1022, 139 Pub. Util. Rep. 4th (PUR) 162 (Iowa 1992) (citing this treatise)
Kan.
Eudora Development Co. of Kansas v. City of Eudora, 276 Kan. 626, 78 P.3d 437 (2003); Mitchell v. City of Wichita, 270 Kan. 56, 12 P.3d 402 (2000)
Tex.
Black v. City of Killeen, 78 S.W.3d 686 (Tex. App. Austin 2002)
Wash.
Hillis Homes, Inc. v. Public Utility Dist. No. 1 of Snohomish County, 105 Wash. 2d 288, 714 P.2d 1163 (1986); Faxe v. City of Grandview, 48 Wash. 2d 342, 294 P.2d 402 (1956)

16 **Colo.**
Krupp v. Breckenridge Sanitation Dist., 19 P.3d 687 (Colo. 2001)
Kan.
Eudora Development Co. of Kansas v. City of Eudora, 276 Kan. 626, 78 P.3d 437 (2003)
Ohio
Fairway Manor, Inc. v. City of Akron, 13 Ohio App. 3d 233, 468 N.E.2d 927 (9th Dist. Summit County 1983)
Pa.
The Scott Tp. Sewer and Water Authority v. Ease Simulation, Inc., 2 A.3d 1288 (Pa. Commw. Ct. 2010)

17 **Vt.**
Village of Stowe Elec. Dept., 134 Vt 559, 367 A2d 1056 (examination of municipal light department rate increase)

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U.S.

General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995) (applying North Carolina law)

Colo.

Krupp v. Breckenridge Sanitation Dist., 19 P.3d 687 (Colo. 2001)

Fla.

I-4 Commerce Ctr, Phase II, Unit I v. Orange County, 46 So. 3d 134 (Fla. 5th DCA 2010)

City of Gainesville v. State, 863 So. 2d 138 (Fla. 2003)

Ill.

Village of Niles v. City of Chicago, 201 Ill. App. 3d 651, 146 Ill. Dec. 990, 558 N.E.2d 1324 (1st Dist. 1990); Inland Real Estate Corp. v. Village of Palatine, 146 Ill. App. 3d 92, 99 Ill. Dec. 906, 496 N.E.2d 998 (1st Dist. 1986)

Ind.

L. S. Ayres & Co. v. Indianapolis Power & Light Co., 169 Ind. App. 652, 351 N.E.2d 814 (1976)

Iowa

State v. City of Iowa City, 490 N.W.2d 825, 78 Ed. Law Rep. 1022, 139 Pub. Util. Rep. 4th (PUR) 162 (Iowa 1992) (quoting this treatise)

Kan.

Eudora Development Co. of Kansas v. City of Eudora, 276 Kan. 626, 78 P.3d 437 (2003); Mitchell v. City of Wichita, 270 Kan. 56, 12 P.3d 402 (2000)

La.

Liberty Rice Mill, Inc. v. City of Kaplan, 674 So. 2d 395 (La. Ct. App. 3d Cir. 1996), writ denied, 681 So. 2d 1263 (La. 1996) (rate structure need only be reasonable)

N.J.

Meglino v. Township Committee of Eagleswood Tp., 103 N.J. 144, 510 A.2d 1134 (1986) (rates valid unless patently offensive)

N.C.

General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995)

Ohio

Fairway Manor, Inc. v. City of Akron, 13 Ohio App. 3d 233, 468 N.E.2d 927 (9th Dist. Summit County 1983)

Pa.

The Scott Tp. Sewer and Water Authority v. Ease Simulation, Inc., 2 A.3d 1288 (Pa. Commw. Ct. 2010)

Tex.

Botkin v. City of Abilene, 262 S.W.2d 732, 2 Pub. Util. Rep. 3d (PUR) 434 (Tex. Civ. App. Eastland 1953), writ refused n.r.e.; Black v. City of Killeen, 78 S.W.3d 686 (Tex. App. Austin 2002)

Wash.

Hillis Homes, Inc. v. Public Utility Dist. No. 1 of Snohomish County, 105 Wash. 2d 288, 714 P.2d 1163 (1986)

Wyo.

Laramie Citizens for Good Government v. City of Laramie, 617 P.2d 474 (Wyo. 1980)

18 **Colo.**

Fort Collins Motor Homes, Inc. v. City of Fort Collins, 30 Colo. App. 445, 496 P.2d 1074 (App. 1972)

Conn.

Barr v. First Taxing Dist. of City of Norwalk, 151 Conn. 53, 192 A.2d 872, 50 Pub. Util. Rep. 3d (PUR) 389 (1963)

D.C.

Apartment and Office Bldg. Ass'n of Metropolitan Washington v. District of Columbia, 415 A.2d 797 (D.C. 1980) (citing this treatise)

Iowa

State v. City of Iowa City, 490 N.W.2d 825, 78 Ed. Law Rep. 1022, 139 Pub. Util. Rep. 4th (PUR) 162 (Iowa 1992) (quoting this treatise)

Kan.

Eudora Development Co. of Kansas v. City of Eudora, 276 Kan. 626, 78 P.3d 437 (2003)

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Mich.

Chocolay Charter Tp. v. City of Marquette, 138 Mich. App. 79, 358 N.W.2d 636 (1984)

N.Y.

Central School Dist. No. 1 of Towns of Schoharie Et Al., Schoharie County v. Village of Schoharie, 42 A.D.2d 1008, 348 N.Y.S.2d 212 (3d Dep't 1973) (water and sewer rents charged school district)

Tex.

Black v. City of Killeen, 78 S.W.3d 686 (Tex. App. Austin 2002)

Wash.

Charges imposed on residential developer outside city limits for connection to water system were not arbitrary and capricious. Landmark Development, Inc. v. City of Roy, 138 Wash. 2d 561, 980 P.2d 1234 (1999)

Public Utility Dist. No. 2 of Pacific County v. Comcast of Washington IV, Inc., 184 Wash. App. 24, 336 P.3d 65 (Div. 1 2014), review denied, 183 Wash. 2d 1015, 353 P.3d 641 (2015) (judicial review of nonrate terms and conditions in a public utility district's proposed pole attachment agreement with communications companies, to permit the companies to attach communications equipment to existing electric utility poles was limited to whether terms and conditions were arbitrary and capricious; although governing statute set forth specific instructions regarding the method of calculating just and reasonable rates, it did not provide similar guidance with respect to nonrate terms and conditions, requiring only that they be just, reasonable, nondiscriminatory, and sufficient)

Faxe v. City of Grandview, 48 Wash. 2d 342, 294 P.2d 402 (1956).

19 **U.S.**

General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995) (applying North Carolina law)

Ark.

Davis v. City of Blytheville, 2015 Ark. 482, 478 S.W.3d 214 (2015) (cities have the implied authority to establish a late fee as a "rate or charge" for the use of and the service rendered by the waterworks)

Colo.

Krupp v. Breckenridge Sanitation Dist., 19 P.3d 687 (Colo. 2001)

Fla.

City of Pompano Beach v. Oltman, 389 So. 2d 283 (Fla. 4th DCA 1980)

Ga.

Glendale Estates, Inc. v. Mayor and City Council of Americus, 222 Ga. 610, 151 S.E.2d 142, 66 Pub. Util. Rep. 3d (PUR) 293 (1966)

Ill.

Village of Niles v. City of Chicago, 201 Ill. App. 3d 651, 146 Ill. Dec. 990, 558 N.E.2d 1324 (1st Dist. 1990); Inland Real Estate Corp. v. Village of Palatine, 146 Ill. App. 3d 92, 99 Ill. Dec. 906, 496 N.E.2d 998 (1st Dist. 1986)

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Eudora Development Co. of Kansas v. City of Eudora, 276 Kan. 626, 78 P.3d 437 (2003); Mitchell v. City of Wichita, 270 Kan. 56, 12 P.3d 402 (2000)

Mo.

Shepherd v. City of Wentzville, 645 S.W.2d 130 (Mo. Ct. App. E.D. 1982)

N.C.

General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995)

Tex.

Black v. City of Killeen, 78 S.W.3d 686 (Tex. App. Austin 2002)

Wash.

Landmark Development, Inc. v. City of Roy, 138 Wash. 2d 561, 980 P.2d 1234 (1999) (no discrimination); Hillis Homes, Inc. v. Public Utility Dist. No. 1 of Snohomish County, 105 Wash. 2d 288, 714 P.2d 1163 (1986)

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20 **U.S.**
General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995) (applying North Carolina law)
Colo.
Krupp v. Breckenridge Sanitation Dist., 19 P.3d 687 (Colo. 2001)
Fla.
City of Cooper City v. PCH Corp., 496 So. 2d 843 (Fla. 4th DCA 1986)
Ill.
Village of Niles v. City of Chicago, 82 Ill. App. 3d 60, 37 Ill. Dec. 142, 401 N.E.2d 1235 (1st Dist. 1980)
Iowa
State v. City of Iowa City, 490 N.W.2d 825, 78 Ed. Law Rep. 1022, 139 Pub. Util. Rep. 4th (PUR) 162 (Iowa 1992) (citing this treatise)
Kan.
Eudora Development Co. of Kansas v. City of Eudora, 276 Kan. 626, 78 P.3d 437 (2003)
Md.
Lewis v. Mayor and City Council of Cumberland, 189 Md. 58, 54 A.2d 319 (1947)
Mich.
City of Detroit v. City of Highland Park, 326 Mich. 78, 39 N.W.2d 325 (1949)
N.J.
Meglino v. Township Committee of Eagleswood Tp., 103 N.J. 144, 510 A.2d 1134 (1986)
N.C.
General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995)
Tex.
Black v. City of Killeen, 78 S.W.3d 686 (Tex. App. Austin 2002)
Utah
Walker v. Brigham City, 856 P.2d 347 (Utah 1993)
Va.
Estes Funeral Home v. Adkins, 266 Va. 297, 586 S.E.2d 162 (2003)
Wash.
Hillis Homes, Inc. v. Public Utility Dist. No. 1 of Snohomish County, 105 Wash. 2d 288, 714 P.2d 1163 (1986)

21 **Ga.**
Glendale Estates, Inc. v. Mayor and City Council of Americus, 222 Ga. 610, 151 S.E.2d 142, 66 Pub. Util. Rep. 3d (PUR) 293 (1966)
Iowa
State v. City of Iowa City, 490 N.W.2d 825, 78 Ed. Law Rep. 1022, 139 Pub. Util. Rep. 4th (PUR) 162 (Iowa 1992) (citing this treatise)

22 **Ga.**
Glendale Estates, Inc. v. Mayor and City Council of Americus, 222 Ga. 610, 151 S.E.2d 142, 66 Pub. Util. Rep. 3d (PUR) 293 (1966)
Iowa
State v. City of Iowa City, 490 N.W.2d 825, 78 Ed. Law Rep. 1022, 139 Pub. Util. Rep. 4th (PUR) 162 (Iowa 1992) (citing this treatise)
Mich.
City of Detroit v. City of Highland Park, 326 Mich. 78, 39 N.W.2d 325 (1949)

23 **U.S.**
General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995) (applying North Carolina law)
Cal.
There exists in users of a public utility's sewer service a primary right that they cannot be charged an unreasonable rate for that service and there rests on the city, as a public utility, the corresponding duty not to charge users an unreasonable rate. Elliott v. City of Pacific Grove, 54 Cal. App. 3d 53, 126 Cal. Rptr. 371 (1st Dist. 1975)

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Fla.

The cost of new facilities should be borne by new users to the extent new use requires new facilities, but only to that extent. Contractors and Builders Ass'n of Pinellas County v. City of Dunedin, 329 So. 2d 314 (Fla. 1976)

Ill.

Village of Niles v. City of Chicago, 201 Ill. App. 3d 651, 146 Ill. Dec. 990, 558 N.E.2d 1324 (1st Dist. 1990); Inland Real Estate Corp. v. Village of Palatine, 146 Ill. App. 3d 92, 99 Ill. Dec. 906, 496 N.E.2d 998 (1st Dist. 1986)

Iowa

State v. City of Iowa City, 490 N.W.2d 825, 78 Ed. Law Rep. 1022, 139 Pub. Util. Rep. 4th (PUR) 162 (Iowa 1992) (citing this treatise)

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City of Detroit v. City of Highland Park, 326 Mich. 78, 39 N.W.2d 325 (1949); Chocolay Charter Tp. v. City of Marquette, 138 Mich. App. 79, 358 N.W.2d 636 (1984)

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Meglino v. Township Committee of Eagleswood Tp., 103 N.J. 144, 510 A.2d 1134 (1986)

N.C.

General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995)

Wash.

Landmark Development, Inc. v. City of Roy, 138 Wash. 2d 561, 980 P.2d 1234 (1999) (no discrimination); King County Water Dist. No. 75 v. City of Seattle, 89 Wash. 2d 890, 577 P.2d 567 (1978)

24 **Ill.**

Inland Real Estate Corp. v. Village of Palatine, 146 Ill. App. 3d 92, 99 Ill. Dec. 906, 496 N.E.2d 998 (1st Dist. 1986); Village of Hoffman v. Meier, 4 Ill. App. 3d 949, 282 N.E.2d 245 (5th Dist. 1972) (rates payable by beneficiaries of newly installed water system)

Iowa

State v. City of Iowa City, 490 N.W.2d 825, 78 Ed. Law Rep. 1022, 139 Pub. Util. Rep. 4th (PUR) 162 (Iowa 1992) (citing this treatise)

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N.J.

Meglino v. Township Committee of Eagleswood Tp., 103 N.J. 144, 510 A.2d 1134 (1986)

N.Y.

Prometheus Realty Corp. v. New York City Water Bd., 37 N.Y.S.3d 362 (Sup 2016)

Ohio

Fairway Manor, Inc. v. City of Akron, 13 Ohio App. 3d 233, 468 N.E.2d 927 (9th Dist. Summit County 1983)

Tex.

Caldwell v. City of Abilene, 260 S.W.2d 712 (Tex. Civ. App. Eastland 1953), writ refused

25 **U.S.**

General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995) (applying North Carolina law)

Cal.

Elliott v. City of Pacific Grove, 54 Cal. App. 3d 53, 126 Cal. Rptr. 371 (1st Dist. 1975)

Fla.

I-4 Commerce Ctr, Phase II, Unit I v. Orange County, 46 So. 3d 134 (Fla. 5th DCA 2010)

Rosalind Holding Co. v. Orlando Utilities Commission, 402 So. 2d 1209 (Fla. 5th DCA 1981) (person attacking rates to show rates outside zone of reasonableness); City of Pompano Beach v. Oltman, 389 So. 2d 283 (Fla. 4th DCA 1980)

Ill.

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Village of Niles v. City of Chicago, 201 Ill. App. 3d 651, 146 Ill. Dec. 990, 558 N.E.2d 1324 (1st Dist. 1990) (heavy burden of proof on challengers); Inland Real Estate Corp. v. Village of Palatine, 146 Ill. App. 3d 92, 99 Ill. Dec. 906, 496 N.E.2d 998 (1st Dist. 1986); Village of Niles v. City of Chicago, 82 Ill. App. 3d 60, 37 Ill. Dec. 142, 401 N.E.2d 1235 (1st Dist. 1980)

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Eudora Development Co. of Kansas v. City of Eudora, 276 Kan. 626, 78 P.3d 437 (2003); Mitchell v. City of Wichita, 270 Kan. 56, 12 P.3d 402 (2000)

Mich.

City of Detroit v. City of Highland Park, 326 Mich. 78, 39 N.W.2d 325 (1949)

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Shepherd v. City of Wentzville, 645 S.W.2d 130 (Mo. Ct. App. E.D. 1982)

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Meglino v. Township Committee of Eagleswood Tp., 103 N.J. 144, 510 A.2d 1134 (1986)

N.C.

General Textile Printing and Processing Corp. v. City of Rocky Mount, 908 F. Supp. 1295 (E.D. N.C. 1995)

Ohio

Orr Felt Co. v. City of Piqua, 2 Ohio St. 3d 166, 443 N.E.2d 521 (1983)

Pa.

The Scott Tp. Sewer and Water Authority v. Ease Simulation, Inc., 2 A.3d 1288 (Pa. Commw. Ct. 2010)
Ridgway Tp. Municipal Authority v. Exotic Metals, Inc., 88 Pa. Commw. 637, 491 A.2d 311 (1985)

S.C.

H. A. Sack Co., Inc. v. Forest Beach Public Service Dist., 272 S.C. 235, 250 S.E.2d 340 (1978)

Tex.

Caldwell v. City of Abilene, 260 S.W.2d 712 (Tex. Civ. App. Eastland 1953), writ refused; Black v. City of Killeen, 78 S.W.3d 686 (Tex. App. Austin 2002)

Va.

Estes Funeral Home v. Adkins, 266 Va. 297, 586 S.E.2d 162 (2003)

Wash.

Hillis Homes, Inc. v. Public Utility Dist. No. 1 of Snohomish County, 105 Wash. 2d 288, 714 P.2d 1163 (1986); King County Water Dist. No. 75 v. City of Seattle, 89 Wash. 2d 890, 577 P.2d 567 (1978); Phinney Bay Water Dist. v. City of Bremerton, 58 Wash. 2d 298, 362 P.2d 358, 39 Pub. Util. Rep. 3d (PUR) 410 (1961)

Wyo.

Laramie Citizens for Good Government v. City of Laramie, 617 P.2d 474 (Wyo. 1980)

26 **Fla.**

City of Pompano Beach v. Oltman, 389 So. 2d 283 (Fla. 4th DCA 1980)

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Inland Real Estate Corp. v. Village of Palatine, 146 Ill. App. 3d 92, 99 Ill. Dec. 906, 496 N.E.2d 998 (1st Dist. 1986)

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27 **Ohio**

Fairway Manor, Inc. v. City of Akron, 13 Ohio App. 3d 233, 468 N.E.2d 927 (9th Dist. Summit County 1983)

Va.

Estes Funeral Home v. Adkins, 266 Va. 297, 586 S.E.2d 162 (2003)

28 See § 35:60.

29 See § 35:70.

30 See § 35:70.

31 **N.C.**

City of Wilson v. Carolina Builders of Wilson, Inc., 94 N.C. App. 117, 379 S.E.2d 712 (1989) (municipal electric company using wrong meter multiplier)

Pa.

A city water utility may have to refund to patrons any excess collected by unlawful collection of utility rates.

Emporium Water Co. v. Public Utility Com'n, 859 A.2d 20 (Pa. Commw. Ct. 2004)

32 **N.C.**

Bowers v. City of Flint, 325 F.3d 758, 2003 FED App. 0108P (6th Cir. 2003)

33 Prometheus Realty Corp. v. New York City Water Bd., 37 N.Y.S.3d 362 (Sup 2016).

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EXHIBIT B

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BRYAN A. MANTZ

January 20, 2021

Snee Farm Lakes HOA, et al

VS

Comm of Public Works for the Town of Mt. Pleasant

2018-CP-10-2764

REPORTER: Janice Stanton

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Q. Okay. I'm not following that. So what do you mean when you say, "should not exceed"? What is the 5.8 million dollar BFC difference?

A. That would be that if you looked at the difference in the BFCs based on average daily flow -- if you just look -- set it -- you know, this BFC should be -- they were charged for 1,000, but it should have been 500; the difference in the BFCs collected would have been that amount.

Q. So you're saying if -- and just bear with me here, because I'm just really just trying to understand it. So if the REUs are reduced to the amount that the plaintiff suggests they should be reduced to, is that different than BFC collection from -- for MPW?

A. Yes, if I'm understanding your question correctly.

Q. And I'm probably not saying it great, so --

A. This is technical stuff.

Q. Yeah.

A. I'm on my second Monster drink because it's pretty dry stuff.

MR. APPEL: It's not even noon!

Q. So if we get to -- and we're going to get to that

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spreadsheet, and we're going to spend some time with that spreadsheet. But suffice it to say, the bottom line of that spreadsheet, the plaintiff -- based on your calculations of this spreadsheet -- have a number of REUs that they think Mount Pleasant Waterworks should take back, so to speak. The class should reduce their REUs by a certain number?

A. Yeah.

Q. So are you telling me here that that certain number is valued at 5.8 million, so it's going to reduce the inflow of money into Mount Pleasant Waterworks on an annual basis by 5.8 million?

MR. APPEL: Object to form.

A. It would need to be recovered from other customer classes, or other -- yeah, other customers or other customer classes. There would be a --

Q. I mean, could it also --

A. -- a rate restructure. It would have to be a --

Q. Okay.

A. -- rate structure change to reflect that. But, of course, there would be presumably a revenue neutral change where you'd still collect the same amount of revenue, but it would just be allocated among the customer classes differently.

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EXHIBIT C

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BRYAN A. MANTZ

January 13, 2021

Snee Farm Lakes HOA, et al

vs

Comm of Public Works for the Town of Mt. Pleasant

2018-CP-10-2764

REPORTER: Janice Stanton

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going back to my example earlier of a restaurant that maybe is only serving lunch, and next year they're going to start serving lunch and dinner and increase their water usage. I mean, so you're telling me that MPW should unilaterally reduce their REUs without consultation with that customer, which may cause that customer to go into excessive rate fee. Is that what I'm understanding?

A. If the customer's REUs are properly right-sized, and I mean, you know, certainly the customer can -- could talk with MPW if there was -- if they got a reduction in REUs, and there was not a -- and it's possible that the reduction in the REU values and then the volumetric -- and that -- which would reduce the base fee and the increased volumetric charges. I don't know what the effect on the customer bill would be. It really depends upon the dollar amount of the basic facility charge versus the dollar amount of the volumetric charge. But I mean, I would never say that, you know -- I mean, customers always have to have a -- need to have a voice. But as far as practice, and as part of, you know, making sure that the rates are equitable, the REU purposes -- the REUs

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for rate setting purposes should be right-sized periodically.

Q. So let me ask you this. What's wrong with allowing the customer to right-size their REUs when they deem that it's necessary?

A. The customers can have communication to right-size the REUs. However, MPW has the sophisticated equipment, and they have the -- you know, I've seen your billing, the billing statistics, and I know that you have a very good billing system. And MPW has the ability to make the rates -- the REU values fair periodically and to right-size them.

Q. And just so I'm clear, what you're saying is that that should not be the -- I mean, the customer shouldn't have control over that; that should be MPW's alone.

A. Yes, because it certainly -- most customers probably don't understand the concept of an REU. And you know, you're getting into -- we're getting into kind of terms that maybe a layperson or an expert may not understand. And so it's MPW's responsibility at all times to charge fair rates. It's not the customers' job to tell MPW that, "Oh, you have unfair rates." It's MPW's

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responsibility to adopt and charge fair rates.
Q. Where do you get that? Is that a rule or a regulation that it's MPW's responsibility to charge fair rates?
MR. APPEL: Object to form.
A. South Carolina law talks about establishing rates based on use, and to the extent -- so I mean, rates have to be tied somehow to use.
Q. What law says that rates have to be tied to use?
MR. APPEL: Object to form.
A. I'd have to look. I don't have the statute in front of me.
Q. Are you referring to Statute 5-31-670?
MR. APPEL: Object to form.
A. I don't know what that says, so I don't know.
Q. So sitting here right now, you can't cite to a rule, or a law, or regulation that requires rates to be tied to use?
MR. APPEL: Object to form.
A. I don't have that statute in front of me.
Q. Okay. So again though, you can't sit here right now and tell me a law or regulation that requires MPW's rates to be tied to use?
MR. APPEL: Object to form.
A. I guess, yes. Right now, sitting here, I cannot

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Q. Are you aware of any?
A. No.
Q. So meter size based BFC -- and you told me that is tied to usage. How is that tied to usage?
A. Each meter size can have -- can handle a certain amount of flow. And so utilities are -- customers are outfitted with a meter size based on their usage.
Q. Is it their usage or their potential demand?
A. It can be -- the initial meter size might be based on potential of the demand, but certainly, moving forward, customers have always had the option of having a higher -- either increasing or decreasing their meter size.
Q. Okay. So let me unpack that for a minute. So you're saying initially it's based on what their potential demand may be, but they can always reduce or increase their meter size. Does the customer choose to increase or reduce their meter size, or is it based upon the water utility coming to the customer and saying, "You need to increase or decrease your meter size based on your water usage"?
A. In these cases, it's the customer. The customer would, you know, based on -- the customer would

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choose to -- whether to adjust the meter size.

Q. In other words, it would be up to the customer to right-size the meter size. Is that correct?

A. Yes.

Q. And again, I mean, so the charge -- help me with the meter size base facility charge. Is it essentially that I have a meter size of X, and my basic facility charge is based on that meter size, whether I turn on my water or not? Is that correct?

A. Yes.

Q. So you know, we've been in a pandemic. I can shut my business down for six months and never turn on the tap, and my base facility charge is going to remain the same. Correct?

A. That depends upon the policy of the utility. Some utilities have a policy that if you shut off your water service, you're not billed for service. A lot of utilities do continue to charge a base charge or a charge that's lower than the base charge, just for a system -- kind of -- they call it maybe a system availability charge.

Q. Okay. So maybe shutting down my business completely and not turning on my tap was a bad

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example. Let's talk about the pandemic. I'm a restaurant that prior to the pandemic was serving lunch, and dinner, and breakfast, and busy all the time. Now I do a lunch take-out and that's it, so my water is greatly reduced; yet I am billed based on the size of my meter regardless of how much water flows through that meter. Correct?

A. Yes.

Q. For the base facility charge. Is that correct?

A. Yes.

Q. So it's not tied to actual water usage, is it?

A. Again, a customer -- a restaurant -- a customer can choose to increase or decrease their meter size based on their specific usage characteristics.

Q. But again, that's up to the customer, and the water utility has no responsibility to alert them of that possibility, do they?

A. That's correct.

Q. And what exactly does that entail, right-sizing the water meter?

A. That would just be -- and you see this quite a bit. If a utility implements a change to rate structure -- and with any change to a rate

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structure, you're going to have a customer response -- and some customers might feel that under the new rate structure, they should either upsize or downsize their meter size.

Q. Okay, but again, I mean, are we talking about actually changing -- I mean, digging out and taking out the water meter, and changing, and putting in a new water meter?

A. Yes, changing the size.

Q. I mean, that's a significant undertaking. Correct?

A. I mean, it's really just -- most water meters, all you do is just -- you take them out and put a new one in. It's not a -- and usually the customers will, you know, pay for that expense.

Q. Does it also talk about the size of the piping going into the water meter?

A. Well, if the piping is -- if it is possible -- if they needed a larger meter size, the piping may need to be upgraded too. I mean, it's the customers' decision.

Q. But it's up to the customer. Correct?

A. That's correct.

Q. Do you know, is that an expensive undertaking?

A. It depends upon the utilities' specific rates.

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Q. Well, I mean, if you've got to change water pipe size and buy a whole new meter, I would think that that's not cheap.

A. Again, it just depends upon how much the utility pays for the -- charges for that service.

Q. So --

A. Whether it's cheaper or not, I don't -- that's a matter of perspective in ...

Q. Who pays for that? Would the customer pay for that change in water meter?

A. Yes.

Q. And so essentially, the customer is having to pay to right-size the water meter. Is that correct?

A. That's the typical practice.

Q. And do you see anything wrong with that?

A. No. No, I don't.

Q. In your mind, what does "excessive BFC" mean?

A. Excessive BFC means that BFC amount is applied to an REU count that is unrealistic with respect -- that is not tied to the actual use of the customer.

Q. Let me go back a little bit on this. As I know you're well aware, Mount Pleasant Waterworks sent out a letter in February or the spring of 2018, letting customers know that the -- and I refer to

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Q. Okay, and does that -- I mean, is there anything wrong with this type of rate structure in general?

A. If the --

Q. I'm not talking about MPW, by the way. I'm sorry, let me get my question out. I know I may be disjointed in my question, but is there anything wrong, in your opinion, with an REU based BFC rate structure?

A. If it is done properly and linked to usage, then I think it can be a fair rate structure.

Q. Why does it have to be linked to usage when water meters are not linked to usage?

A. Well, again, water meters -- the size of a water meter is linked to the customers' usage range.

Q. Usage range. Right?

A. Uh-huh (affirmative response), yes.

Q. But not actual use. Right?

A. Right, because you have to -- I mean, you install the meter in the ground, and I mean, the meter is sized to accommodate the customers' usage.

Q. Potential usage. Right?

A. Yeah, the customers' usage, and based on the customers' usage, they can choose -- you know, again, based on the -- what makes the most sense

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for them, they can either upsize or downsize their meter size.

Q. But the water meter is established based on the customers' potential use. Correct?

A. Right, because it's a mechanical object, I mean, that you have to set into the ground.

Q. So does Longboat -- and I'm just going to mispronounce that, I'm sorry -- but does Longboat Key, in Florida -- which I'm sure is a wonderful place, and I apologize to anybody who lives there. So are you telling me they do not right-size their REUs?

A. They're built-out, so it -- and I mean, if someone had an issue with their REUs, they can get it. I mean, they're a built-out community. They're not growing at all, so it's not really relevant.

Q. But explain that to me. I don't know that I appreciate that.

A. They are built-out. And again, if someone has an issue with their REU count, and they're primarily a residential community -- they don't really have a lot of nonresidential customers, so nonresidential REU uses are not really an issue with them.

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methodology which is covered throughout all the standard utility publications on ratemaking. And so, you know, we certainly -- we kind of like to try and stick with the mainstream and not recommend something that could lead to controversy.

Q. And you don't think the water meter leads to controversy?

A. No. It's heavily covered throughout all the standard ratemaking manuals, and so I don't think that there's much controversy in the meter based approach.

Q. And you believe the water meter size/BFC approach is fair?

A. Sure.

Q. You believe the water meter sized approach is reasonable?

A. Yes. I mean, I would consider it to be an accepted methodology.

Q. Well, I mean, this REU/BFC approach is accepted. Correct?

MR. APPEL: Object to form.

A. "Accepted" is a strong word. I don't know if it's been properly challenged in court, and so that's one of the reasons why I think we're here

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Q. But again, the water meter size -- which is set based on the potential demand that the customer may desire -- if I charged somebody simply based on the size of their meter, that does not contemplate the customers' actual use. Does it?

A. That is correct. What was the question again?

Q. If I charge somebody based on the water meter size, that does not contemplate the customers' actual use, does it?

A. I think it does. Yes, it does contemplate the customers' actual use, because that's what dictates the meter size.

Q. But if I have the largest meter size, but yet I am greatly reducing my amount of water, do my rates go down?

A. The customer would have to pay for a lower meter size -- a smaller size, or --

Q. And -- go ahead.

A. No, that's fine.

Q. And the customer would have to initiate that reduction, wouldn't they?

A. Yes.

Q. And you think there is nothing wrong with that. Correct?

A. That's correct. It would be because the key to

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-- with the meter size, the utility would incur costs to go out and dig up meters, and then right-size them and all that. For the REUs, it's very easy to right-size them based on the customers' actual use and in order to have a fair rate structure.

Q. It's very easy to install a new meter, and install -- redo the pipes. Is that what you're telling me?

A. It's very easy? Well, then, no. The utility would -- no. I said it's very easy for REUs to be right-sized. I mean, you could -- with MPW's billing system, you could probably just write a script, and it would do it automatically for you.

Q. Just for the transcript, what is this that you have shared on your screen? What is this on your screen?

DEFENDANT'S EXHIBIT 4 MARKED FOR IDENTIFICATION PURPOSES (213 pages - Mount Pleasant Waterworks' Annual Budget, 2021)

A. This is a -- this is from the MPW's actual 2021 Annual Budget document that actually has a -- that not only shows the BFC history, but also provides a nice graph just showing how

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astronomical the BFC increases have been over a very short period of time.

Q. Is there a movement of some parts of the water utility industry to shift fees to a BFC that can be a more stable source of revenue?

A. Lately, with the pandemic, I've actually had a mixed bag. Some people have -- some utilities have said, "Yeah, with the pandemic and with reduced usage, we should probably increase our revenue stability." Others are more concerned about low income affordability and actually support, and possibly even lowering the -- affordability is a huge topic in the utility industry, and certainly one way to address affordability is to reduce BFCs.

Q. What are some things you consider when you are -- or not you maybe -- that utilities should consider? Are there a number of factors that utilities should consider when they are setting their rates -- in their rate structure?

A. I do think that -- yes; yes, many things. Above all, it should be -- the rates need to be fair and reasonable, and just about all states have a statute that says that your rates have to be fair and reasonable; and so, you know, that's

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the first and foremost mission. But certainly we can -- revenue stability is a common consideration. Low income affordability is a consideration, and unfortunately, revenue stability and low income affordability are often conflicting objectives. And then certainly, water conservation is another common objective. There's a lot of different things that we look at in determining rate recommendations that would be acceptable to the customers.

Q. Is there any such thing as a perfectly fair system?

A. I mean, one could argue that maybe a perfect system would have a single volumetric rate where everyone pays the same charge for all the usage that they use. But that, of course, doesn't address the need for some sort of level of revenue stability, which is what the base charge provides.

Q. What about -- I mean, is there more to water service than just water usage? In other words, do some customers require additional service more than just the actual water usage?

A. What kind of additional service?

Q. You know, I mean, getting the pipes and the

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should say have policies that if you -- that within the next 24 months, or three years, or next 12 months, they have the right to take a look at your actual usage and adjust your impact fee accordingly.

Q. And in fact, MPW has a policy like that. Correct?

A. Yes, for impact fee purposes or capacity fee purposes.

Q. So those REUs are basically similar to the size of a water meter, or is the customer telling the water utility, "This is my anticipated water demand" --

MR. APPEL: Object to form.

Q. -- potential water demand"?

A. I mean, there are utilities out there that have a methodology for impact fee determinations that are based on an REU basis, but then for rate setting purposes, they have a meter size basis.

Q. Okay, but that's not really what I asked. What I asked is, is the REU capacity -- are the REUs determined at the initiation of the water service? I mean, that is the customer saying, "This is my anticipated or potential water use." Correct?

A. Yes.
MR. APPEL: Object to form.
Q. Was that a yes?
MR. APPEL: Object to form.
A. Yeah.
Q. Do you know in Mount Pleasant if the Mount Pleasant Waterworks -- how that initial REU is established -- initial REU number is established?
A. Yes, it's outlined in your Impact Fee Guidebook.
Q. All right. Can you tell me what that is off the top of your head? And if you can't that's fine. I'm just trying to find out what you know.
A. Okay. I can certainly share my screen again.
Q. Sure.
(Screen share)
DEFENDANT'S EXHIBIT 5 MARKED FOR IDENTIFICATION PURPOSES (8 pages - Impact Fee Guidebook)
A. Amount of estimated water used per day -- so again, you're once again talking about the customers' use.
Q. Estimated water use. Correct?
A. At the impact fee stage, yes.
Q. Do you know how much input the customer has in setting that REU?

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-- of the cost to provide service to that customer.

Q. Does that definition exist, and can you refer me to a manual or anything that would provide that definition?

A. I have -- I don't -- again, this is something that was prepared two years ago, so it is most likely in the M1 Manual.

Q. Has the AWWA adopted one method of BFC charge?

A. The AWA recognizes the -- you know, there's flexibility in how the BFCs are charged. As I talked about, the M1 Manual does not really talk about the ERU methodology. I'm not even sure it even mentions it. But certainly, you know, they provide guidance on different types of rate structure options, and that's why I said the utilities -- in the first sentence there, utilities have a lot of options when determining a rate structure for charging customers.

Q. Has the AWA excluded any methods of BFC charge?

A. No, the ratemaking manuals are basically -- provide guidance. I mean, they're not -- and the AWA doesn't have statute -- doesn't have the authority to enforce. I mean, they're -- anything that the AWA says in there, you know,

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would be superceded by any state laws or local laws.

Q. Okay. Do you know of any state or local laws that have excluded any BFCs?

MR. APPEL: Object to form.

A. No, I'm not aware of any laws, as such.

Q. Let's refer down to your document here. And you say, "Most utilities charge rates that have a fixed charge component and a volumetric charge component." Why is it important to have a fixed charge component as a part of a water utilities' rate structure?

A. Primarily revenue stability because salaries and benefits, as well as debt service, are all fixed costs that the utility has to pay for regardless of customer usage.

Q. In fact, I mean, you can't just turn off -- I mean, you can't fire people, or you can't just simply turn off some of those fixed charges, can you?

A. That's correct.

Q. Even if water usage drops. Correct?

A. That is correct. It's not --

Q. So it's important to -- go ahead.

A. Yeah, go ahead.

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Q. So it's important to have a rate structure that is not tied solely to usage. Correct?

A. It's important to have a rate structure that would be considered fair and equitable.

Q. Okay. So you've said that before, but what you've written here is that there are fixed costs that require servicing regardless of water usage. Correct?

A. Yes.

Q. So if water usage dips, the utility still has to pay these fixed costs. Correct?

A. Yes.

Q. So it would be important to have a part of your rate structure not be tied solely to water usage, because if it's solely tied to water usage, then your revenue stream is going to dip along with a dip in water usage. Correct?

A. I mean, there are some utilities that don't have a base facility charge. The base facility charge, as I mentioned, is considered to be a -- I mean, a utility has the option of whether to have a base charge. There are still some utilities out there that just have a pure volumetric charge for all usage.

Q. Do you recommend utilities have some sort of

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fixed revenue stream --

A. Sure, absolutely.

Q. -- not tied to water usage?

A. I believe that the overall system -- again, I mean, I believe that the overall system of rates and charges has to meet the reasonable and equitable provations [ph], and how the utilities accomplish that, it -- you know, and whether -- you know, that the key is to come up with something that would be -- that you know, would -- that you could smile in court over.

Q. Okay, but I -- you know, you said that before, but that really isn't my question. My question is, you said there are some utilities who are solely -- base their rate structure on volumetrics, on use?

A. Yes.

Q. Yet there are fixed charges -- fixed expenses for these utilities that are not tied to use. Correct?

A. That's correct.

Q. So do you recommend to people that you consult with to have some type of rate structure that is not tied to use so that they can still meet their expenses if usage drops?

A. Yes, I do. I do typically recommend base charges.

Q. And by "base charges" you mean a charge not tied to use. Correct?

A. Base charge not tied to use. Yeah, I mean, it's a fixed cost per month, but the amount of base --

Q. But that has nothing to do with how much water you use. Correct?

A. But the amount of the base charge must be considered fair and equitable.

Q. Okay, but the base charge -- I mean, the base charge can simply be $100 dollars. I mean, it can be just a flat charge just on your bill that has nothing to do with anything. Correct?

MR. APPEL: Object to form.

A. I mean, you can have all sorts of systems of base charges and how you charge the base charge, but the key, again, is if it would meet the reasonable and equitable standard and would be defensible in court.

Q. Okay, but if both the volume -- the volumetric charge is based on use. We all agree with that. Correct?

A. Uh-huh (affirmative response).

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sales to customers can vary month to month, and yet most of a water, or wastewater utilities' operating expenses do not typically increase or decrease proportionally with changes in water sales." So as a result, there needs to be a part of the rate structure that is fixed, not tied to water usage. Correct?

A. Well, again, I mean, it's not tied to water usage, but it is -- but again, I -- you know, in my practice, I do tie it to usage. So I mean, that's ...

Q. So you tell your customers that their fixed rate should be tied to water usage, and thus, it would dip up and down based on water usage?

A. I mean, the fixed costs are the fixed costs, but I do try and make sure that the overall charge per 1,000 gallons --- when you look -- when you consider both the base charge and the volumetric charge added together, and then divided by the customers' usage, that the cost per -- the over -- the effective cost per 1,000 gallons is within a reasonable range among customer classes.

Q. You consider that, and you look at that, but the fixed charge, again, is not tied to water usage.

A. It is a fixed --
MR. APPEL: Object to the form.
A. It's a fixed cost per month. I mean, that -- yes, regardless of how much you use, you have to pay it.
Q. And we talked a little bit about this before, but let me make sure I appreciate it. What is the difference between demand versus usage? Can you have a high demand but a low water usage?
A. High demand but a low water usage; I'm not sure what that means. I mean, usage is usage.
Q. Is usage different than demand?
A. I think we had talked about how they were synonymous, previously. So again, you know, go back to my -- you know, I think that rates should be tied to usage. So that's ...
Q. Let's turn to page two here. You have here that, "It's very easy for a customer to overstate the number of REUs needed." What do you mean by that?
A. You don't know when customers are at the planning stage. They don't -- you know, they can assume that it's just a certain -- that the development is going to be using a certain amount of gallons, but how much that gallon --

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A. Yeah, I believe so.
Q. Do any of your water meter sized rate customers allow for something similar?
A. Well, most customers -- for impact fee determinations, most impacts fees, or capacity fees, or whatever you want to call them, are charged on a per ERC basis. And there are several accepted methodologies for determining the number of ERCs at the impact fee stage. But when it comes to actually setting up a system of user charges, at that point, I would say most utilities I work with just charge -- have a meter based system.
Q. Okay, but that really wasn't my question. My question was, you know, we just talked about that MPW allows customers to sort of re-evaluate their REUs within the first two years --
A. Uh-huh (affirmative response).
Q. -- of their service, and even provides the ability for a refund. Do the systems that you work with, where the customer selects the water meter size, if they determine that that water meter size is too large, do your customers allow this -- I mean, do your water utilities that you work for, do they allow the customer to get a

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refund based on a need for a smaller water meter size?

A. No, but they do have the ability to downsize their meter.

Q. At their cost. Correct?

A. At their cost.

Q. And the cost --

A. And I will say one thing about MPW's policy is that, I mean, I think you have a three year grace period. And it is possible that during -- you know, the development may not have significantly materialized during that three year period. And so, at that point, the customer may not really know what their ultimate demand is going to be, so they may not know whether they should seek a refund or not.

Q. So in your opinion, are you saying three years is too short?

A. I don't know what the proper -- again, I can't make general statements about all utilities because every single utility is different, and each one has to develop policies that are right, and equitable, and fair for their purposes.

Q. Let me refer you to your definition of

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the general practice is to charge wastewater based on water flow.

Q. So here you're saying that basically the customer is paying rates and generating revenue for MPW that exceeds the customers' proportionate share of MPW's cost. How is this different than the water meter size?

COURT REPORTER: I'm so sorry, Ms. Hill. Can you repeat that again?

MS. HILL: Sure.

COURT REPORTER: I had a briefly unstable internet connection.

MS. HILL: I'm sorry.

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. How is this different from the water meter size?

A. Well, if your actual usage reflects 100 REUs, but you're being charged 200 REUs, then your base charge is going to be disproportionate. If base charges are intended to recover a portion of the utility's fixed costs, then charging an unrealistic base charge means that the customer is going to pay an unfair share of the utilities' fixed costs.

Q. I mean, would that also be the case if a customer has the largest meter size, but yet,

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you know, their business is greatly diminished for the past year? Would they likewise be paying a disproportionate amount based on their water usage?

A. Sure, and it would probably make sense for that customer to downsize their meter size.

Q. But again, that's up to the customer to figure that out. Correct?

A. Yes.

Q. Let me refer to Exhibit C.

(Screen shared)

DEFENDANT'S EXHIBIT 11 MARKED FOR IDENTIFICATION PURPOSES (1 page - Draft Questions and Answers, 2/14/19; Exhibit C, Sample Evaluation of Rate Design Criteria; Excerpt Regarding Rate Equity from AWWA Publication Entitled "The Basics of Water Ratemaking")

Q. What is this document, and why did you include it as an exhibit to your Questions and Answers document?

A. Can you --

Q. I'm going to see if I can make it a little bit smaller so you can see the whole document on the screen -- or can you see the whole document? Maybe you can. Is that too small?

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I mean, you -- each customer would pay for whatever they use, and some utilities do still just have a pure volumetric without a base charge.

Q. But as we discussed earlier, you don't recommend simply a pure volumetric rate?

A. Right, because I recognize the need for revenue sufficiency.

Q. To the extent that there is a need for revenue sufficiency, does there have to be some portion of the bill that is not related to pure volumetrics, which means necessarily there is somebody being subsidized to some degree, if you're fully basing it on use? Right?

A. Right, right. I mean, the policy of AWA, as I mentioned, is to, you know, try and avoid subsidization. But as you mentioned, I mean, there's none of the -- most rate structures are not perfect.

Q. All right. So I guess that leads us to another question I had. Is there a perfectly equitable rate structure out there?

A. Well, I would say that, you know, a pure volumetric charge where a customer pays for exactly what they use, I think that's probably

about as equitable as you could possibly get.

Q. But yet that -- you know, you don't recommend that to your customers?

A. Right.

Q. Getting back to document number 10, which is that February 14th, 2019, Questions and Answers that you put together; was this designed to be your report?

A. I wasn't really tasked to do a report. I was -- we decided to put together something, you know, called Questions and Answers and provided it over to MPW.

Q. Was it provided to anyone else?

A. I mean, I provided it to Ross, and I mean, whoever he provided it to is -- my understanding is that it was provided, you know, to MPW, and so all I know -- my correspondence on this document has been with Ross alone.

Q. Do you know if Ross or anyone else provided it to anyone other than MPW?

A. I have no idea.

Q. Do you intend to draft a report in the future?

A. I have not been tasked with doing that.

Q. Has anybody asked you specifically not to draft a report?

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A. Yes.
Q. You take no issue with the fact that they are increasing their rates. Correct?
MR. APPEL: Object to form.
A. Yes, my issue is with equitability and reasonableness.
Q. So your issue is how those rates are distributed among the classes rather than the fact that they are raising their rates. Is that fair?
A. Yes. Who pays for -- what's a fair way to distribute the utilities' cost among the customer base.
Q. And again, you know, that touches on a point that now is probably as good a time as any to talk about. When we were talking about distributing the rate, I mean, we have a set amount that the -- in very simplistic terms, we have a set amount that the utility has to recover. Correct?
A. Yeah, the revenues have -- yeah, the analysis is done to determine what the expenditure needs or expenditure transfer needs of the utility are, and then so that determines how much revenue is needed. And then the question is how do we recover that revenue among our -- from our

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of relationship --

Q. But, I mean, it --

A. -- with actual usage.

Q. But it doesn't in the end. I mean, I can have a large meter size, and yet, you know, maybe my building is no longer a restaurant; maybe I'm living in it. I mean, you know, that's not -- my usage can go down tremendously, but I'm going to be charged the same, because you're charging me based solely on my meter size, not by how much water actually flows through that meter. Correct?

A. Uh-huh (affirmative response).

Q. So I mean, the water meter sized BFC is not related to usage -- to actual usage, is it?

MR. APPEL: Object to form.

Q. You can answer the question. Is it related to actual usage?

A. It should be, and as you mentioned -- as you talked about, you know, the customer would need to determine if the meter size is proper for determining -- you know, what meter is appropriate for their usage.

Q. Why is it okay for a customer to have to decide what size meter it should have, but yet it is

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EXHIBIT D

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Stantec

Memorandum

To:	Gray Culbreath and Amy L.B. Hill Gallivan, White & Boyd P.A.	From:	William Zieburtz
		Date:	March 19, 2021

Reference: Mount Pleasant Waterworks, SC v. Snee Farm Lakes

Municipal Utility Rates

Successful management of rates and charges required to sustain water and wastewater utilities requires that utilities balance policy, management, administrative, operational, and facility management objectives. Providing utility services is inherently complex, and the administration of rates and charges necessarily reflects that complexity. Water and wastewater utilities sit in a unique position in their provision of these fundamental services, having to plan and execute projects to maintain service reliability, meet changing and increasingly complex regulations, and respond to economic development opportunities, while maintaining cost-effective operations.

Mount Pleasant Waterworks (MPW) provides critical water and wastewater infrastructure to residents and businesses in its service area and needs to recover the fully allocated costs of service to provide these services now and in the future. As a public utility, MPW has an obligation to provide water and wastewater service to all customers in its service area.

Public utilities recover their costs from users through rate revenues, impact fees, interest income, and revenues from ancillary charges and other sources, with rate revenues representing the largest and most important share of the total. Rate schedules are established to recover costs from customers and customer classes.

The utility ratemaking process is complex and appropriate procedures differ by circumstance, but is often and usefully summarized by reference to three fundamental steps:

1. Revenue Requirements ("How Much?") – This step addresses the question of how much revenue is needed to sustain the utility's ability to meet its service objectives over the long term. Revenue requirements represent the amount of revenue that water and sewer systems must recover from rates charged to customers over a selected or constructed period (a "test year") to cover the cost of providing service after recognition of any offsetting revenues from other fees, miscellaneous charges, and other sources.
2. Cost of Service ("From Whom?") – This step supports the objective of recovering costs from customers and customer classes fairly and equitably. Cost of service studies allocate the costs of service to defined customer classes based on characteristics of use and potential use, reflecting, as practicable, the costs to serve.

3. Rate Design ("How Collected?") – This step develops an implementable and manageable rate structure and schedule of rates that will recover the identified amount of revenue requirements from each customer class.

Together, these steps provide a framework for establishing a utility's cost structure, understanding the way that actual and potential customer demands influence those costs, and development of feasible procedures for customer management and billing.

As indicated in American Water Works Association's (AWWA) M-1, the development of municipal utility rate structures requires the balancing of competing objectives and the recognition of unique circumstances inherent to each utility: "The process of selecting the most appropriate rate structure for a particular utility is not simple. The selection is complex because there are so many types of rate structures. No one rate structure meets all utility objectives equally, and not all objectives are valued the same by the utility or its customers."[1]

Common industry practice is a two-part rate structure comprised of both fixed and variable charges. Generally accepted practice recovers a portion of the costs of the system in a fixed readiness-to-serve charge, recognizing that utilities have substantial investments in capacity-related costs and other fixed costs that are incurred year-round to maintain a state of readiness to meet peak demands of their customers when they occur. Simply put, utilities incur these fixed costs regardless of the level of customer usage. Remaining costs are recovered through volumetric charges, reflecting metered or estimated usage, and commonly incorporating inclining block rate structures in areas of the country where water conservation is essential.

Fixed charges, such as MPW's Basic Facility Charges (BFC) help contribute to revenue stability for the utility and bill predictability for the customer. The benefits to the utility are recognized in M-1: "Relying solely on volumetric rate increases to implement conservation efforts can increase the risk of revenue erosion and increase revenue volatility."[2]

Key points relevant to MPW's rate structure

1. **There is no ideal rate structure in the water industry**

   Water and wastewater utilities vary widely in fundamental ways and as a result, there is no single rate structure deemed to be ideal within the industry. Differences in the natural environment, technologies employed, customer makeup and density, growth or contraction of the customer base and usage, and numerous management and public policy objectives, among other factors, result in the use of a wide variety of rate structures.

---

[1] Principals of Water Rates, Fees, and Charges, Manual of Water Supply Practices, AWWA M1, Seventh Edition, 2017, pp 103-104
[2] Principals of Water Rates, Fees, and Charges, Manual of Water Supply Practices, AWWA M1, Seventh Edition, 2017, p 153

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Reference: **Mount Pleasant Waterworks, SC v. Snee Farm Lakes**

A utility's decision makers and leadership team are forced to balance multiple and competing objectives in selecting a rate structure, including:

- Revenue sufficiency
- Revenue stability
- Water conservation
- Equity in cost recovery
- Customer understanding
- Customer bill predictability
- Administrative expense and efficiency

Well managed water utilities appropriately take different approaches to the balancing of these objectives and never limit their attention to just one of these attributes. The variation in local conditions and the balancing of competing objectives contributes to the variation in rate structures employed.

Common structures for base or fixed charges include:

- Meter size – Meter sizes or equivalent meter ratios reflecting alternative estimates of the potential demand from meters of different size are frequently used to distribute costs to users.
- Equivalent unit – Equivalent unit systems such as MPW's REU system reflect alternative estimates of demand or potential demand from households and business establishments of different types and sizes and also are frequently used to distribute costs to users.
- Uniform fixed fee – Some utilities charge uniform fixed fee amounts for customers, usually differentiating by customer class. This approach may tend to achieve less equity in cost recovery, but may be appropriate for smaller systems and in cases where administrative simplicity is particularly important.

2. **There is no perfectly equitable rate structure**

Even if a utility's sole objective in selecting a rate structure were to maximize equity in cost recovery, there is no ideal rate structure to achieve that end. Every rate structure rests on judgements about the magnitude of different cost drivers and the best ways to approximate, estimate, and recognize differences in cost drivers among users and user classes.

Specific to MPW's rate structure, if MPW were to update its REU assignments annually or even more frequently, it would not necessarily result in increased equity in cost recovery versus a pattern of infrequent updates. The reason is that solely relying on average usage patterns fails

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Reference: **Mount Pleasant Waterworks, SC v. Snee Farm Lakes**

to recognize the important role of peak and potential demands in utility cost structures. While imperfectly reflected in any meter ratio or equivalent unit system, peak and potential demands do drive substantial portions of utility costs and are almost always a component of well-developed rate structures.

3. **Measures of potential water demand provide a part of the basis for most fixed charges**

   Whether reflecting meter size and capacity ratios or an equivalent unit system, the basic function of the fixed charge component of a rate structure is to recover some costs in a way that does not align with average consumption patterns. Fixed charges encompass both per-customer cost allocations for administrative costs and capacity-driven allocations for selected portions of other fixed costs, with the latter most frequently being linked to representations of peak or potential demand profiles by class or customer. Various water meter size ratios are the most common method of recognizing these demands, with a variety of equivalent unit systems providing the same function for the majority of the systems not relying on meter size ratios. For example, Charleston Water, SC and Greenville Water, SC have base facility charges based on meter size. Analogous to MPW's BFC system, customers are charged fixed fees even if zero usage is reported.

4. **Right-sizing of the capacity allocation for base charges is not standard practice**

   Regular right-sizing of equivalent unit assignments is not standard practice among utilities. While employed in some situations, the more common practice is for utilities to set an initial base charge framework for customers and to leave it unchanged unless service conditions change or a customer query leads to a reassessment of demand characteristics. Changes in the basis for the application of base charges reduce bill predictability for customers and revenue stability for utilities, increase administrative costs to both customers and utilities, and may reduce the degree to which the base charge system recognizes peak and potential demands.

5. **MPW's rate structure and practices** are consistent with common practice among utilities and appropriately recognize peak and potential demands in the application of base charges. More frequent updates of REU assignments would not necessarily improve equity in cost recovery overall.

DRAFT

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EXHIBIT E

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From: Joe Crea
Date: November 09, 2017 12:05:00 PM (-06)
To: 'Nicole Bates'
Subject: **RE: sorry one more**

Attachments:

Nicole,

There isn't a universal term for this as it's a fairly unique practice. I'm slightly hesitant to call it a Capacity Reservation Fee because the impact fees are what a customer pays to "reserve" their rights to capacity in the system. It's almost like a "Capacity Reinstatement Fee" or "REU Restoration Fee." Not sure if either of those help at all.

Joe

Joe Crea
513.235.3074
Raftelis Financial Consultants, Inc. www.raftelis.com

RFC is a Registered Municipal Advisor with the MSRB and SEC under the Dodd-Frank Act and is fully qualified and capable of providing advice related to all aspects of utility financial and capital planning, including the size, timing, and terms of future debt issues. Any opinion, information, or recommendation included in this email correspondence related to the size, timing, and terms of a future debt issue may be relied upon only for its intended purpose. This information is not intended as a recommendation to undertake a specific course of action related to the issuance of debt, or to indicate that a particular set of assumptions for the size, timing, and terms of issuing debt will be available at the time debt is actually issued.

From: Nicole Bates [mailto:nbates@mpwonline.com]
Sent: Wednesday, November 8, 2017 8:07 PM
To: Joe Crea <jcrea@raftelis.com>
Subject: Re: sorry one more

Ok.

Our Cost Recovery Policy references a "Capacity Reservation Fee", but there is not a definition for this term within the document. I could not find much info about this term in general. In the index of the Raftelis book it said: see SDC for Capacity Use, but after I sent this email I read about about SDC and realized the terms were not interchangeable.

Yes, I am looking for the proper term for someone that lowers REUs but then wants to increase to their original allocation or somewhere under that. We will require them to pay either back BFC or Impact Fees whichever is less. So should I define Capacity Reservation Fee or is there a more universal term that can be used in its place?

Thanks, I appreciate your help. I guess some of those accolades and accomplishments must be true. Either way, you have a nice photo in an important looking book ;)

Nicole

On Nov 8, 2017, at 5:17 PM, Joe Crea <jcrea@raftelis.com> wrote:

> What fee is this for, the charge of someone lowered their REU allocation by wants to have the ability to move back up in the future?
>
> System development charges is a common name used for impact fees, so it may be confusing to use it for a different purpose.
>
> Joe
>
> Joe Crea
> Manager @ Raftelis
> 513.235.3074
>
> * Sent from my mobile phone, please excuse brevity and errors.

From: Nicole Bates <nbates@mpwonline.com>
Sent: Wednesday, November 8, 2017 4:25:58 PM
To: Joe Crea
Subject: sorry one more
Should we use "system development charges" instead of "capacity reservation fee"?
Thanks again,
Nicole
Nicole Bates
Customer Services Manager
Mount Pleasant Waterworks
843.814.2076 (m)
843.388.1152 (p)
843.388.1153 (f)
<image001.jpg>

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EXHIBIT F

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IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

DEPOSITION OF LONA VEST
30(b)(6) SNEE FARM LAKES HOA

SNEE FARM LAKES HOMEOWNERS ASSOCIATION, INC., individually and on behalf of those Similarly situated,

Plaintiffs,

vs. CASE NO. 2018-CP-10-2764

THE COMMISSIONERS OF PUBLIC WORKS FOR THE TOWN OF MOUNT PLEASANT d/b/a MOUNT PLEASANT WATERWORKS,

Defendants.

DEPONENT: LONA VEST
DATE: MAY 23, 2019
TIME: 9:30 A.M.
LOCATION: McCULLOUGH KHAN
CHARLESTON, SOUTH CAROLINA

REPORTED BY: DARAH NEKOLA, RPR, CSR(IA)
NCRA CERTIFIED REPORTER
CLARK & ASSOCIATES, INC.
CHARLESTON, SC 29415
843-762-6294
WWW.CLARK-ASSOCIATES.COM
Darah@clark-associates.com

APPEARANCES

ON BEHALF OF PLAINTIFF:

MCCULLOUGH KHAN, LLC
BY: ROSS APPEL
359 King Street
Charleston, SC 29401

- and -

McGOWAN, HOOD & FELDER
BY: JAMES L. WARD, JR.
321 Wingo Way
Mt. Pleasant, SC 29464

ON BEHALF OF DEFENDANT:

ROSEN HAGOOD, LLC
BY: JAMES A. "CHIP" BRUORTON, IV
151 Meeting Street
Charleston, SC 29401

- and -

GALLIVAN, WHITE, AND BOYD, P.A.
BY: GRAY T. CULBREATH
BY: AMY HILL
1201 Main Street, Suite 1200
Columbia, SC 29201

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straight to college.
Q. And do you hold any professional licenses?
A. I have in the past. I don't currently.
Q. What have you held?
A. I have had a South Carolina real estate license, and I have had a property manager license.
Q. When did that property manager license lapse?
A. A long time ago.
Q. I take it you don't have to have a property management license to be a property manager?
A. You don't have to have a property manager license to be a regime manager. I don't do any rentals. I only do regime and association management. If I were to lease property, I would need to be licensed.
Q. Ever served in the military?
A. No.
Q. Have you ever been convicted of a crime?
A. No.
Q. Ever been arrested?
A. No.

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Q. Do you know why you're here today?
A. Yes.
Q. Why are you here today?
A. I'm your point person as it relates to the lawsuit that Snee Farm Lakes -- the class action suit that's been brought against the Mount Pleasant Waterworks.
Q. Okay. And in your own words, explain to me what -- why Snee Farm Lakes brought this lawsuit.
A. We received a letter in the mail stating that we had been overbilled using basically a basic fee every month, and we were offered the opportunity to reduce that basic fee. In the letter, in round terms, it explained how much money had been overcharged, and the board of Snee Farm Lakes decided to seek legal counsel and wanted to recover previous moneys that were paid as a result of this overcharging, and we brought a suit.
Q. What do you mean by overcharging?
A. The -- if you read the letter, we were being charged a certain basic fee every month for the availability of water, and we were told that the basic fee was more than two times greater

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than the fee that it should have been.
So before we turned on the first tap, we were -- the regime was paying basic fees in excess of fees of what they should have been paying. And the first question the board had was, how long have we been paying this?
We haven't been able to clearly identify how long we have been paying this, but the board is under the impression it's been for multiple years. And given the amount of money we're talking, it's a sizable sum.
Q. Do you know how much?
A. I believe they have been overcharged in the change of between 20- and $25,000 each year, and depending on the number of years in question, it could be a large sum of money.
Q. Do you know how the bills for Snee Farm Lakes are calculated, like the total charges, what each component is?
A. I didn't until I got the letter and started to look into the basic fees. I was aware that a basic fee was charged every month on the bills, but I did not realize how that was arrived at by the Town of Mount Pleasant or, pardon me, Mount Pleasant Waterworks.

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Q. How did -- how were you aware that basic fees were charged on the bill prior to getting this letter?
A. They're on the bill. It states, basic fee.
Q. You ever question what that was for?
A. I had been told previously by other water departments that there were basic fees for the availability of water, so I was familiar that -- we manage properties throughout the Charleston County area, and there are basic fees associated with each of the water bills.
Q. Okay. Who -- what other properties do you manage in Charleston that are part of other municipal organization's water systems?
A. We manage -- you know, we manage about 45 pieces of property in the Charleston area, but a similar or like comparison would be I manage two high-rises in Wild Dunes that have a single meter for the entire building. So we obtain water from Isle of Palms Waterworks.
Q. And they charge you a basic facility charge as well?
A. Yes. Then we also manage -- or I personally manage, on Folly Beach, Charleston

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was calculated?
MR. APPEL: Object to the form.
A. No.
Q. Do you know who provided that information to Mount Pleasant Waterworks?
A. No.
Q. Do you know Mr. Seabrook?
A. Yes, I do.
Q. And he's an engineer?
A. Yes.
Q. Does he still do the work for the HOA?
A. He has done work for the HOA in previous years. Not recently.
Q. And do you know how many gallons one REU is?
A. Not off the top of my head, no.
Q. If I were to represent to you that it's 300, does that refresh your recollection?
MR. APPEL: Object to the form.
A. I think that was in the letter, yes.
Q. If you divide 44,400 by 300, what do you get?
A. I don't know. I'm a property manager, not a mathematician.
Q. Can you do it? You have your phone,

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right?
A. Yeah. Say that again. 400 and what --
Q. 44,400 divided by 300.
A. 148.
Q. Okay. And do you understand 148 is the designated number of REUs that Snee Farm Lakes HOA has designated to it by Mount Pleasant Waterworks?
A. Yes.
Q. Do you know what the purpose of that REU designation is?
MR. APPEL: Object to the form.
A. My understanding as a layperson is that basically it's the ability to provide that type of demand for water. So it's basically an availability fee for the Mount Pleasant Waterworks to be able to provide that amount of water if the consumers were to use that amount of water.
Q. And how many unit owners at Snee Farm Lakes live there full-time?
A. 82 out of 148. That may -- plus or minus one or two.
Q. And does the HOA have any control as to when a unit owner occupies its unit?

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A. No.
Q. And of the 66 that someone doesn't occupy full-time, are those rented?
A. The majority of them are rented. Some of the unit owners own the units as second homes, but not many.
Q. And are they rented on a weekly basis? Monthly basis? Do you know?
A. The master deed states that it has to be a minimum of a one-month rental, but my best guess is that the majority of the units are rented on a 12-month basis at least initially.
Q. Do you know what a class action is?
A. Yes.
Q. What is it?
A. It's a lawsuit that is brought that represents multiple parties who have similar claims.
Q. And is this a class action case that you're testifying in today?
A. Yes.
Q. And what group of individual or entities did Snee Farm Lakes bring this suit on behalf of?
A. Can you rephrase your question?
Q. Sure. You understand that Snee Farm

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Lakes is the class representative?
A. Correct.
Q. What individual or entities are they serving as the class representative for?
A. I don't know all the parties involved in the suit. I would assume it's anybody else who feels they've been overcharged.
Q. Do you know how many letters that we marked as Exhibit Number 4 that Mount Pleasant Waterworks sent out?
A. No.
Q. Do you know how many responses they got to those letters?
A. No.
Q. Do you know how many people reduced REUs based off receipt of that letter?
A. No.
Q. Do you know whether Simmons Pointe reduced its REUs?
A. No, they did not.
Q. Did the board make a decision not to reduce its REUs?
A. Yes. They had a similar thought process that -- Snee Farm Lakes did. They didn't want to change their position to possibly collect

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previous money.
Q. And then you mentioned Bay Club. Did they reduce?
A. Yes, they did.
Q. Do you know what they reduced them to?
A. No, I don't. I'm not their individual manager.
Q. Who is?
A. Dawn Lord. D-A-W-N. L-O-R-D. And Dawn handled filling out paperwork for them.
Q. And I have seen her name on a lot of the minutes. So is she the manager of Snee Farm Lakes or are you?
A. I am. She is helping me. I own PMS, and I also am personally managing about 11 pieces of property, which is a lot. And so we made a decision to have Dawn co-manage and help me in an effort to lighten my load, but Dawn's inclusion has been more recent. Dawn's only worked for us for I want to say about two years this June.
Q. And as far as the water bills that the HOA received, who do those go to?
A. They come in and they're opened by -- I have an accounts payable person who goes through and codes all the bills for each of the

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individual regime and re-sorts them, and then they go to each manager and the managers approve them, and we pay bills twice a month.
Q. So that's something you can approve independent of going to the board to make those bills paid?
A. Yes.
Q. Did you or anyone on behalf of PMS ever communicate with the board a concern about being overcharged on your water bills?
A. No, I didn't realize I was being overcharged until I got the letter.
Q. Did you ever attempt to calculate the number of REUs you were being charged for versus how many you believed you were using based off of the information that was provided on your bills?
A. No.
Q. Do you know whether you can do that calculation based off the information provided on your bills?
A. I don't believe so. I don't believe I knew at any point that there was -- 148 was the factor that they were using as the multiplier.
Q. Let's just mark -- let's see. We will mark this stack.

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(Exhibit No. 6 was marked for identification.)
Q. You stated earlier that you participated in the production of documents in this case?
A. Yes.
Q. And were you the person that provided these bills for production?
A. Yes.
Q. Why did you only provide the front page?
A. I thought that included all the information you needed. If you need the back side, I'm happy to provide it.
Q. Have you ever read the back of the bill?
A. I don't know that I have.
Q. Do you know whether the back of the bill explains to the customer the REUs versus BFC calculation?
A. No, I don't know.
Q. If you look at the stack of bills that I gave you, it says, REU number size 148. Do you see that?
A. No. Show me where you're looking. I apologize. I don't know that I knew that's what that was.
Q. Did you ever ask anybody at Mount

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Pleasant Waterworks what the different numbers on the bill was?
A. No.
Q. And then this is the bill for the -- the first bill on Exhibit 6 is a bill for January 11th, 2017. Do you see that?
A. Yes.
Q. And it shows that the meter read 556,000 gallons in 29 days?
A. Yes.
Q. Do you know how many REUs that is?
A. No.
Q. If the back of the bill told you that an REU was based off 300 gallons per day, would you be able to make the calculation?
A. Probably.
Q. If you look up at current charges you see, Water commercial.
A. Yes.
Q. All gallons T-1. Do you know what that is?
A. No.
Q. On the back of the bill if it explains to the customer the different tiers, Tier 1, 2, 3 and 4 as to how many gallons fall within each

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your deposition?
A. No.
Q. Have you maintained a file related to this case?
A. No.
Q. Have you spoken with any of the rate consulting experts that have been designated in this case?
A. No.
Q. Do you know who the HOA's expert is?
A. No.
Q. What is PMS's role in this litigation?
A. Support.
Q. And are you charging an hourly fee for your litigation support?
A. No.
Q. Does PMS have a financial interest in the outcome of the case?
A. No.
Q. Do you know how much Snee Farm Lakes paid PMS for property management services in 2018?
A. I think $24,000.
Q. Is that just a lump sum?
A. It's just a lump sum. $2,000 a month.

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And then they gave me -- as I said this year, they bumped it. And I can't tell you exactly. It's like 2,100 and change now a month.
Q. And that's not something you sought? That's something they gave you?
A. I didn't ask them for an increase, no. They struggle financially. And I have the right in my contract to ask them for additional funds for my time, but I haven't asked them for it.
Q. I am terrible with names. Who is it that manages Bay Club?
A. Dawn Lord.
Q. Did Dawn have any discussions with you about Bay Club's board's intent to reduce their REUs before they did it?
A. Yes.
Q. What did you-all talk about?
A. We talked about her phone call to Mount Pleasant and the conversation about the -- we discussed the letters that we had gotten. We got three letters, Snee Farm Lakes, Simmons Pointe, and Bay Club. And she stated that that board wanted to pursue making the reduction, and so she went through the process of doing that.
Q. She attends some of these -- or a lot of

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these board meetings for Snee Farm Lakes. Do you ever attend Bay Club?
A. No.
Q. Do you have any knowledge or understanding as to why that board chose to reduce its REUs?
A. No.
Q. Is one of your functions at the board meetings to take minutes?
A. Yes. I have not been the one taking the minutes more recently. Dawn has, but I did it for years.
Q. Does the HOA have a general counsel that consults the board on legal issues?
A. Yes.
Q. Who is that?
A. John Dodds.
Q. Did the board ever have any discussions about this case with Mr. Dodds?
A. No.
Q. How are your annual meetings advertised?
A. We send a 30-day meeting notice by letter form by snail mail, and then we typically post -- there's a -- by the mailboxes there's a message board, and we will typically post a

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reminder there. And it's held the same time every year. The master deed prescribes when it's to occur, and oddly enough in the master deed they chose election day every year, so we don't have it on election day. We have it on the following Thursday. So if you look back, it's the same Thursday every single year.
(Exhibit No. 12 was marked for identification.)
Q. Just for housekeeping purposes, have you seen Exhibit 12 before?
A. I have.
Q. What is Exhibit 12?
A. Master deed and bylaws.
Q. For Snee Farm Lakes?
A. Yes.
Q. And is this a true and accurate copy of this master deed and bylaws?
A. Yes.
Q. Have there been any significant amendments to this document?
A. Yes. They passed an amendment in the last couple of years to create a capital contribution during each sale.
Q. So a percentage of the sale will go back

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EXHIBIT G

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MOUNT PLEASANT WATERWORKS
PO BOX 330
MOUNT PLEASANT, SC 29465

Customer Service & Billing Inquiries
843-884-9626

Visit us Online at:
mountpleasantwaterworks.com

Account Number	Service Address
[redacted]3890	[redacted]

Bill Date	Past Due	Due	Current Charges	Due Date
11/14/2018	$0.00		$10571.91	12/10/2018

Transactions	Amount
Previous Balance	$11284.81
Payment - Thank You	$11284.81CR
Balance Forward:	$0.00

Current Charges	$10571.91
Water	
Water - Commercial - T1 (All Gallons)	$2917.92
Water - Basic Facility Charge	$1243.20
Wastewater	
Wastewater - Commercial - T1 (All Gallons)	$3939.19
Wastewater- Basic Facility Charge	$2471.60

Account Balance	$10571.91

MPW1113A AUTO SCH 5-DIGIT 29464
7000001066 00.0004.0031 1039/1

SNEE FARM LAKES HOA
PROPERTY MANAGEMENT SERVICES
[redacted]

Special Message

Service Line Care Program - Enroll Today! For the low price of $5.95 per month, you can remove the hassle of dealing with both water and wastewater service line repairs and let your local water experts take care of you. Visit www.mountpleasantwaterworks.com for details. The office will be closed November 22 and 23 for Thanksgiving.

Meter Reading Information

Service	REU # / Size	Read Date	Previous Read	Current Read	Days	Gallons
Water	148	10/17/2018	1,897,000	1,905,000	23	607,900

Make checks payable to Mount Pleasant Waterworks.
Please include your account number on your check.

For payment options please see the back of your bill.

Customer # [redacted]0158 Account # [redacted]3890

SNEE FARM LAKES HOA
PROPERTY MANAGEMENT SERVICES
[redacted]

Past Due, Pay Immediately	$0.00

Please do not wait until the current charges are due to pay the past due amount.

Current Charges	$10571.91
Current Charges Due Date	12/10/2018

Amount Enclosed	$

A late payment charge will be added to any balance remaining after the due date.

MOUNT PLEASANT WATERWORKS
PO BOX 602832
CHARLOTTE, NC 28260-2832

00040158003538900001057191

MPW-03143

Customer Service & Billing Inquiries
843-884-9626

Past Due Accounts
Full payment is due by the date on this bill. Delinquent accounts are subject to the charges listed below and disconnection of service.

Delinquent Charges (days after bill date)
Late $5.00+2.5% charged on day 27
Non-Payment $65.00 charged on day 43
Disconnection on or after day 43

Return Transaction Fee $30.00 per check or Automated Clearing House (ACH) transaction. After 3 checks or ACH transactions are returned, only cash, cashier's check, money order or valid credit card will be accepted.

Meter Reading
Your water meter is read once a month, approximately every 28-31 days. Meters are read by a mobile collection unit that receives transmissions from a small radio device on your meter as an MPW vehicle drives through your neighborhood. If we are unable to read your meter, we attempt a visual read or your bill will be estimated based on your previous water usage. Please keep the area around your meter free of any obstacles such as debris, cars, bushes or unfriendly dogs, which may prevent us from checking/reading your meter.

About Your Bill
Your water bill is based on how many gallons of water you use each month. A Basic Facility Charge for residential and commercial customers is a monthly base charge on the number of Residential Equivalent Units (REUs) assigned. The Basic Facility Charge for irrigation customers is based on the size of the meter.

Water and Wastewater Volumetric Charge
Mount Pleasant Waterworks (MPW) uses a volumetric water and wastewater charge. One REU equals 9,200 gallons per month, which is the allowance provided to a single family residence. Multi-family and commercial developments can be assigned multiple REUs.

When monthly usage exceeds the number of allowed REU gallons, the volumetric rate is multiplied for each 1,000 gallons over the REU allowance. The four tiers are:
Tier 1: all gallons charged at the volumetric rate
Tier 2: charged at 2 times the volumetric rate >9,200 gallons
Tier 3: charged at 3 times the volumetric rate >18,400 gallons
Tier 4: charged at 4 times the volumetric rate >27,600 gallons

For irrigation customers, the number of gallons allowed in each tier depends on the size of the meter.

The number of gallons billed in tier 1 and the excessive use tiers is shown on the front of this bill. Please see the rate card for tier costs.

Wastewater Volumetric Charge
The wastewater volumetric charge is based on the monthly water gallons billed.

Other Rates, Fees and Charges
Visit www.mountpleasantwaterworks.com or call 843-884-9626 for information on other rates, fees and charges.

Visit us Online at:
mountpleasantwaterworks.com

Commission Meetings
The Commission typically meets on the third Monday of each month at 5:30 p.m. in the Public Meeting Room at the MPW Operations Center, 1619 Rifle Range Road. You are invited to attend. Please confirm meeting date and time by visiting our website.

Round-Up!
Supporting a good cause for less than $1 a month is easy with the Round-Up program. A few pennies can have a powerful positive impact on people's lives. Round-Up is a convenient and painless way for MPW customers to help families in our community and the world. You can agree to round up your water bill to the next highest dollar each month, with the extra change going to either Customer Care or Water Missions International, the choice is yours. Visit our website for more details and sign up for Round Up.

Your Water
MPW has two water sources: groundwater from the Middendorf Aquifer, and purchased surface water from Charleston Water System (CWS).
The Middendorf Aquifer is a large body of pristine groundwater between 1,800 and 2,000 feet deep beneath the coastal plain of South Carolina. MPW treats the raw water using state-of-the-art reverse osmosis technology. The treated surface water provided by CWS is from the Bushy Park Reservoir and the Edisto River. Our water meets or exceeds all water quality regulations and Safe Drinking Water Act requirements.

For more information about your water please visit our website where you can find our Annual Water Quality Report.

Payment Options:
Pay Online: mountpleasantwaterworks.com

Automatic Payments: Sign up online for Easy Pay and have your checking/savings account or credit/debit card charged each month.

By Phone: Call (843) 884-9626 and our automated payment system can help you with your account status and payments 24 hours a day. You will need your customer and account numbers found on the front of this bill.

In Person: Visit our Operations Center lobby or drive-thru during business hours (9:00 a.m. to 5:00 p.m.) or drop off in the drop box, 1619 Rifle Range Road Mount Pleasant.

Mail: Mail payments to Mount Pleasant Waterworks, PO Box 602832 Charlotte, NC 28260-2832 (Why Charlotte? Mailing to this payment processing center keeps rates low and saves you money.) Be sure to allow extra time for your mail to travel to Charlotte, NC so your payment arrives on time.

Billing Options:
Switch to paperless billing and receive one less piece of mail a month. Sign up for MPW's Online Account Management and receive your bills and newsletters via email. It's quick and easy.

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EXHIBIT H

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Policy 5.3.3 – Impact Fee Management

REASON FOR POLICY

To establish policies regarding Impact Fees assessed by Mount Pleasant Waterworks (MPW) and assessment of customer usage of water and wastewater services.

DEFINITIONS

These definitions apply to the terms as they are used in this policy.

Term	Definition
Impact Fee	Impact fees are charges assessed against properties to recover part of the capital costs of expanding the water and wastewater infrastructure to serve said properties. Considered as a capital-recovery charge, impact fees allow recovery of the capital costs of developing the capacity directly from the customers who will benefit from the service. Impact fees are further defined in Section 8 of the Cost Recovery Policy.
Residential Equivalent Unit (REU)	An REU is equal to 300 gallons per day. REUs are allocated to all MPW customers. When REUs are calculated, MPW will round up to the next whole number.

POLICY

Request for Reduction in REU's after second full calendar year of active service

If a property uses less water than allowed under the number of REUs assigned to the property or for which impact fees were paid, the property owner may request in writing to MPW a reduction in the REUs applicable thus reducing the monthly water and wastewater Basic Facility Charges. Only one request for reduction of REUs shall be allowed per fiscal year. The reduction of REUs shall not be less than the monthly average of the highest quarter for the most recent three years. All requests for reduction of REUs must be received in writing (by form submittal) by MPW prior to March 15th each year. Should the request for reduction be approved, the effective date of the reduction shall be July 1st.

If REUs are reduced for a property after the second full calendar year of active service, there will be no refund of previously paid impact fees. If the usage of the water and wastewater systems

within any given month surpasses the reduced amount of assigned REUs the customer shall be responsible for excessive use charges as set forth in MPW Policy 4.1.1.

Increase of Reduced REUs

If a property owner previously reduced the number of REUs or if the REUs have lapsed the property owner may adjust active REUs once per year to a number that does not exceed the REUs originally assigned to the property. In order to add any reduced or lapsed REUs back to the property, impact fees or back BFCs must be paid at MPW's current rate in accordance with Policy 5.3.2 (whichever is less).

Purchase of Additional REUs

The property owner at any time may purchase additional REUs at any time by paying MPW's current impact fees in accordance with MPW Policy 5.3.2.

REFERENCES

- MPW Cost Recovery Policy
- MPW Resolution 03-96
- MPW Current Budget Resolution Establishing Customer Chagres
- MPW Resolution 05-2011 – Water and Wastewater Use Resolution of the Mount Pleasant Waterworks Service Area.
- Town of Mount Pleasant Ordinances Amending Chapter 51 of Title V

DOCUMENT CONTROL

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2018-CP-10-2764
Snee Farm Lakes Homeowner's Association, Inc., individually and on behalf of those similarly situated,	)	
Plaintiff,	)	**PLAINTIFF'S MOTION TO ALTER OR AMEND PURSUANT TO RULE 59(e), SCRCP**
v.	)	
The Commissioners of Public Works for the Town of Mount Pleasant d/b/a Mount Pleasant Waterworks,	)	
Defendant.	)	

Plaintiff Snee Farm Lakes Homeowner's Association, Inc., individually and on behalf of those similarly situated ("Plaintiff"), hereby moves pursuant to Rule 59(e), SCRCP for reconsideration and to alter or amend this Court's Order Granting Defendant the Commissioners of Public Works for the Town of Mount Pleasant d/b/a Mount Pleasant Waterworks' ("MPW") Motion for Summary Judgment (hereinafter, the "Order"). The Order contains several mistakes of law including:

- failing to address the law on service and user fees;
- misstating the relevant legal framework on reasonableness;
- misapplying the standard of review; and
- misunderstanding the affirmative defenses.

Each of these errors alone justifies rehearing and when considered in sum reveal the faulty legal predicates in which the Order rests its decision. Accordingly, Plaintiff requests this Court grant rehearing to review the motion though the proper legal lens.

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ANALYSIS

"The purpose of Rule 59(e), SCRCP, to alter or amend the judgment[,] is to request the trial judge to 'reconsider matters properly encompassed in a decision on the merits.'" *Coward Hund Const. Co. v. Ball Corp.*, 336 S.C. 1, 4, 518 S.E.2d 56, 58 (Ct. App. 1999) (alteration in original) (quoting *Arnold v. State*, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992)). A Rule 59(e) motion not only a vehicle to request the trial court "alter or amend the judgment," but also as a vehicle to seek "reconsideration" of issues and arguments. *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 21, 602 S.E.2d 772, 778 (2004). "There is nothing inherently unfair in allowing a party one final chance not only to call the court's attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument." *Id.* at 22, 602 S.E.2d at 779. "If the losing party has raised an issue in the lower court, but the court fails to rule upon it, the party must file a motion to alter or amend the judgment in order to preserve the issue for appellate review." *I'On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000).

I. The Order Fails to Address Plaintiff's Arguments Regarding the Applicable Law on Service or User Fees.

At the outset, the Court failed to address Plaintiff's arguments relating to the "service and user fee" statutes, specifically Sections 6-1-300(6) and 6-1-330(B) of the South Carolina Code. In so doing, the Court ignored a controlling body of law that stands at the heart of Plaintiff's arguments. Plaintiff requests a ruling on this issue, which was not addressed in the Order. *See I'On, L.L.C.*, 338 S.C. at 422, 526 S.E.2d at 724. This omission is particularly relevant given the Supreme Court's recent decision in *Burns v. Greenville County Council*, Op. No. 28041 (S.C. Sup. Ct. filed June 30, 2021) (Shearouse Adv. Sh. No. 22 at 11), which offered further clarification on the application of the service and user fee statutes in situations such as the one before this Court.

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Water and wastewater utility charges such as the Base Facility Charge (BFC) at issue here are "service or user fees" under Section 6-1-300(6) of the South Carolina Code. *See Azar v. City of Columbia*, 414 S.C. 307, 310, 778 S.E.2d 315, 317 (2015) ("The City admits the [revenue from water and sewer services] at issue fall within the definition of 'service or user fee' as the term is statutorily defined [under section 6–1–300(6)]."). As a service or user fee, BFC must be "paid in return for a particular government service or program made available to the payer that benefits the payer in some manner different from the members of the general public not paying the fee." S.C Code Ann. § 6-1-300(6). Essentially, the statute requires that a service or user fee provide some special benefit to the members of the public paying that fee.

The law therefore draws the parameters in which the government can set "service or user fees," including water and sewer rates. This limitation—and whether MPW has violated it by way of the excessive BFC paid by Plaintiff and the Class—is directly at issue in this case. Section 6-1-330(B) prescribes that "[t]he revenue derived from a service or user fee imposed to finance the provision of public services **must be used to pay costs related to the provision of the service or program for which the fee was paid**." (emphasis added). Therefore, the fees charged to each customer are limited to the amount necessary to pay the costs associated with the service to each customer. In short, there are statutory limits on how much BFC MPW can charge each customer, and Plaintiff and the Class allege these limits were violated.

The Order addresses only whether MPW has violated section 6-1-300(6) and *Azar* in terms of how the money collected is *spent*.[1] (Order Granting Def.'s Mot. for Summ. J., p. 9). This is a materially incomplete and deficient analysis that does not track Plaintiff's actual argument, which

[1] The Court's holding in *Azar* addressed the City of Columbia's spending practices but did not indicate the statutory limitations only applied to how the money was spent.

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is that the law requires a rational nexus between the fees customers are being charged and what they receive in return, and it is this point that the Order failed to address.

Plaintiff has argued the user fee statutes not only provide limitations on how a public entity can spend the money, but also dictates how user fees must be calculated and assessed. Plaintiff alleges the excessive BFC it paid were not in return for any discrete use, service, or commodity because they were calculated based on outdated and excessive demand assumptions, not actual demand based on actual use records over time. By over-charging in this manner, Plaintiff and the Class pay for "capacity"[2] they do not need and certainly do not use—as illustrated by years of actual use data and according to MPW's own 2018 letter to Plaintiff. Pl.'s Opp'n to Mot. for Summ. J. Ex. H at MPW 02271-02273. The excessive BFC, therefore, do not conform to the statutory mandate of proper service or user fees because they fail to hew to the costs related to the provision of the service received by Plaintiff and the Class.

The Order fails to discuss these arguments, which provide the foundation of Plaintiff's case. In so doing, the Order simply accepts MPW's characterization at face value without scrutinizing its position. Although customers are entitled to rely on the government in ratemaking, the Court is the *only* check to that power. *See* 12 McQuillin Mun. Corp. § 35:56 (3d ed.) ("A customer is entitled to assume that a municipal utility is charging it for service at the most favorable

[2] The evidence presented suggests that this idea of capacity reservation is not an entirely accurate description of how REU functions within ratemaking. MPW's attorney, James Atkinson "Chip" Bruorton, IV, has explained that REU reflect capacity and not actual use: "The REUs are the designated monthly use capacity for a piece of property that is allocated within the established water and wastewater system." Pl.'s Opp'n to Mot. for Summ. J. Ex. N at RAFTELIS 002015. However, Joe Crea from Raftelis Financial Consultants (MPW's rate consultant at the time) clarified to MPW as it was drafting its policies on REU adjustments, "the impact fees are what a customer pays to 'reserve' their rights to capacity in the system." *Id.* Ex. O, RAFTELIS 002124. Plaintiff and the Class have already reserved their right to capacity with the payment of impact fees.

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rate available. The city is under a legal duty to disclose to the customer the availability of a more favorable rate." (citing *City of Commerce v. Duncan & Godfrey, Inc.*, 277 S.E.2d 266 (Ga. Ct. App. 1981)). The Supreme Court emphasized this responsibility in *Burns*, with the concurrence unequivocally stating that "[g]oing forward, courts will carefully scrutinize so-called 'service or user fees' to ensure compliance with section 6-1-300(6)." *Burns*, Op. No. 28041 (Shearouse Adv. Sh. No. 22 at 14) (Kittredge, J., concurring). Without an entity like the Public Service Commission carefully reviewing the rates set by MPW, the responsibility belongs with the Court. Plaintiff therefore respectfully requests this Court rule on the application of the legal framework in its entirety.

II. The Order Misstates the Law on Reasonableness.

In addition to overlooking a portion of the analysis, the Order similarly misapprehends the inquiry required to assess the reasonableness of rates. While there is limited jurisprudence addressing how the Court conducts this review, it is clear the law does not support the Order's interpretation.

Specifically, the Order concludes "Plaintiff has presented no allegations regarding *the quality of service* it has received or continues to receive" and on that basis "Plaintiff has not met the burden of showing MPW's BFC rate structure is unreasonable.[3]" (Order Granting Def.s' Mot. for Summ. J., p. 9 (emphasis added)). To support this conclusion the Order relies on the proposition that "[i]n South Carolina the 'test of the reasonableness of rates established by a public

[3] This conclusion also misstates Plaintiff's burden. On a motion for summary judgment, as the non-moving party Plaintiff is not required to prove its case, instead it only need present a scintilla of evidence. *Hancock v. Mid-S. Mgmt. Co.*, 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009) ("[I]n cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment.").

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service district is the service received.'" *H.A. Sack Company, Inc. v. Forest Beach Pub. Serv. District*, 272 S.C. 235, 238, 250 S.E.2d 340, 341 (1978) (citing *Simons v. City Council of Charleston et al.*, 181 S.C. 353, 187 S.E. 545 (1936)) (Order Granting Def.'s Mot. for Summ. J., p. 9). This reliance is misplaced. Neither of those cases references the *quality* of the service. Plaintiff is not required to allege there is brown water coming from the faucet to claim the rates are unreasonable. That conclusion would allow a municipality to charge whatever rates it may fancy provided the water is clear and free-flowing.

And the controlling statutory scheme belies the Order's reasoning. Section 5-31-670 of the South Carolina Code requires a municipality to confine its charges for the use of the water to "reasonable compensation" and its charges for sewer to "a minimum and reasonable sewer charge for maintenance and construction of such sewerage system . . .." Succinctly stated, the rates must be reasonable in relation to the value of the service rendered. 94 C.J.S. Waters § 730 ("As a general rule, a municipality authorized by law to fix the rates to be charged for service from a water system operated by it is not free to exact whatever rates it may see fit, but must fix reasonable rates, or rates reasonably proportionate to the value of the service rendered, or bearing some relationship to the present or future cost of providing service." (footnotes omitted)).

The thrust of Plaintiff's case is that the rates do not bear a reasonable relationship to the value of the service rendered because MPW charges rates that fail to reflect the value of the service. (Am. Compl. ¶¶ 1-13). MPW acknowledges as much in its letter to Plaintiff following the 2018 Audit. The letter explained that Plaintiff never had and was not currently utilizing the capacity for which it is paying, and it offered Plaintiff to lower its REU. Pl.'s Opp'n to Mot. for Summ. J. Ex. H at MPW 02271-02273. MPW has long known it was charging Plaintiff and the Class significantly more than the value of the service it is providing. However, MPW has failed to

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conform the rate to the service. Plaintiff's argument is that MPW has a duty to audit and periodically adjust customers' REU to match their actual use ("right-size"), and its failure to conform an account's REU renders the rate unreasonable.

To be clear, Plaintiff has never argued that MPW is not allowed to charge a base rate. The Order misunderstands Plaintiff's argument in stating that Plaintiff's interpretation of section 5-31-250 is that the word "use" means "the literal volumetric use of water or electricity" without regard to "the ability to use; availability of ready services; the reservation of capital or on demand service." (Order Granting Def.'s Mot. for Summ. J., p. 10); *see* Hearing on Mot. for Summary J., p. 7:24-25 ("[W]e're not attacking the concept of the base charge in this case."). Instead, Plaintiff has consistently argued that setting rates for "the use of water" must be guided by the principles that the utility may furnish water for "reasonable compensation" that "must be used to pay costs related to the provision of service," and those charges at all times must be "minimum and reasonable."

MPW customers with excessive REU are paying user fees (BFC) completely divorced from their demands on the system (what it costs MPW to serve Snee Farm Lakes HOA, for example) and thereby subsidizing other ratepayers. To bring the BFC in line with the service actually being provided to customers as required by the user fee statutes, the REU must be periodically rightsized to reflect actual use records over time—not wildly inaccurate assumptions established by MPW at the impact fee stage prior to service inception. By failing to rule on this facet of the argument, the Order overlooks the statutory limitations placed on municipalities and expands the authority the legislature intended in allowing for the creation of a public waterworks system such as MPW.

III. The Order Misapplies the Standard of Review When Considering the Merits.

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Compounding the errors of its mistaken legal framework, the Order also misapplies the standard of review for a motion for summary judgment. Instead of construing the facts and circumstances in the light most favorable to Plaintiff, the analysis of reasonableness and the "user fee" statutes focuses on isolated testimony from Plaintiff's expert, Brian Mantz, that has very little to do with MPW's own ratemaking practices and ignores other evidence tending to prove that MPW's rates are unreasonable and violative of section 6-1-300(6).

Rule 56(c), SCRCP, provides that a court may grant a motion for summary judgment "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." A moving party must meet its burden of showing there is "an absence of evidence to support the non-moving party's case." *Lord v. D.&J Enters., Inc.,* 407 S.C. 544, 553, 757 S.E.2d 695, 699 (2014). In reviewing a summary judgment motion, the facts and circumstances must be viewed in the light most favorable to the non-moving party. *Holmes v. E. Cooper Cmty. Hosp., Inc.*, 408 S.C. 138, 154, 758 S.E.2d 483, 492 (2014). Moreover, "[s]ummary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law." *Patterson v. Witter*, 425 S.C. 213, 226, 821 S.E.2d 677, 684 (2018). "Even if there is no dispute regarding the facts, summary judgment should be denied if there is a dispute as to the conclusions to be drawn therefrom." *Dowling v. Home Buyers Warranty Corp.*, *II*, 303 S.C. 295, 298, 400 S.E.2d 143, 145 (1991).

The Order does not provide an interpretation of section 5-31-250 that gives meaning to the word "use," but simply concludes that "Plaintiff's own expert does not believe that a rate system is unreasonable simply because the charges are based on something (such as a water meter size) other than the customer's actual volumetric use." So instead of reviewing whether the rates are

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reasonable in light of the service MPW provides to Plaintiff and the Class, the Order instead weighs how MPW's rate methodology compares to the general notion of a rate structure based on meter size, which itself has never been adjudicated "reasonable" by any court in South Carolina. Yet as discussed *supra*, a proper review of a municipal utility's rates under the relevant statutes involves a close inquiry into sections 6-1-300(6) and 6-1-300(B), i.e. the "nexus test," and section 5-31-250, i.e. the "reasonableness test." Whether MPW's rate structure seems fair when compared to other municipalities who use a different rate setting mechanism is irrelevant in considering the reasonableness of MPW's ratemaking. The statutory framework does not require that a municipality set rates that are reasonable as compared with other generally used practices (that have likewise not been challenged in court). And even if it was, at this stage of litigation, the Court must construe the facts and circumstances in the light most favorable to Plaintiff. That was simply not done here.

Mantz testified in his deposition that it would be "very easy" for MPW to right-size its rates. Mantz. Dep. Jan. 13, 2021, pp. 54:17-25 & 56:3-6.[4] He further testified that a REU system has the potential to be very fair, but only where "the REUs are periodically right-sized." *Id.* at p. 71:2. Furthermore, Mantz testified directly to MPW's failure to right-size the rates and instead place the onus on customers to request a correction.

Looking specifically to the details of the ratemaking practices in this case, Mantz discussed how after it audited its accounts, MPW dramatically increased BFC rates, which are multiplied by the number of REU assigned to each account. *Id.* 62:13-25 (discussing the increase of water BFCs

[4] Bryan Mantz's two-day deposition transcripts with exhibits are attached hereto as **Exhibit A** and incorporated herein by reference. Counsel for Plaintiff and the Class and Counsel for MPW submitted a consent order to include the entirely of Mr. Mantz's deposition transcripts and exhibits in the record for purposes of MPW's motion for summary judgment and the Order.

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by 152 per cent, and wastewater BFCs by 86 percent); *see* Pl.'s Opp'n to Mot. for Summ. J. Ex. P at 2. Buttressing Manz's testimony, the documentary evidence presented illustrates the significant discrepancy between the billed REU and the used REU, a fact MPW capitalized on instead of correcting:

- The Raftelis Engagement Letter & CDM Smith Memorandum unequivocally states that MPW has significantly miscalculated in its REU allocation when explaining its necessary assumptions in advising MWP:
    - "Assuming one REU is equivalent to 300 gpd average consumption, approximately 700 commercial customers used less than their allocated REUs in 2013 and approximately 90 customers used more than their allocated REUs in 2013. *The difference between the allocated and calculated REUs for each customer account was summed, resulting in a net of approximately 4,400 REUs that are allocated to commercial accounts, but are 'unused'.* It is assumed that the number of unused REUs is consistent over the past seven years. Therefore, 4,400 REUs were subtracted from the total allocated commercial REUs for the analysis . . .." Pl.'s Opp'n to Mot. for Summ. J. Ex. C at MPW-09235 (emphasis added)
    - "Of the 4,400 unused commercial water REUs, 4,300 are also allocated to MPW's wastewater system. Therefore, 4,300 REUs were subtracted from the total allocated wastewater REUs." *Id.* at MPW-09238.
- Knowing the inaccuracies in the accounts, MPW not only failed to correct the imbalance, but also increased the weight of that burden by *significantly* increasing the rates in 2015. In that fiscal year, MPW raised the BFC rates for water ($3.33/ REU to $6.00/REU, an 80.2% increase) and wastewater ($8.97/REU to $12.00/REU, a 33.8% increase), all the while leaving volumetric rates untouched. Fiscal year 2016 saw another substantial BFC rate increase, this time $6.00/REU to $8.00/REU for water (a 33.3% increase) and $12.00/REU to $14.00/REU for wastewater (a 16.7% increase), with volumetric charges, again, remaining constant. *Id.* at Ex.P,

The "unused REU" mentioned above constitute an incredible 40% of the total commercial REU in MPW's system. Aware of how deeply the inaccuracies would skew predictions, the unused REU were backed out of the calculations for future planning and Department of Health and Environmental Control permitting purposes—*but MPW never backed them out of the customers' accounts for BFC billing purposes*. MPW has known about this since at least 2014,

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but did nothing to alert customers and actually compounded the disparity by dramatically raising rates. Even MPW's own expert, William Zieburtz, acknowledged that the magnitude of the incorrect assignments is relevant to whether inequity exists in the rate structure. Zieburtz Dep. Apr. 1, 2021, p. 90:5-9.[5] At a minimum, the record creates a question as to whether MPW breached its legal duty in failing to adjust customer rates after realizing these inequities.

And Mantz is not so quick to compare REU and water meter ratemaking as the Order suggests. In fact, when discussing capacity, he observed that "the meter size that's chosen for ratemaking purposes I think should be separate and distinct from whatever capacity is paid for." Mantz. Dep. Jan. 13, 2021, p. 172:20-22. So the Order's conclusion that Mantz's testimony shows that "simply because the BFC is based on potential future demand or a reservation of capacity rather than actual use does not prove the rate system is unreasonable" is not an accurate characterization of his testimony. (Order Granting Def.'s Mot. for Summ. J., p. 11). Reservation of capacity is marked by the payment of impact fees, a fee that MPW *recharges* if REU are reduced and then subsequently increased. There is no evidence that a municipality that sets its rates by water meter similarly forces a customer to pay impact fees *again* if it decides to convert to a smaller water meter and then determines it wants to revert to the larger size. The evidence instead suggests MPW's practice is an anomaly. MPW's expert witness, observed at his deposition on April 1,

[5] Footnote 32 of Plaintiff's Memorandum in Opposition to Defendant's Motion for Summary Judgment states: "As of this filing, the deposition transcript [for Mr. Zieburtz] is unavailable. Plaintiff respectfully requests leave to supplement the record with Mr. Zieburtz's deposition testimony when it becomes available. Mr. Zieburtz's deposition was originally scheduled for March 19, 2021, but it was postponed to April 1, 2021 due to a family health emergency for Mr. Zieburtz." At the motion for summary judgment hearing, this Court invited the parties to supplement the record post-hearing. To ensure the completeness of the record, Plaintiff hereby files Mr. Zieburtz's deposition transcript along with the exhibits as **Exhibit B** attached hereto and incorporated herein by reference. Plaintiff deems this deposition transcript and exhibits to be part of the record on MPW's motion for summary judgment and the Order.

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2021 that in his thirty-plus years in the utility industry, he has never heard of a utility that similarly conflates capacity and base charge concepts, requiring surrender of the former for adjustments to the latter. Zieburtz Dep. Apr. 1, 2021, p. 224:13-20.

IV. The Order Misapplies the Standard of Review in Considering the Affirmative Defenses.

In addition to its misapplication of the standard of review in consideration of the merits, the Order also misapplies the standard of review when it concludes Plaintiff's claims are barred by the statute of limitations and the doctrines of mitigation of damages and voluntary payment. Far from considering the facts and circumstances in the light most favorable to Plaintiff, the Order overlooks evidence and law indicating the inapplicability of those defenses.

A. Statute of Limitations

In holding Plaintiff's claims are barred by the statute of limitations, the Order finds that the water bill "contains the number of REUs assigned to the customer's account as well as the gallons consumed in the particular billing cycle[and t]he back of each bill notes that 'one REU equals 9,200 gallons per month'" and based on this information, Plaintiff should have discovered the inequity at least three years prior to the filing of this lawsuit. Specifically, the Order concludes Plaintiff should have independently calculated the BFC and compared it to the total water gallon usage.[6]

This conclusion overlooks the nature of the claim and fails to fully consider the way information is provided (or not provided) to a customer. MPW has for years knowingly overcharged customers, and each bill they sent out caused a new injury. Our courts have

[6] The Order frequently references the fact that Plaintiff employs a property manager as if to suggest that bookkeeping should include the savvy to discern inequities in water utility ratemaking. Both parties involved in this litigation employed experts to opine on reasonableness of water rates.

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recognized that in cases such as this involving ongoing violations "the statute of limitations begins to run anew with each violation." *State ex rel. Wilson v. Ortho-McNeil-Janssen Pharm., Inc.*, 414 S.C. 33, 79, 777 S.E.2d 176, 200 (2015) ("[W]here a claim involves a series of ongoing violations, recovery is limited to a period coextensive with the applicable statute of limitations."). Furthermore, the Order's holding fails to view the case through the appropriate lens of summary judgment and instead heavily skews the facts in Defendant's favor. The bill does *not* expressly state how the amount of REU charged for BFC relates to actual usage, and the conclusion that customers should have to sit down and figure that out themselves is contrary to the very basic proposition that the public is entitled to presume a municipality is charging a reasonable rate as required by law. 12 McQuillin Mun. Corp. § 35:56 (3d ed.) ("A customer is entitled to assume that a municipal utility is charging it for service at the most favorable rate available. The city is under a legal duty to disclose to the customer the availability of a more favorable rate."); *c.f. S.C. Nat'l Bank v. Florence Sporting Goods*, 241 S.C. 110, 115-16, 127 S.E.2d 199, 202 (1962) ("[P]ublic officers are presumed to have properly discharged the duties of their offices and to have faithfully performed the duties with which they are charged."); Pl.'s Opp'n to Mot. for Summ. J. Ex. T at 32:23 – 33:2. (Q: "Did you understand that even prior to that letter, at any time Snee Farm Lakes could reduce its REU's? A: "No. You're a public utility. I trust you. I'm a customer.").

Suggesting a customer is required to provide monthly oversight to make sure it is being billed fairly is a significant departure from the Order's previous holding that "water rates are entitled to a presumption of reasonableness." (Order Granting Def.'s Mot. for Summ. J., p. 8 (quoting 12 McMillian Mun. Corp. § 35:57 (3d ed.))). The bill nowhere indicates that reducing REU is an option and certainly does not explain the procedure to accomplish a reduction if the customer figures out it needs one. The evidence presented indicates that prior to the 2018 letter,

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MPW never provided Plaintiff with the relevant information to evaluate its options, so at the very least whether the statute of limitations applies should be left to the fact-finder. *Brown v. Finger*, 240 S.C. 102, 113, 124 S.E.2d 781, 786 (1962) (internal citations omitted) ("The burden of establishing the bar of the statute of limitations rests upon the one interposing it, and where the testimony is conflicting upon the question, it becomes an issue for the jury to decide.").

B. The Voluntary Payment Doctrine is Inapplicable

Similar to the errors in its consideration of the statute of limitations, the Order's analysis of the applicability of the voluntary payment doctrine slants the evidence and the law in favor of Defendant and ignores the standard of review.

At the outset, the Order misunderstands the relevant inquiry in holding that "[t]he point is not that the Plaintiff is paying for service it needs, but rather Plaintiff paid without ever asking that its rate be lowered or its REU reduced." In determining the voluntary payment doctrine applies, it follows that there must be some determination that the payment was, in fact, voluntary. South Carolina has never found this doctrine applicable in a case involving local government in a tax, fee, or rate dispute. The case cited in the Order involves the attempt to recover money paid in settlement of a claim based on two notes secured by real estate mortgages where there was in fact no legal obligation to remit *any* payment. That is not the provision of a necessity by a governmental entity where failure to pay the bill could result in the suspension of service and therefore the deprivation of a basic need. Courts confronted with this type of situation have concluded that the doctrine has no place in the provision of basic needs. *E.g. Getto v. City of Chicago*, 426 N.E.2d 844, 850 (Ill. 1981) ("Even were it to be held that the plaintiff had sufficient knowledge of all the facts to permit a conclusion that [the payments of his utility bills] were voluntary, we judge that the implicit and real threat that phone service would be shut off for

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nonpayment of charges amounted to compulsion that would forbid application of the voluntary-payment doctrine.").

And although the Order finds the fact that "you can't live without water" unpersuasive, the Supreme Court of South Carolina *did* find that statement persuasive in considering whether a service arrangement for water is a voluntary one. *Azar v. City of Columbia*, 414 S.C. 307, 311 & n.3, 778 S.E.2d 315, 317 & n.3 (2015) (rejecting "the unsupported premise that these contracts for water and sewer services are 'freely entered into by resident and non-resident consumers' and quoting the City of Columbia's budget director "that 'you can't live without water and sewer' and that these services are the 'basis of life'"). The Supreme Court has recognized the fallacy in treating provisions of basic services as voluntary, and that understanding should apply with the same force in this case as Plaintiff has always argued. So even if this Court decides the voluntary payment doctrine can be implicated in this situation, it is inaccurate to state "Plaintiff has made no allegations of fraud, duress or extortion." (Order Granting Def.'s Mot. for Summ. J., p. 18). The threat of losing water and wastewater services, which would render a home unoccupiable and business inoperable, is duress. Moreover, the mandate to forfeit REU (previously purchased through the payment of expensive impact fees) in order to reduce BFC rates amounts to duress and extortion, as Plaintiff has maintained. Under these circumstances, it can hardly be said that payments of unlawful rates are ever truly voluntary.

C. Failure to Mitigate Damages.

Without citing any law, the Order also concludes Plaintiff's case should be dismissed based on its failure to mitigate damages. However, the law is clear that a plaintiff is not required to mitigate damages by prejudicing its other rights. "A party injured by the acts of another is required to do those things a person of ordinary prudence would do under the circumstances, but the law

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does not require him to exert himself unreasonably or incur substantial expense to avoid damages." *Baril v. Aiken Reg'l Med. Ctrs.*, 352 S.C. 271, 285, 573 S.E.2d 830, 838 (Ct. App. 2002).

Although the Order again discusses water meters, the comparison is ill-fit and merely reflects the misapplication of the proper standard of review. Had Plaintiff reduced its REU in the manner MPW requires under its Policy 5.3.3, it would have lost something of value it had paid for, and the law does not require it to incur such expense under the doctrine of mitigation of damages. Whether a customer at some other water company has to buy a water meter to increase their flow is inapposite. There is no evidence that a customer with a water meter would have to repay impact fees as MPW would require of Plaintiff. The evidence demonstrated this practice is an outlier. *See* Zieburtz Dep. Apr. 1, 2021, p. 224:13-20. Even trying to compare impact fees to a water meter fails. There is no evidence that a customer who purchases a water meter loses that asset if it increases or decreases its use. It may be that it can sell the one it ceases to use. When construing the facts and circumstances in Plaintiff's favor, there is at least a question of fact as to the reasonableness of Plaintiff's actions to mitigate damages. *Cisson Const., Inc. v. Reynolds & Assocs., Inc.*, 311 S.C. 499, 503, 429 S.E.2d 847, 849 (Ct. App. 1993) ("The reasonableness of a party's actions to mitigate damages is a question of fact which cannot be decided as a matter of law when there is conflicting evidence.").

CONCLUSION

For the reasons stated herein, Plaintiff respectfully requests this Court enter an order in its favor and deny Defendant's motion for summary judgment.

[SIGNATURE PAGE TO FOLLOW]

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Respectfully Submitted,

BY: s/Ross A. Appel

Clayton B. McCullough (SC Bar #13722)
Ross A. Appel (SC Bar #79149)
McCULLOUGH KHAN, LLC
359 King St., Ste. 200
Charleston, SC 29401
Telephone: 843.937.0400
Facsimile: 843.937.0706
clay@mklawsc.com
ross@mklawsc.com

James L. Ward, Jr. (SC Bar #13453)
Ranee Saunders (SC Bar #100073)
McGOWAN, HOOD & FELDER, LLC
10 Shem Dr., Suite 300
Mt. Pleasant, SC 29464
Telephone: 843.388.7202
Facsimile: 843.388.3194
jward@mcgowanhood.com
rsaunders@mcgowanhood.com

ATTORNEYS FOR PLAINTIFF

July 21, 2021
Charleston, South Carolina

EXHIBIT A

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1226 Pickens Street
Columbia, South Carolina 29201
info@garberreporting.com
Telephone: (803) 256-4500 | Fax (803) 256-1999

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS	
COUNTY OF CHARLESTON)	FOR THE NINTH JUDICIAL CIRCUIT	
	CA NO.: 2018-CP-10-2764	
SNEE FARM LAKES HOMEOWNERS')		
ASSOCIATION, INC., INDIVIDUALLY)		
AND ON BEHALF OF THOSE)		
SIMILARLY SITUATED,)		
Plaintiffs,)		
)	DEPOSITION OF	
vs.)	BRYAN A. MANTZ	
)	JANUARY 13, 2021	
THE COMMISSION OF PUBLIC WORKS)		
FOR THE TOWN OF MOUNT PLEASANT)		
d/b/a MOUNT PLEASANT WATERWORKS,)		
Defendants.)		
_____)		

Deposition on oral examination of BRYAN A. MANTZ, reported by Janice L. Stanton, Court Reporter and Notary Public in and for the State of South Carolina; pursuant to Rule 30 of the South Carolina Rules of Civil Procedure; said deposition was held remotely via Zoom video-conference on Wednesday, the 13th day of January, 2021, scheduled for 10:00 a.m. and commencing at the hour of 10:05 a.m.

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APPEARANCES:

REPRESENTING THE PLAINTIFF:

ROSS A. APPEL, ESQ.
McCullough Khan, LLC
359 King Street, Suite 200
Charleston, South Carolina 29401
ross@mklawsc.com

REPRESENTING THE DEFENDANT:

AMY L.B. HILL, ESQ.
Gallivan White & Boyd
1201 Main Street, Suite 1200
Columbia, South Carolina 29211
ahill@gwblawfirm.com

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* * * * *

COURT REPORTER'S LEGEND:

dashes [--]	Intentional or purposeful interruption
...	Indicates trailing off
[ph]	Denotes phonetically written
[sic]	Written as said

STIPULATIONS:

This deposition is taken in accordance with the South Carolina Rules of Civil Procedure.

It is agreed and stipulated by the deponent and respective counsel that the reading and signing of the deposition by the deponent is expressly RESERVED.

WHEREUPON:

BRYAN A. MANTZ, being duly sworn and cautioned to speak the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION BY MS. HILL:

Q. Mr. Mantz, as you may have noted, my name is Amy Hill, and I'm an attorney representing Mount Pleasant Waterworks who has been sued in this case by Snee Farm Lakes as a class representative in a class action. Have you given a deposition before?

A. No.

Q. Well, then I'll go through the rules. So I will ask questions, and of course, we're doing this virtually –- normally, it would be in person –- but if you don't understand a question, please let me know. If you answer the question, I will assume you have understood it. Is that fair?

A. Yes.

Q. If we need a break in this deposition –- again, I know we're virtual –- but if you need a break, please, by all means, let me know; I'm happy to take a break whenever. I am planning on having lunch about 1:00 o'clock, so I think we can all take a brief break for lunch at 1:00 and reconvene. During any breaks in this deposition, if you discuss the deposition testimony with anyone, either verbally, or by email, or by text, I'm entitled to know about that discussion. So I'm not saying you can't do that, but if you do do it, I'm going to ask about it, and I expect that to be disclosed. Please answer verbally, although I know –- again, I know we're virtual, and it's probably worse when we're not in person, but people tend to nod their heads and shake their heads. Please answer verbally, so that the court reporter can take it down. I also ask –- and this is a part of the rules –- but also, I ask just for the ease of reading the transcript later, if you'll let me get my question out before you start to answer, that will just make it easier for all of us, and especially with it being virtual. So do you have any questions about the deposition procedure?

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A. No.
Q. All right. So Mr. Mantz, let me just ask you the main question. In your opinion, what has Mount Pleasant Waterworks done wrong in this situation?
A. I consider that Mount Pleasant Waterworks' billing practices are not based on use or reality, and have caused an unfair financial harm to the customers in this class action suit.
Q. Okay. So specifically, break that down for me. What do you mean, "not based on use or reality"?
A. Well, first of all, there's a fundamental assumption on what a residential equivalent unit is, and Mount Pleasant Waterworks' assumption is 300 gallons per day, which is not reflective of reality. And also, the customers in the class have unrealistic REU counts that are not tied to use.
Q. Do you have any knowledge as to whether or not that 300 gallon a day REU is set by MPW or by DHEC?
A. The 300 gallons per day, according to the South Carolina rules, it's only supposed to be used if you don't have –- you're really supposed to use it if you don't have any flow data, and Mount Pleasant Waterworks has decades of flow data.

And in fact, in the latest engineering report –- or at least the latest one that I was provided back from 2014 –- says that the REU value should be 220 gallons per day; and so the fundamental assumption of what an REU is, is fundamentally flawed.
Q. Are you referring to a DHEC rule and regulation or a publication when you say that, "300 gallons should only be used if there is no flow data"?
A. Yeah, what is it? It's Standard for Wastewater Facility Construction.
Q. And that's published by the South Carolina Department –- DHEC?
A. Yes.
Q. Is there a specific –- have you provided that to us?
A. Yes.
Q. Was that in your file? Okay, all right ...
A. Yes, I mean, if you like, I could –- you know, at any time, if you want me to share my screen and show you what I'm talking about, I'm happy to do that.
Q. Yeah, that would be great.
A. Okay.
Q. Yeah, if you want to show us exactly ...

(Screen shared)
A. Okay. Can you see my screen?
Q. I cannot right now.
A. Oh, okay, all right.
Q. There we go.
DEFENDANT'S EXHIBIT 1 MARKED FOR IDENTIFICATION PURPOSES (49 pages - Standards for Wastewater Facility Construction, R. 61-67, page 11)
A. All right, and here you say, "Applicable flow values shall be measured where flow exists." And it says, "Where flow does not exist," that's when they talk about using the 300 gallons per day. And it's on page 11 of the information that was in this document which was in the package that you were provided.
Q. Okay.
A. I'll stop sharing my screen because I know you are planning to share some documents too.
Q. Right. So REU allocation –- well, let me back up. So the first issue you have is that we're using 300 gallons per day to define an REU, and you said it should actually be –- what was the number you gave?
A. Yeah, I guess I can share my screen again, if that's –-

(Screen share)
Q. Sure, and while you're looking that up, the last shared screen that you put up was the Standards for Wastewater by DHEC, and it was regulation 61 through 67, I believe.
A. Yeah, and it's in your package. It should be pretty clear, but ...
Q. Yeah, I'm just saying that –- just so you know, I'm saying that really for the transcript.
A. Oh, I gotcha, I gotcha. And here is from your, you know, engineers –- and when I say "your" I mean MPW's –- on October 30th, of 2014, which talks about using 220 gallons per day, per REU for REU assignments. Did I –- yeah, you should –- oops. Am I sharing the right –-
Q. Yeah, it looks like it.
A. Let me see. I'm just –- technology. Right?
Q. Yeah, we will all bear with each other as best we can today.
A. Absolutely. Yeah, here we talk –- here's from the engineering report saying –- and this is, again, from October 30th, 2014 –- talking about how 300 –- basically this entire report talks about how the 300 gallons per day, per REU is unrealistic, and that MPU [sic], you should be

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using –- MPW, I'm sorry –- should be using 220 gallons per day for REU assignments.

Q. So let me ask you this. If MPW reduced their REU assignment from 300 to 220, how does that impact the number of REUs?

A. Well –-

Q. Does that change the number of REUs?

A. It would –-

Q. Hold on a second. Does that change the number of REUs that each customer would be assigned?

A. It would, but the idea is that MPW, at that time, would have also right-sized the REUs based on use, because the fundamental definition –- and I'm going to share another exhibit from the -- if you don't mind. I know this is your deposition.

Q. Okay, go ahead.

(Screen shared)

DEFENDANT'S EXHIBIT 2 MARKED FOR IDENTIFICATION PURPOSES (2 pages - Definition of Equivalent Residential Unit)

A. I mean, the fundamental definition of an equivalent residential unit –- or in MPW's case, a residential equivalent unit –- is that it talks about the capacity that the customer is using. And that's a fundamental issue in this case is

use, use, use, versus theoretical use, or peak use, or maximum use; the amount that the customer is actually using. And so the idea would be that after the -- MPW was advised to -- had an engineering recommendation to use 220 gallons per day. The idea would be that MPW would have right-sized all the REU counts based on actual usage to move forward. And then again, this was a recommendation back from 2014, but it seems like MPW is still using 300 gallons per day.

Q. So when you say this is a recommendation back from 2014 –-

MS. HILL: And let me just say, I think somebody on the phone doesn't have their phone on mute. Hold on. I don't know if that's –- 843-276-1901, if you could put your phone on mute, that would be helpful.

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. So you said a second ago that this is a recommendation back in 2014. Was there a recommendation in 2014 to right-size the REU numbers assigned per customer?

A. There was the report that was not a specific recommendation, but the report did talk about how there were several –- many unused REUs in the system. And so the implication would be that,

you know, for fairness purposes, the REUs should have been right-sized, as is the practice of a lot of utilities that do use this type of rate structure, you know, to promote fairness.

COURT REPORTER: Excuse me, Mr. Mantz. Can you stop sharing your screen?

DEPONENT: Okay, sorry.

COURT REPORTER: No, that's okay. Thank you so much. We'll go back to regular view. There we go, thank you.

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. So you said that's a practice of many utilities that use this type of rate system. Is there a time period for right-sizing? I mean, in your opinion, what is the correct way to do it?

A. There are multiple -- some right-size it every few years. Your client's consultant, Raftelis, has another client in which the REU values are reassessed at least once a year. And so I would say that if it was every year, every few years, I think that's fair game.

Q. So what is every few years? Is it every three years, every two years, five years?

A. Yeah, it seems like three years seems to be, you know, what's usually applied.

Q. And when you said, "Raftelis has a client that does that," what client are you referring to?

A. The City of Melbourne, Florida, and it's now a Raftelis client. This is a long-time client of the Resources Management Group which was the firm that I was affiliated with prior to starting GovRates. And Raftelis purchased Public Resources Management Group in 2019.

Q. All right. So did you work with Melbourne, Florida prior to 2019 or 2018?

A. Yes.

Q. And did you recommend that they right-size their REU?

A. No, this was not my –- and I honestly don't know who recommended it. It may have been a PRMG recommendation, or it could have been something that PRMG inherited, but I was not involved in that recommendation.

Q. And how often do they right-size in Melbourne, Florida?

A. There are codes, and this is included in your package. It's a part of their Code of Ordinances. It says, "at least once a year."

Q. Okay. So when you say "right-size," does that mean remove -- unilaterally remove REUs from a

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client's assignment?
A. When I say "right-size," I mean you are assigning the REUs based on the clients' actual use. And as we talked about, you know, if it's done once a year or every three years –- the idea though is that periodically, the REUs for rate setting purposes are rebalanced to reflect the actual usage of the customer so that the customer pays a fair share of the utility's fixed costs.
Q. Do you envision the customer having any say in this right-sizing exercise?
A. No. No, it should just -- it's something that -- it should be done by the utility to reflect, you know, fairness.
Q. So I mean -- let me just spit this out here. What if you have a customer who, unbeknownst to the utility, is planning on, you know, doubling their hours for a restaurant in the next year? I mean, should they be consulted even though, you know, presumably their water usage is going to greatly increase in the next year?
A. Right, and then with the next rebalancing, their REU count would be proportionally increased for rate setting purposes.
Q. I mean, what if they exceed their REUs in that

year and are charged excessive fees? Do you think that's an issue?
A. Well, the Mount Pleasant Waterworks' rate structure does have that if your REU count is lower than it should be, there are some excessive usage volumetric tiers, and so you're not -- you would be paying higher volumetric charges.
Q. And perhaps go into those excessive use tiers. Correct?
A. The excessive use volumetric tiers.
Q. Right, because your REUs are lowered. Right?
A. Are lower than they should have been, and then they would be right-sized in another analysis. If you have excessive REU assignments, however, then you're not going to go into the –- then your base charges are going to be abnormally higher than they should be. And then you would never go into a volume –- I mean, all your usage is going to be in the first volumetric tier.
Q. But I guess my question -- let me get back to my original question. What I'm understanding –- and again, I'm not trying to put words in your mouth. I want to make sure I appreciate your recommendation. Your recommendation is that you think MPW should unilaterally reduce REUs for

customers without consultation with the customer. Is that correct?
A. I -- no. My --
Q. Okay.
A. I'm saying that REU counts need to be right-sized either up or down, based on the customer's actual use, in order to maintain a fair rate structure.
Q. Okay. So does that include consultation with a customer, or is it a unilateral action?
A. It should be an action with -- for MPW. I mean, when we're making rate study recommendations, we don't consult the customers. I mean, we have public hearings during which customers can have a say, but we don't consult customers on what their base charges should be.
Q. Okay, but again, you're not quite answering my question. My question is –- what I heard in your recommendation a few moments ago was that MPW should periodically right-size the REUs for these customers.
A. For rate setting purposes, yes.
Q. Okay, but should they consult the customers, or should this be a unilateral action without consultation of the customers by MPW?
MR. APPEL: Object to form.

Q. And I'm just trying to find out what your opinion is.
A. I mean, it certainly –- I think right-sizing the REUs should be a matter -- should be a standard policy, and how –- if MPW wants to communicate to customers, you know, that hey, you know, "Last year your REU value was this, and based on your usage, your new REU value is this," I think that's good customer service relations. But whether it's done or not, that's a decision of -- that would be a decision of MPW.
Q. Well, and I appreciate that, but you're here today to tell us what we've been doing wrong. So I want to know, I mean, what are your suggestions? Do you suggest that they do this without consulting the customer, and just tell the customer, "Okay, your new REUs are X," period, the end?
A. Well, if you're telling the customer that, then you're kind of communicating with them. All I am saying is that each -- whether it's every year or every three years, the REU counts would be right-sized and would be reflected in the customers' bills.
Q. And my question is, should the customer have some

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input in that right-sizing? Should a customer be able to say, "No, please, don't reduce them"? How does that work?

A. Okay, all right. I think we're talking about two different things. I think you're referring to REUs that are –- I guess, to purchase capacity; whereas I'm concerned -- where I'm talking about base facility charges and REUs that are based on the actual usage of the customer. So we're talking about two separate things. I mean, whatever the capacity that the customer has purchased, that should stay with the customer. But for billing purposes and ongoing billing to recover the utility's operating costs, the base facility charges have to somehow link to the customers' use. And whether you want to call it a -- I mean, whether you'd have REUs used for impact fee purposes or capacity fee purposes, and REUs used for user rate purposes, I mean, it's –- there should be two separate values in my –- you know, in my assessment.

Q. All right. So I'm actually not talking about impact fees, and I appreciate what you just said, and we'll get into that later. I'm really just talking about for rate purposes. And again,

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going back to my example earlier of a restaurant that maybe is only serving lunch, and next year they're going to start serving lunch and dinner and increase their water usage. I mean, so you're telling me that MPW should unilaterally reduce their REUs without consultation with that customer, which may cause that customer to go into excessive rate fee. Is that what I'm understanding?

A. If the customer's REUs are properly right-sized, and I mean, you know, certainly the customer can -- could talk with MPW if there was –- if they got a reduction in REUs, and there was not a -- and it's possible that the reduction in the REU values and then the volumetric –- and that -- which would reduce the base fee and the increased volumetric charges. I don't know what the effect on the customer bill would be. It really depends upon the dollar amount of the basic facility charge versus the dollar amount of the volumetric charge. But I mean, I would never say that, you know –- I mean, customers always have to have a –- need to have a voice. But as far as practice, and as part of, you know, making sure that the rates are equitable, the REU purposes –- the REUs

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for rate setting purposes should be right-sized periodically.

Q. So let me ask you this. What's wrong with allowing the customer to right-size their REUs when they deem that it's necessary?

A. The customers can have communication to right-size the REUs. However, MPW has the sophisticated equipment, and they have the -- you know, I've seen your billing, the billing statistics, and I know that you have a very good billing system. And MPW has the ability to make the rates –- the REU values fair periodically and to right-size them.

Q. And just so I'm clear, what you're saying is that that should not be the –- I mean, the customer shouldn't have control over that; that should be MPW's alone.

A. Yes, because it certainly -- most customers probably don't understand the concept of an REU. And you know, you're getting into –- we're getting into kind of terms that maybe a layperson or an expert may not understand. And so it's MPW's responsibility at all times to charge fair rates. It's not the customers' job to tell MPW that, "Oh, you have unfair rates." It's MPW's

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responsibility to adopt and charge fair rates.

Q. Where do you get that? Is that a rule or a regulation that it's MPW's responsibility to charge fair rates?

MR. APPEL: Object to form.

A. South Carolina law talks about establishing rates based on use, and to the extent -- so I mean, rates have to be tied somehow to use.

Q. What law says that rates have to be tied to use?

MR. APPEL: Object to form.

A. I'd have to look. I don't have the statute in front of me.

Q. Are you referring to Statute 5-31-670?

MR. APPEL: Object to form.

A. I don't know what that says, so I don't know.

Q. So sitting here right now, you can't cite to a rule, or a law, or regulation that requires rates to be tied to use?

MR. APPEL: Object to form.

A. I don't have that statute in front of me.

Q. Okay. So again though, you can't sit here right now and tell me a law or regulation that requires MPW's rates to be tied to use?

MR. APPEL: Object to form.

A. I guess, yes. Right now, sitting here, I cannot

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share my screen and share -- and provide that statute.

Q. And I mean, and look –- I mean, go ahead and share your screen. I mean, you're a named expert in this case, and I appreciate you haven't been deposed before, but this is our chance to understand what you think we did wrong. I mean, we're being sued in a very big lawsuit where the plaintiffs are trying to -- asking for a lot of money. So we are here to try to understand what you think we did wrong. So if you want to share your screen now and show us which rule and regulation you're referring to, by all means, please, go ahead.

A. I thought I'd already expressed that I don't have that readily available.

Q. And again, I'm talking about the regulation that requires our rates to be tied to use. Correct?

A. I guess I would need to take a look at it. I don't have it in front of me.

Q. Do you see anything wrong with using REUs for the BFC basic facility charge?

A. As long as the REUs are tied –- as long as the REU values are tied to use.

Q. And why is that?

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A. Huh?

Q. Go ahead. I didn't mean to interrupt you. Go ahead.

A. As long as they're tied to use and reflect the actual -- the customers' actual usage of the facilities.

Q. And as I understand basic facility charges –- well, you tell me. What is a basic facility charge?

A. It's usually used to recover a portion of the utilities' fixed costs. Usually, the base facility charges don't recover all of the utilities' fixed costs. I mean, usually a utilities' fixed cost might be 80 per cent of the overall expenditures of the utility. But as I mentioned, the purpose is to provide some revenue stability, and as I mentioned, recover a portion of the utilities fixed costs.

Q. Are basic facility charges usually tied to use?

A. Are base facility charges tied to use?

Q. Correct.

A. For this particular rate structure, yes.

Q. Are there rate structures where basic facility charges are not tied to use?

A. I mean, certainly the meter size -- well, even

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the meter size –- the meters that are assigned to a utility are based on the customers' usage. So really all the base facility charges are tied to use.

Q. But I mean, there are some utilities out there that just say, "Look, our basic facility charge is going to be a set amount every month." It doesn't have anything to do with anything. "Here's –- your basic facility charge is $100 dollars a month." Is that correct?

A. Whether there are utilities that practice -- the utility practices versus the -- just because a utility does it, I mean, the question is whether that practice has been challenged in a court of law. And yeah, there's a whole range of practices of utilities. But the question is whether the practice has been challenged in a court of law.

Q. So are you aware of any utilities who charge just a basic rate –- as I just described for the BFC –- that have been challenged in a court of law and found unlawful?

A. I'm not an attorney, so I'm not familiar with all the cases that have been in other –- you know, that are out there. That's ...

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Q. Are you aware of any?

A. No.

Q. So meter size based BFC –- and you told me that is tied to usage. How is that tied to usage?

A. Each meter size can have -- can handle a certain amount of flow. And so utilities are -- customers are outfitted with a meter size based on their usage.

Q. Is it their usage or their potential demand?

A. It can be –- the initial meter size might be based on potential of the demand, but certainly, moving forward, customers have always had the option of having a higher -- either increasing or decreasing their meter size.

Q. Okay. So let me unpack that for a minute. So you're saying initially it's based on what their potential demand may be, but they can always reduce or increase their meter size. Does the customer choose to increase or reduce their meter size, or is it based upon the water utility coming to the customer and saying, "You need to increase or decrease your meter size based on your water usage"?

A. In these cases, it's the customer. The customer would, you know, based on -- the customer would

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choose to -- whether to adjust the meter size.
Q. In other words, it would be up to the customer to right-size the meter size. Is that correct?
A. Yes.
Q. And again, I mean, so the charge -- help me with the meter size base facility charge. Is it essentially that I have a meter size of X, and my basic facility charge is based on that meter size, whether I turn on my water or not? Is that correct?
A. Yes.
Q. So you know, we've been in a pandemic. I can shut my business down for six months and never turn on the tap, and my base facility charge is going to remain the same. Correct?
A. That depends upon the policy of the utility. Some utilities have a policy that if you shut off your water service, you're not billed for service. A lot of utilities do continue to charge a base charge or a charge that's lower than the base charge, just for a system –- kind of –- they call it maybe a system availability charge.
Q. Okay. So maybe shutting down my business completely and not turning on my tap was a bad

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example. Let's talk about the pandemic. I'm a restaurant that prior to the pandemic was serving lunch, and dinner, and breakfast, and busy all the time. Now I do a lunch take-out and that's it, so my water is greatly reduced; yet I am billed based on the size of my meter regardless of how much water flows through that meter. Correct?
A. Yes.
Q. For the base facility charge. Is that correct?
A. Yes.
Q. So it's not tied to actual water usage, is it?
A. Again, a customer -- a restaurant -- a customer can choose to increase or decrease their meter size based on their specific usage characteristics.
Q. But again, that's up to the customer, and the water utility has no responsibility to alert them of that possibility, do they?
A. That's correct.
Q. And what exactly does that entail, right-sizing the water meter?
A. That would just be -- and you see this quite a bit. If a utility implements a change to rate structure –- and with any change to a rate

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structure, you're going to have a customer response –- and some customers might feel that under the new rate structure, they should either upsize or downsize their meter size.
Q. Okay, but again, I mean, are we talking about actually changing –- I mean, digging out and taking out the water meter, and changing, and putting in a new water meter?
A. Yes, changing the size.
Q. I mean, that's a significant undertaking. Correct?
A. I mean, it's really just -- most water meters, all you do is just -- you take them out and put a new one in. It's not a -- and usually the customers will, you know, pay for that expense.
Q. Does it also talk about the size of the piping going into the water meter?
A. Well, if the piping is -- if it is possible –- if they needed a larger meter size, the piping may need to be upgraded too. I mean, it's the customers' decision.
Q. But it's up to the customer. Correct?
A. That's correct.
Q. Do you know, is that an expensive undertaking?
A. It depends upon the utilities' specific rates.

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Q. Well, I mean, if you've got to change water pipe size and buy a whole new meter, I would think that that's not cheap.
A. Again, it just depends upon how much the utility pays for the –- charges for that service.
Q. So –-
A. Whether it's cheaper or not, I don't –- that's a matter of perspective in ...
Q. Who pays for that? Would the customer pay for that change in water meter?
A. Yes.
Q. And so essentially, the customer is having to pay to right-size the water meter. Is that correct?
A. That's the typical practice.
Q. And do you see anything wrong with that?
A. No. No, I don't.
Q. In your mind, what does "excessive BFC" mean?
A. Excessive BFC means that BFC amount is applied to an REU count that is unrealistic with respect -- that is not tied to the actual use of the customer.
Q. Let me go back a little bit on this. As I know you're well aware, Mount Pleasant Waterworks sent out a letter in February or the spring of 2018, letting customers know that the –- and I refer to

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the actual language of the letter –- but essentially letting the customers know that their account had more REUs assigned than they were historically using. I mean, do you take any issue with that notification?

A. Well, Mount Pleasant Waterworks' policy also says that if you reduce your REU count for rate purposes, you also lose the capacity reservation -- the capacity that you paid for through your capacity fees, and I do think that is unfair.

Q. Why?

A. Because you've paid for the capacity. I mean, what you're using on a -- but again, I think what you -- the REUs or you know, however you want to choose –- how you want to charge for capacity, I mean, that's a –- to buy into the system, that's one set of policies. But then for rates that –- for the ongoing operation of and to pay for the utilities' ongoing fixed costs and variable costs, the system of rates and charges needs to somehow tie to the customers' use.

Q. And again, I mean, we just went through this with the water meter system. I mean, that doesn't tie to the customers' use. Why does this have to specifically tie to the customers' use? Why

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can't it be simply the capacity reservation?

A. Again, capacity reservation has no -- it's not tied to a customer's use. And the fundamental definition –- and I shared this. The fundamental definition of an equivalent residential usage –- I'm sorry, equivalent residential unit –- is that it relates to customer usage, not capacity.

Q. Well, let's go back to that definition you shared though. Can you pull that back up on the screen?

(Screen shared)

A. Okay, and this is –- again, it talks about proportionate share of the capacity that the customer is using, not that the –-

Q. But what does that full sentence say?

A. "In this manner, the customer may be said to be paying for a proportionate share of the capacity that the customer is using."

Q. It says, "may be." Right?

A. May be?

MR. APPEL: Object to form.

A. "Is" using.

Q. But, it says "may be said to be paying for." Correct?

MR. APPEL: Object to the form.

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Q. Is that what the sentence says?

A. "It may be said to be paying for a proportionate share." Yes.

Q. And then if I look further up in the definition, it reads, "a means of expressing different levels of residential customers' demand for water." Correct?

A. Uh-huh (affirmative response), yes.

Q. Is demand the same thing as use?

A. Yes.

Q. So there's no demand. I mean, I can say my demand is going to be X. My use may not be the same as that demand. Correct?

A. The demand is -- I would say that demand and usage are synonymous.

Q. So you think they mean the exact same thing?

A. They may or –- I think that again, the whole purpose of an equivalent residential unit is to tie to usage.

Q. And I note that this definition refers to 300 gallons per day. Correct?

A. Yes, and again, that's just a hypothetical situation. If for example, it's 300 gallons per day, what we've seen in the industry is that –- I mean, the 300 gallons per day, those are

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standards that in today's society with more efficient fixture units and just the, you know, water conservation incentives, I mean, these 300 gallons per day, I rarely see utilities that are planning at that level any more. Most utilities nowadays are downsizing their levels of service standards.

Q. And I was going to ask you, what exactly does a customer pay for when they are paying their bill? I mean, is it simply the water flowing through their tap, or are they paying for something more than just that?

A. They are paying for service, you know, and that includes the cost to operate the utility.

Q. Make sure that they have the ability to turn on that tap at any point day or night, every day of the year. Correct?

A. Yes.

Q. And a utility must plan and have the ability to provide water at any point, day or night, every day of the year. Correct?

A. That is correct.

Q. So a utility has to plan for peak water usage. Correct?

A. Yes.

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Q. And not just an average. Correct?
A. Yes.
Q. Is there any water or wastewater service that Snee Farm is not receiving? Are they receiving everything that they should be getting from a utility like MPW?
A. I can't speak for Snee Farms. I can't speak for them.
Q. So sitting here, you have no knowledge that they are not getting all the services?
A. As far as I know, they are.
MS. HILL: Let's take a short break right now. I know we've been going a little bit less than an hour, but let's just take a quick break, and let's reconvene in about 10 minutes. Okay?
DEPONENT: Okay.
COURT REPORTER: All right, we are off the record.
MS. HILL: Okay, thanks.
(Off the record)
DIRECT EXAMINATION RESUMED BY MS. HILL:
Q. Mr. Mantz, tell me everything you know about Snee Farm Lakes.
A. They are a customer of MPW, and I don't claim to have an extensive knowledge of this customer.

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Q. Do you know what type of business they are?
A. This is a -- I guess the plaintiff in this case is the Home Owners' Association.
Q. So is it a multi-family unit dwelling situation?
A. I don't -- I do not know.
Q. You don't know whether it's condos, or is it a business complex? You don't know?
A. I mean, they are considered –- for the purpose of their class, they are considered as non-residential customers in this -- for purpose of this class.
Q. But you do not know, sitting here right now, whether it is dwelling, condominiums, or a business park?
A. I don't have an extensive knowledge of the customer.
Q. Okay. So is the answer to my question, no?
A. If I understand your question, I believe it is no.
Q. Does it matter to you whether or not Snee Farm Lakes is comprised of residential condominiums or a business office?
A. What matters to me is whether their REU counts are reflective of their usage.
Q. In other utilities, are multi-family condominium

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dwelling units, are they treated differently sometimes than other types of commercial customers?
A. Yeah, there's a wide range of rate structure out there. Sometimes multi-family customers are treated as residential customers. Sometimes they're treated as commercial establishments.
Q. Do multi-family units -- do they pose -- is there anything special about them? Is there anything that causes some of these differences in treatment?
MR. APPEL: Object to form.
A. Well, it determines whether they're a residential establishment or for-profit establishment.
Q. And what's the difference between a residential or a for-profit establishment, in your mind?
A. I mean, if you have renters, for example, that would be considered a commercial establishment, and you're trying to make a profit, or that would be a commercial establishment.
Q. Versus a family that might own the condo and live in the condo?
A. Yes.
Q. Should owners of occupied units be treated differently in a water rate structure than the

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landlord?
A. No. No, I would say that –- I mean, unless there are some certain circumstances that I'm not thinking of right now, usually –- you know, again, it's just –- you know, you're wanting to tie the rates to the usage of the customer.
Q. Do multi-dwelling meters like this, do those cause –- I mean, do they take special consideration when designing rate structures?
A. I mean, you've got a wide range of rate structures out there. Some rate structures charge on a per unit basis for multi-family; some just charge by the master meter size.
Q. Is there anything wrong with one versus the other?
A. I would say that the unit based methodology might be a little bit more fair. I mean, you could have a customer serving -- you know, making –- you might have a multi-family –- let's say an apartment, that has –- you know, one apartment might have, you know, a certain number of units, and another one might have a different number of units; and yet they have the same meter size. And so a per-unit methodology might be considered more fair since the customer with more units

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would presumably have more demand on the system.
Q. Do you know how many units Snee Farm has?
A. No.
Q. Do you know what Snee Farms' meter size is?
A. No.
Q. Do you know how Snee Farm passes their water service charges on to their owners?
A. No.
Q. Does that matter to you?
A. No.
Q. I mean, should Snee Farms be charging their owners by actual water usage?
A. What Snee Farms does with its' owners is not as important to me as whether the rates that are charged to Snee Farms tie to Snee Farms' usage.
Q. Tell me, can you list for me every utility that you're aware of –- every water utility and wastewater utility that you're aware of that right-sizes their REUs for BFC purposes?
A. The ones that I'm aware of immediately, there are two Raftelis clients that do it. As we talked about, the City of Melbourne, Florida does it, and they're currently a Raftelis client. Also, another Raftelis client is Brunswick-Glynn County Joint Water and Sewer Commission in Georgia, and

they periodically right-size the REU counts. I know that there's a utility in Canada that I stumbled across that does it, and I think that was in your package. And there's also early literature on this type of rate structure that talks about you know, tying the rate structure to use. There was an article from the 1980s. I don't remember what the utility was. It was a Journal AWA article, but that one talked about that utility does it too.
Q. And you specifically remember that article. That utility right-sizes the BFCs –- I mean, the REUs?
A. You know, I don't claim –- you know, again, that was from the 1980s. I don't know what their current -- I haven't done any research as to their current practices, but at the time, they were talking about linking the ERUs to historical usage.
Q. But did they specifically allocate for right-sizing?
A. I don't know.
Q. So what I'm hearing from you is there are two that you say right-size: Melbourne, Florida; Brunswick-Glynn County in Georgia; and one in Canada. I mean, that's –- I mean, that

sounds like only three. Are there any others that you are aware of anywhere that do this?
A. Well, it's important to note that this is not the most common. This type of rate structure is not really covered in any of the standard utility rating manuals, such as the AWA, M1 Manual, and the Water Environmental Federation's Manual of Practice, 27, so this is not really a rate structure that's covered. A majority of rate structures that we deal with are meter size.
Q. In fact, let me back up a second. I mean, can you name utilities that use this type of rate structure, regardless of whether they right-size or not? Can you tell me utilities that use the REU/BFC rate structure?
A. I know that the town of Longboat Key, Florida uses it. I know that –- as I mentioned, Melbourne, Florida.
Q. Can you give me the name again –- Longboat Key?
A. Longboat Key, Florida.
Q. How do you spell that?
A. L-O-N-G-B-O-A-T, Key, K-E-Y, Florida, uses it. I can't really name a lot of utilities that use this type of rate structure that I've come into contact with.

Q. Okay, and does that -- I mean, is there anything wrong with this type of rate structure in general?
A. If the --
Q. I'm not talking about MPW, by the way. I'm sorry, let me get my question out. I know I may be disjointed in my question, but is there anything wrong, in your opinion, with an REU based BFC rate structure?
A. If it is done properly and linked to usage, then I think it can be a fair rate structure.
Q. Why does it have to be linked to usage when water meters are not linked to usage?
A. Well, again, water meters –- the size of a water meter is linked to the customers' usage range.
Q. Usage range. Right?
A. Uh-huh (affirmative response), yes.
Q. But not actual use. Right?
A. Right, because you have to –- I mean, you install the meter in the ground, and I mean, the meter is sized to accommodate the customers' usage.
Q. Potential usage. Right?
A. Yeah, the customers' usage, and based on the customers' usage, they can choose –- you know, again, based on the –- what makes the most sense

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for them, they can either upsize or downsize their meter size.

Q. But the water meter is established based on the customers' potential use. Correct?

A. Right, because it's a mechanical object, I mean, that you have to set into the ground.

Q. So does Longboat –- and I'm just going to mispronounce that, I'm sorry –- but does Longboat Key, in Florida –- which I'm sure is a wonderful place, and I apologize to anybody who lives there. So are you telling me they do not right-size their REUs?

A. They're built-out, so it –- and I mean, if someone had an issue with their REUs, they can get it. I mean, they're a built-out community. They're not growing at all, so it's not really relevant.

Q. But explain that to me. I don't know that I appreciate that.

A. They are built-out. And again, if someone has an issue with their REU count, and they're primarily a residential community –- they don't really have a lot of nonresidential customers, so nonresidential REU uses are not really an issue with them.

Q. Okay, but let me back up a second. So what are the nonresidential REU issues? Whether it's an issue or not an issue, what you're telling me is it's up to the customer to reduce their REUs. Is that correct?

A. I honestly don't know what their current policy is.

Q. So you haven't looked into what their policy is with regard to their customers and the customers' determination of the REUs?

A. That's correct.

Q. Why not?

A. I was never tasked to do so, and I mean, that's -- I was never tasked to do so.

Q. Were you tasked to review Melbourne, Florida, and Brunswick-Glynn, Georgia?

A. Brunswick-Glynn, Georgia is a Raftelis client so I didn't do that, but I did review the rates for Melbourne, Florida, and –-

Q. I guess I -- go ahead.

A. No, I've –- I answered.

Q. Okay. So I guess my question is not so much reviewing the rates, but did you look at these water utilities to determine whether or not they right-size their REUs unilaterally, or do they

let the customer decide whether or not to right-size their REUs?

A. Melbourne, Florida and –- is a –- and again, I think we're trying to still collect some information on Brunswick-Glynn County, but I know that Melbourne, Florida unilaterally adjusts their –- or right-sizes their REUs.

Q. And as I understand it, you do not know whether or not that occurred in Longboat Key, Florida?

A. Right, that's correct.

Q. Any other water utilities that you are aware of that use this REU/BFC rate structure, other than the ones you've already mentioned?

A. Yeah, I don't have –- like I said, I don't usually work with a lot of utilities with this kind of rate structure.

Q. So is it fair to say you're not very familiar with this type of rate structure?

MR. APPEL: Object to form.

A. Oh, I'm familiar with it, and certainly with any utility, I always have the option of recommending this structure, but I have never recommended it.

Q. Why have you not recommended it?

A. It's just –- I mean, most of the utilities I work with are very comfortable with the meter based

methodology which is covered throughout all the standard utility publications on ratemaking. And so, you know, we certainly -- we kind of like to try and stick with the mainstream and not recommend something that could lead to controversy.

Q. And you don't think the water meter leads to controversy?

A. No. It's heavily covered throughout all the standard ratemaking manuals, and so I don't think that there's much controversy in the meter based approach.

Q. And you believe the water meter size/BFC approach is fair?

A. Sure.

Q. You believe the water meter sized approach is reasonable?

A. Yes. I mean, I would consider it to be an accepted methodology.

Q. Well, I mean, this REU/BFC approach is accepted. Correct?

MR. APPEL: Object to form.

A. "Accepted" is a strong word. I don't know if it's been properly challenged in court, and so that's one of the reasons why I think we're here

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today.
Q. So explain that to me. Are you saying that no one has ever challenged the REU/BFC rate structure in court that you are aware of?
A. Again, I don't claim to be familiar with all the litigation that has been –- you know, with respect to this particular rate structure, so I don't know.
Q. Well, and I guess my question –- and I appreciate that you're not –- I mean, you know, you may not be all-knowing. But I mean, you personally are not aware of any court challenges to the REU/BFC rate structure. Is that correct?
A. That is correct.
Q. So likewise, you are not aware of anyone deeming the REU/BFC rate structure that MPW employs as illegal. Correct?
A. I'm not aware of any court cases prior to this one.
Q. Okay. That wasn't exactly my question. My question is, you're not aware of anyone finding an MPW rate structure that currently employs REU/BFC rate structure to be illegal. Correct?
A. Right.
Q. Are you aware of anyone determining that the

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REU/BFC rate structure that MPW employs –- any finding that it's unfair?
A. I am not aware of the history of whether this rate structure has been challenged.
Q. But likewise, you're not aware of anyone finding the REU/BFC rate structure that MPW employs as unfair. Correct?
A. Correct.
Q. And you are not aware of anyone finding the REU/BFC rate structure that MPW employs –- you're not aware of anyone finding that rate structure to be unreasonable. Correct?
A. I'm not aware of any court findings, and again, I don't claim to be an attorney or to know past litigation history.
Q. No, but I mean, you work in the rate structure world. I mean, this is your job. Correct?
A. Yes.
Q. And again, you're not aware of anyone finding the REU/BFC rate structure that MPW employs –- anyone finding that to be unreasonable. Correct?
A. I am not aware of any challenges to it. And again, when you're –- you know, it's got to –- I mean, it obviously is –- as you're well aware, it takes a lot of effort to challenge over these

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kinds of rate structures. So you know, I think in this case, the issue is –- and if I can share my screen again if that --
Q. Sure.
(Screen share)
A. The issue in this that I think led up to this case is what we're showing here. Where --
Q. I'm not seeing your shot.
A. Oh, is it? I'm sorry.
DEFENDANT'S EXHIBIT 3 MARKED FOR IDENTIFICATION PURPOSES (1 page - Draft Questions and Answers, 2/14/19; Table 2, Historical MPW User Rate Increase Activity, page 6)
Q. That's okay.
A. I'm sorry I had to -- in this case, you can see just how much, and this prompted the -- most likely prompted the case. You can see that MPW increased it's water BFC from $3.33 per REU to $8.40 per REU in a very short period of time; that's a 152 per cent increase. I mean, there was no 20 year plan to gradually increase it over time. It was just "wham-bam." And on the wastewater side, the increases were 86 percent over a short period of time, and that is why –- you know, suddenly you've just -- MPW slammed

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the customers that have these unrealistic REU counts, and that's why there was a challenge. I mean, it's very possible that if MPW had, you know, provided a more incremental approach, customers may not have even noticed the change.
Q. So I mean, there's nothing illegal or wrong with increasing the rates in that way. Is there?
MR. APPEL: Object to form.
A. I certainly believe that a utility has the right to determine an appropriate amount of what should be recovered through fixed charges versus volumetric charges. However, this particular move slammed –- but it should be –- you know, back in 2014, you know, we talked about earlier how the MPW's engineers said that 300 gallons per day was not the right standard for an REU; it should be 220 gallons per day. And then so, I mean, what MPW should have done is right-sized all the REUs based on the engineering recommendation before slamming all the customers with these massive -- right-sizing the REU counts prior to slamming all customers with unrealistic REUs not tied to their usage.
Q. So you think they should have unilaterally reviewed the customers' REUs in 2014. Is that

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what I'm hearing?
A. Not reduced, right-size them based on the customer's usage –- whether it's an increase in the REUs or a decrease –- but right-size it based on the customers' actual usage.
Q. Without input from the customer?
A. Right, and again, this is rates, not capacity.
Q. What do you mean by that?
A. I consider that the capacity that the customer pays for should be maintained. For rate setting purposes, the rate should be based on the customers' actual use and not the demand that they paid for.
Q. But yet, we've already gone through that water meters do not do that. Correct? Water meter size rates aren't based on actual use. Correct?
A. Well, again, that's a mechanical thing that you put in the ground; whereas an REU-based structure, it's very easy to right-size an REU count because it's not a mechanical thing. It's very easy. And I've seen MPW's billing customer stats, and MPW does have sophisticated billing systems. And a billing system –- and MPW could very easily right-size the REU counts based on the customers' usage.

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Q. But again, the water meter size –- which is set based on the potential demand that the customer may desire –- if I charged somebody simply based on the size of their meter, that does not contemplate the customers' actual use. Does it?
A. That is correct. What was the question again?
Q. If I charge somebody based on the water meter size, that does not contemplate the customers' actual use, does it?
A. I think it does. Yes, it does contemplate the customers' actual use, because that's what dictates the meter size.
Q. But if I have the largest meter size, but yet I am greatly reducing my amount of water, do my rates go down?
A. The customer would have to pay for a lower meter size -- a smaller size, or --
Q. And –- go ahead.
A. No, that's fine.
Q. And the customer would have to initiate that reduction, wouldn't they?
A. Yes.
Q. And you think there is nothing wrong with that. Correct?
A. That's correct. It would be because the key to

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-- with the meter size, the utility would incur costs to go out and dig up meters, and then right-size them and all that. For the REUs, it's very easy to right-size them based on the customers' actual use and in order to have a fair rate structure.
Q. It's very easy to install a new meter, and install -- redo the pipes. Is that what you're telling me?
A. It's very easy? Well, then, no. The utility would -- no. I said it's very easy for REUs to be right-sized. I mean, you could –- with MPW's billing system, you could probably just write a script, and it would do it automatically for you.
Q. Just for the transcript, what is this that you have shared on your screen? What is this on your screen?
DEFENDANT'S EXHIBIT 4 MARKED FOR IDENTIFICATION PURPOSES (213 pages - Mount Pleasant Waterworks' Annual Budget, 2021)
A. This is a -- this is from the MPW's actual 2021 Annual Budget document that actually has a -- that not only shows the BFC history, but also provides a nice graph just showing how

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astronomical the BFC increases have been over a very short period of time.
Q. Is there a movement of some parts of the water utility industry to shift fees to a BFC that can be a more stable source of revenue?
A. Lately, with the pandemic, I've actually had a mixed bag. Some people have -- some utilities have said, "Yeah, with the pandemic and with reduced usage, we should probably increase our revenue stability." Others are more concerned about low income affordability and actually support, and possibly even lowering the -- affordability is a huge topic in the utility industry, and certainly one way to address affordability is to reduce BFCs.
Q. What are some things you consider when you are –- or not you maybe –- that utilities should consider? Are there a number of factors that utilities should consider when they are setting their rates -- in their rate structure?
A. I do think that –- yes; yes, many things. Above all, it should be –- the rates need to be fair and reasonable, and just about all states have a statute that says that your rates have to be fair and reasonable; and so, you know, that's

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the first and foremost mission. But certainly we can –- revenue stability is a common consideration. Low income affordability is a consideration, and unfortunately, revenue stability and low income affordability are often conflicting objectives. And then certainly, water conservation is another common objective. There's a lot of different things that we look at in determining rate recommendations that would be acceptable to the customers.

Q. Is there any such thing as a perfectly fair system?

A. I mean, one could argue that maybe a perfect system would have a single volumetric rate where everyone pays the same charge for all the usage that they use. But that, of course, doesn't address the need for some sort of level of revenue stability, which is what the base charge provides.

Q. What about –- I mean, is there more to water service than just water usage? In other words, do some customers require additional service more than just the actual water usage?

A. What kind of additional service?

Q. You know, I mean, getting the pipes and the

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system set out. Let's say that the customer is a remote customer –- I mean, pretty far out. I mean, getting their system set up may be a larger drain on the system, but yet their water usage may be relatively low. I mean, should their rate be based on their water usage when their actual cost to the system may be significant?

A. Again, it would depend upon the specifics of the service, and that's just something that would have to be looked at. I mean, I can't -- I'd have to consider the whole big picture before making that kind of determination.

COURT REPORTER: Mr. Mantz, are you finished with the document that's on the screen?

DEPONENT: I'm sorry. I'm sorry.

COURT REPORTER: No, that's okay. I just have a better view of everyone when we're off screen share. Thank you.

DEPONENT: I gotcha.

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. So I guess my question is, are there things to consider more than just -- is it just water usage alone?

A. I mean, there's a lot to consider when setting

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up a utility system. But again, the fundamental principle in rate setting is that the rates have to be fair and equitable; that is the fundamental principle for ratemaking.

Q. But I guess my question is, is fair and equitable tied only to water use?

A. I think that fair and equitable must link to water use in some fashion.

Q. But I guess that's not my question. My question is, is it only tied to water use?

A. Again, I'm not sure what you're trying to get at here, but again, the fair and equitable. I do think that, you know, you're linking your rates to the customers' usage of the system.

Q. Okay, but again, let me go back to -- is fair and equitable only –- and I mean, you're the expert, so I mean, I'm not trying to put words in your mouth. I'm just trying to really understand your opinion here today. You said MPW is not fair. Is fair tied only to water use?

A. Based on how MPW's rate structure talks about how an REU is based on a customer's usage –- so the rate structure that MPW has adopted and implemented, it must tie to a customer's usage.

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Q. Okay, and again, that's not my question. My question is, you said, "We are not fair." In the water industry –- is there a definition for "fair" in the water industry? Let me start there.

A. Well, you know, certainly, as you're well aware, laws are often, you know, very general, and then there's a wide range of what might be considered fair and reasonable. And you know, certainly in anything that you do, you want to be able to smile in court, and so it needs to be something that's legally defensible.

Q. Okay, but again, I mean, what is not -- is there a definition of "fair" in the water industry?

A. No. No, fair is what is determined as part of the –- you know, what's acceptable to the community, as well as what the courts determine.

Q. Is there a definition of "equitable" in the water industry?

A. I'd have to –- I mean, equitable, again, is another area where there's a –- I mean, equitable and fair are kind of, more or less, synonymous with each other, and so fair and equitable are certainly subject to interpretation. And as I mentioned, you just

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have to be able to –- you know, in a court setting –- with anything you do in this kind of environment, you just need to be able to defend in a court setting that what you've done is fair and equitable.

Q. Okay, but there's not a specific definition?

A. Yeah, I mean, it is open to interpretation. And again, it has to be –- and I mean, the issue is whatever is done, would it be legally defensible with respect to what is fair and equitable.

Q. Do you think it is somehow unfair to put the onus on the customer to right-size the REU?

A. No, I do think it's unfair, and again, I'm just going to talk about that chart that I was just showing, where it just shows that in a short period of time, the BFCs were increased. The water BFCs were increased by 152 per cent, and the wastewater BFCs were increased by 86 percent. I mean, with those kinds of massive increases in a short period of time, you put the customers in a very awkward position where they're having to –- and in accordance with MPW's policies, if they reduce their number of REUs, they also reduce their capacity in the system which I don't agree with. And so I do

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believe that REUs should be done by the utility, as is the practice of other utilities that right-size the REUs.

Q. When you say, "as is the practice of other utilities," you're only talking about two other utilities. Correct?

A. The ones that I mentioned.

Q. Which were only two. Correct?

A. There –- yeah, the ones that I mentioned -- as I mentioned.

Q. Which were only two. Correct?

A. Three.

Q. I thought the third one you did not know whether or not it right-sized.

A. Well, we had the documentation that they're right-sizing, but we're gathering more information about that utility's practices.

Q. So at most, three in the country that right-size?

MR. APPEL: Object to the form.

A. Again, I don't claim to know the –- you know, I have my –- the universe of utilities that I work with, we don't really work a lot with this type of rate structure. But I have done research, and again, early literature on the subject which

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was in your package –- that Journal AWA article –- talks about linking the ERUs or the –- in MPW's case, the REUs to historical usage.

Q. Is it fair to say that prior to being retained in this case, you were not very familiar with the REU/BFC structure –- rate structure?

MR. APPEL: Object to the form.

A. I'm very familiar with the form. It's just not something I've recommended.

Q. Okay. Is it something you've worked with prior to this case?

A. Yes, I'm –-

COURT REPORTER: Excuse me, Ms. Hill. You froze up. Can you repeat your question, please?

Q. Sure. Is the REU/BFC rate structure something you were familiar with prior to this case?

A. Yes, as I mentioned, I worked for the -- I've done rate studies. I did a rate study with the City of Melbourne, Florida back when I worked with Public Resources Management Group, which was subsequently acquired by Raftelis.

Q. Did you recommend Melbourne, Florida to move away from the REU/BFC rate structure?

A. No, because as I mentioned, I think it can be a fair rate structure, as long as the REUs are

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periodically right-sized.

Q. And let me touch a little bit more on the -- you keep distinguishing between REU capacity. What do you mean by that?

A. Well, utilities have a methodology for charging capacity fees or to buy into the proportionate share of the system capacity. And –- but then, there is another methodology for the actual rates, and those methodologies are not always consistent. But certainly, the capacity fee that's -- or the impact fee which a lot of utilities –- you know, and a lot of utilities charge it, but it's not required that you charge an impact fee or a capacity fee.

Q. So for the REU capacity, is the customer essentially saying, "These are the gallons of water that I want to be able to have the ability to access. This is the capacity that I anticipate using for my" –-

A. Yes.

MR. APPEL: Object to form.

Q. Was that a yes?

A. Yes. Yes, you're buying into the capacity based on your, you know, estimated demand at the time. And some utilities have -- a lot of utilities I

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should say have policies that if you –- that within the next 24 months, or three years, or next 12 months, they have the right to take a look at your actual usage and adjust your impact fee accordingly.

Q. And in fact, MPW has a policy like that. Correct?

A. Yes, for impact fee purposes or capacity fee purposes.

Q. So those REUs are basically similar to the size of a water meter, or is the customer telling the water utility, "This is my anticipated water demand" –-

MR. APPEL: Object to form.

Q. –- potential water demand"?

A. I mean, there are utilities out there that have a methodology for impact fee determinations that are based on an REU basis, but then for rate setting purposes, they have a meter size basis.

Q. Okay, but that's not really what I asked. What I asked is, is the REU capacity -- are the REUs determined at the initiation of the water service? I mean, that is the customer saying, "This is my anticipated or potential water use." Correct?

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A. Yes.

MR. APPEL: Object to form.

Q. Was that a yes?

MR. APPEL: Object to form.

A. Yeah.

Q. Do you know in Mount Pleasant if the Mount Pleasant Waterworks –- how that initial REU is established -- initial REU number is established?

A. Yes, it's outlined in your Impact Fee Guidebook.

Q. All right. Can you tell me what that is off the top of your head? And if you can't that's fine. I'm just trying to find out what you know.

A. Okay. I can certainly share my screen again.

Q. Sure.

(Screen share)

DEFENDANT'S EXHIBIT 5 MARKED FOR IDENTIFICATION PURPOSES (8 pages - Impact Fee Guidebook)

A. Amount of estimated water used per day –- so again, you're once again talking about the customers' use.

Q. Estimated water use. Correct?

A. At the impact fee stage, yes.

Q. Do you know how much input the customer has in setting that REU?

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A. No, I do not.

Q. Does it make sense that Mount Pleasant Waterworks would receive information from the customer in order to establish that REU?

A. Yes.

Q. Let's turn to that article that you have referenced a few times. I believe it's from 1984, the AWA Journal article. I believe that's Exhibit G, and I can turn to it on my screen.

A. Yeah, let's –- could you --

Q. It's Exhibit G to number 10 –- the Exhibit 10 that we've listed. Now let me see if I can pull that up.

COURT REPORTER: Excuse me. Excuse me, Ms. Hill. These documents that you're referencing, are you marking these as exhibits, or are you just referring to them?

MS. HILL: This one I'm going to mark as an exhibit, and I actually would like to mark as an exhibit the documents that Mr. Mantz has referenced previously. I don't know how many –- what number we would be on, and I apologize for not keeping count of that.

COURT REPORTER: Yes, and I've not kept track because you weren't indicating that you wanted them marked; you were just referring to them. So I can

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certainly figure it out over the course --

MS. HILL: Okay.

COURT REPORTER: -- of typing it, but right now, I don't know what exhibit number you're on. But --

MS. HILL: Okay, I'm –-

COURT REPORTER: Would this make sense to you? As I go through, and I type it, whatever document Mr. Mantz has put up on the screen, I will call that Exhibit 1, 2, 3, 4 starting with -– at the very beginning. Correct?

MS. HILL: Yes, ma'am.

COURT REPORTER: Okay, thank you.

DEFENDANT'S EXHIBIT 6 MARKED FOR IDENTIFICATION PURPOSES (7 pages - Draft Questions and Answers, 2/14/19; Exhibit G; Journal AWWA Article Published in 1984 Entitled "The Common Denominator: Equivalent Residential Units" Discussion of How Historical Average Usage Is Used to Equitably Determine Equivalent Residential Units)

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. Okay. So I am now pulling up what we had pre-marked.

MS. HILL: And this is probably going to mess you up, Madamme Court Reporter.

Q. But number 10, it's entitled Draft Questions and

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Answers with a date 2/14/19. I'm trying to get to Exhibit G. Okay, and now I'm going to try to share my screen. Everybody bear with me here.

(Screen share)

Q. Can you all see that?

A. Yes.

Q. Is this the article that you have referred to a few times regarding an REU system?

A. Yes.

Q. REU/BFC rate structure system?

A. Yes.

Q. Okay, and where is this based out of?

A. Where is –-

Q. For the water utility. I'm asking for the water utility.

A. It looks like it's in Virginia.

Q. And so you told me that this system –- well, first let me -- let's look at the article. So in the top little introduction to the article there –- and I will highlight it –- it actually says, and I'm going to read it, "The concept appears to result in more equitable charges than those based on equivalent meters." Do you see that?

A. Uh-huh (affirmative response).

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Q. Do you agree with that statement?

A. Again, if the REUs are periodically right-sized, I think it can be a very fair rate structure.

Q. Do you think it's more fair than water meters?

A. If it's periodically right-sized where it's really tied to a customer's usage, I think it can be very fair –- a very fair structure.

Q. Do you think it is more fair than the water meter sized structure?

A. "Fair" as we've talked about, is a relative concept, but I do think it can be a very fair and possibly more fair structure. And again, it depends upon how the utility sets up the structure and the specifics of the service area characteristics because each utility is different.

Q. So even though you believe it has the potential for being more fair than the water meter sized structure, you have never recommended this type of structure to any of your clients. Is that correct?

A. I have not. And I do show -- I think it's important to point out that it –- in determining one of the things, a key consideration when determining whether –- you know, in determining

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a rate structure recommendation, is administrative feasibility and whether the clients or the utilities' billing system is set up to handle this kind of rate structure and the periodic sight-sizing of ERUs. So administrative feasibility has to be considered in developing a recommendation -- a recommended rate structure.

Q. So help me with that. So administrative feasibility, is that a -- that's a factor that must be considered in setting up a rate structure?

A. Yes, if –- that the utilities' billing system is capable of handling the rate structure.

Q. Can it be costly to right-size REUs?

A. No, it shouldn't be, because with today's systems, you can just write a script, and it'll automatically do it for you.

Q. Let me look at this article, and I'm going to highlight a paragraph there. Do you see that? And I'm not great at highlighting just a paragraph, but do you see the paragraph I'm referring to?

A. Uh-huh (affirmative response).

Q. And I think I marked it in blue, but "the theory

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of rates based on the equivalent residential unit, ERU," –- which is really the same as REU that we've been talking about –- "is that a user's initial payment to buy in or purchase capacity in a water system should represent the actual purchase of a proportionate share of capacity based on the user's estimated peak demand on that system." Do you agree with that statement?

A. Well, that's not how MPW has set up your system. I mean, I think peak –- I mean, usually, these REUs are determined based on the customers' actual use or estimated use.

Q. Okay. I'm a little confused there. Do you agree with this statement that is highlighted there?

A. Yeah, I do think you have to consider peak demand in determining the ...

Q. The REU?

A. For impact fee purposes.

Q. What is your highlight in the next paragraph? What does that represent?

A. "The historical average daily usage is used to develop the factors with which the ERU schedule is established. The customers' historical or

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projected use of water can be used to determine the daily average demand that the connection will place on the water system."

Q. Or projected use of water. Correct?

A. Right. If the customer has no billing data then I mean, you would have to use projected until you use –- and that's customer –- for the utilities that right-size their ERUs, if there's a customer that doesn't have the historical usage, they have to use projected until they actually have a historical record.

Q. But that's not what this does, does it? It doesn't say "until there's a historical record." It just says, "a customer's historical or projected use." Correct?

A. Yeah, that's what it says.

Q. And again, when it's talking about the historical average daily usage, it's using that to set up an ERU schedule. Correct?

A. I'm sorry. Can you repeat the question?

Q. Sure. The sentence before says, "The historical average daily use is used to develop factors with which the ERU schedule is established." Correct?

A. Yes.

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Q. And that the schedule is used to assign ERUs to new customers –- or REUs in our case. Correct?

A. Yes, and REUs, and then the historical usage is used to determine the –- you know, ERUs and the right–sizing of the ERUs.

Q. Does this article reference right-sizing at all? And if so, just point me to that. And I'm assuming you have the article in front of you, as well. I mean, just tell me what page to go to.

A. I don't know. I do not believe it talks about –- I'm not sure that it -- I don't know the question. It's been a while since I've read through the entire article.

Q. Well, by all means. I mean, take your time right now, and feel free to look at it.

A. Okay.

Q. And we can take a minute while you do that; that's fine.

A. I mean, I don't -- can you scroll down or ...

Q. Yes, or you should have it if you want to pull up the documents that we sent you ahead of time. If you pull up Exhibit 10, and then you can go to Exhibit G off of Exhibit 10 and that is this article.

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A. Okay. Let's see. Wait -- so the exhibit -– I have Exhibit 10 which -- what's the -–

Q. If you open Exhibit 10 --

A. It's not Exhibit 10 on mine.

Q. I'm happy to scroll through this if you want to, if that's easier.

A. Oh, okay, let's see. No, I found –- I got it. It's Exhibit 32 in what I have.

Q. Okay.

A. Let's see.

Q. Yes, it's in there twice. It is in that same place, as well.

(Deponent reviews document)

A. It does talk about, "The daily operational cost should be supported by charges for services allocated as equitably as possible among the houses and businesses served."

Q. Where do you see that?

A. That is on page 59, or ...

Q. Do you see anything about right-sizing REUs?

A. Well, there's an implied right-sizing in there that you're, you know, having to allocate it based on –- you know, as equitably as possible, so there's an implied right-sizing.

Q. Do you see any actual right-sizing?

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MR. APPEL: Object to the form.

(Deponent reviews document)

A. Okay. So it talks about –- toward the end, it talks about, you know, "The ERU concept represents an equitable share based on historical average usage, and the method of arriving at the ERU can be altered depending on applicability, new information, or political needs." So certainly, the actual usage of the customer represents new information.

Q. Does it say that? Does it say "actual historical use of the customer"?

A. "Historical average use by each customer class."

Q. Customer class. Right? Not customer. Correct?

A. Well, the whole purpose of a –-

Q. No, no. Is that what it says? Does it say "customer class" -- not customer. Correct?

A. That is correct.

Q. So do you see anywhere else --

A. Then again, it talks about each –- it also talks about, "Each utility system attempting to use this concept should be prepared to invest the time necessary to conduct research and to arrive at the specific equivalency factors that apply

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directly to its' situation."
Q. But again, the original question that I had for you, to look through this article, was to ask whether or not this system that you held out as a system that uses REU/BFC rate structure, whether it allows for right-sizing anywhere –-
A. And I have --
Q. Let me finish my question. Have you seen anywhere in this article that it refers to allowing for right-sizing?
A. No, there's nothing in the article that refers to –- and then when you -- when we talked about it earlier in this deposition, I said, "I don't know what their current practices are."
Q. And in fact, this article specifically says that it does not allow for right-sizing. Correct?
MR. APPEL: Object to form.
A. I disagree. It talks about investing the time necessary to establish equitable rates based on new information.
Q. All right. Let me refer you to page 59. I think you were talking about page 59 a minute ago. Do you see here the bullet point that says, "The ERUs' schedule recognizes several assumptions and factors." Do you see that? Do

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you see this right here?
A. Oh, I'm sorry. I'm still looking at my copy. Where's –- okay.
Q. At the top of page 59. "The ERU schedule recognizes several assumptions and factors." Do you see that?
A. Uh-huh (affirmative response).
Q. Okay. So one of the assumptions that they specifically recognize is that "Once capacity is committed" –- this is going to be hard to do –- "it remains with the real property, i.e. there are no transfers and no refunds." Do you see that?
A. Uh-huh (affirmative response).
Q. In other words, no right-sizing. Correct?
A. Again, once you buy into the capacity, I mean, that should be -- your buy into the capacity should remain with the system. But I mean, it doesn't say that there shouldn't be –- that for fixed costs and recovering the daily operating costs of the system, it doesn't say that you have to -- I mean, that has to be fair and linked to usage.
Q. Okay, but this system that you've held out –- I mean, you sent us this article. I didn't find

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this article on my own. You submitted this article which discusses one system REU/BFC rate structure, and then the list I was just showing you refers to the ERU schedule that talks about the schedule for this ERU rate structure. And it specifically notes that one of the assumptions is that once capacity –- in other words, once the ERU, or REU in our case, is established, it remains with the real property. There are no transfers and no refunds. Right?
A. Okay, but that has nothing to do with user rates. That's just saying once you've bought into the capacity, I mean, you've bought into the capacity. But I mean, I don't ...
Q. Will you read the next sentence?
A. "Because the purpose behind the ERU concept is revenue generation, and the ERUs are applied to both revenue categories, the authorities' revenue structure is discussed."
Q. All right, and then the bullet point above the one I just referenced –- the one that starts with, "Once capacity fees are paid, and the establishment is connected with the water system, no further capacity fees will be paid unless use of the property changes resulting in

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a higher use factor. If the system demand increases because of a different use, an additional capacity fee will be due." Do you see that?
A. Yes.
Q. So they contemplate needing to buy increased capacity. Correct?
A. Okay, again, this is where we're –- this is –-
Q. Is that correct?
A. Well, I think we're talking about capacity fees versus user fees here.
Q. Yeah, but they're saying these are the capacity fees that they use to establish the ERU system for their BFC rate structure; that's what this article talks about. And nowhere in this article does it discuss right-sizing or decreasing REUs or ERUs. Does it?
A. Well, I've never represented that they right-sized their –- again, I don't know what their current practices are.
Q. But you agree with me that nowhere in this article does it discuss decreasing ERUs, or REUs, or right-sizing. Correct?
MR. APPEL: Object to form.
A. I disagree because it talks –- I mean, it

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doesn't have the word "right-sizing," but it talks about monitoring the system and investing the time in order for the rates to be -- for your rates to be equitable.

Q. Does it use the phrase "decrease REUs or ERUs" anywhere in this article?

A. I think there –-

MR. APPEL: Object to form.

A. I mean, is there specific text that says "increase or decrease"? No. It's implied based on some of the comments towards the end.

Q. Well, there actually is specific text that references increase, and we just talked about that, but there is no specific text referring to decrease. Correct?

A. That is correct.

Q. All right. Now I'm going to ask you some questions about this document that's been number 10 on our exhibit list.

(Screen shared)

DEFENDANT'S EXHIBIT 7 MARKED FOR IDENTIFICATION PURPOSES (54 pages - Questions and Answers Draft, 2/14/19)

Q. I don't know if it will be Exhibit 10 at the end. This is entitled, "Questions and Answers,

Draft," as of February 14th, of 2019, and I have that up on the screen. Do you see that?

A. Uh-huh (affirmative response).

Q. Okay. What is this document?

A. That's just something that I think was provided to MPW. It was just a –- I guess just to kind of summarize some thoughts on the case.

Q. Let me ask you this –- and I know we've just talked about that article at length –- but do you have anything at all that says an REU/BFC structure requires right-sizing?

A. Well, again, we go to the fundamental statutory requirement. You know, basically, that's a –- just about every state has –- that talks about how rates need to be fair, and reasonable, and equitable, and so the question is whether a utility's rate structure meets those requirements.

Q. Okay, but I guess my question is more specific than that because you've said that a few times. What I'm asking is, is there anything within the water industry that says that REU/BFC rate structure requires periodic right-sizing?

A. No.

Q. So let's turn back to this document Questions

and Answers, Draft as of February 14th, 2019. Did Mr. Appel's firm ask you to prepare this document?

A. Yes.

Q. And why, specifically, did they ask you to prepare this document?

A. It was just to provide my observations, and again, it was shared with MPW.

Q. And I noticed there are a number of drafts of this document. And in fact, let me refer you to what we have marked on our exhibit list of exhibits as number 7, the Combined Draft of Questions and Answers.

DEFENDANT'S EXHIBIT 8 MARKED FOR IDENTIFICATION PURPOSES (186 pages - Combined Draft of Questions and Answers, 1/2/2019)

Q. And I can pull that up.

(Screen share)

Q. Do you see that there?

A. Uh-huh (affirmative response).

Q. I think there is a draft from January 2nd, 2019; there's another one from January 2nd, 2019; January 21st, 2019; another one from January 21st, 2019. Actually, I think there are two or three with that date. What do these

drafts represent?

A. It's an ongoing process, and then the –- I think the one that you –- you know, and I've –- over time, I was trying to refine my thinking. And the last one that was –- again, was shared with MPW, that was the latest and greatest at the time, and ...

Q. You say "latest and greatest at the time." Is there any more recent than February 14th, 2019?

A. No. No, we –- there's been no subsequent amendments to that in the past almost two years.

Q. And I mean, why were you preparing this in early 2019?

A. It was at the -- you know, that's what I was asked to do, so I did.

Q. And it started out as a Discussion Document and then ended as Question and Answers. Do you know why the title change?

A. Yeah, we had talked about what we wanted to provide to MPW, and it was determined that –- I mean, I guess, to what –- it would be better for purposes of the case to present it in a questions and answers form.

Q. And this document that we have –- that I have up on the screen now still has the watermark draft

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on it. Is this a final form? Is there one without the watermark draft on it?

A. No, there have been no edits to that, and it's remained in draft form for the -- yeah, and that was the last one that was -- that one, I think, was provided to MPW.

Q. Do you have any intention to edit this document?

A. No, I've not been asked to.

Q. What are some of the issues with the earlier drafts?

A. Well, with the earlier draft -- but with each subsequent draft, I kept, you know, increasing the documentation and just refining the thinking and the position.

Q. Let's turn to this document, and let's look at the first paragraph right here. You say, "Utilities have a lot of options for determining a rate structure for charging customers. However, South Carolina law requires any rate charge to be reasonable," and it refers to Exhibit A.

DEFENDANT'S EXHIBIT 9 MARKED FOR IDENTIFICATION

PURPOSES (1 page - Draft Questions and Answers, 2/14/19, Exhibit A; Section 5-31-670, South Carolina Code of Laws Requiring Rates to be Reasonable,

"Furnishing Water for Compensation Sewerage Charge")

Q. And I'm going to go to Exhibit A here.

(Screen shared)

Q. Is this the statute that you are relying on, Section 5-31-670?

MR. APPEL: Object to form.

A. Yeah, that was the documentation I provided.

Q. Did someone provide you with that statute, or did you find it on your own?

A. I believe I found it on my own.

Q. Does that statute have the word "fair" in the documents in the statute, in any way?

COURT REPORTER: Excuse me, ma'am. Can you repeat your question?

Q. Sure. Does the statute use the word "fair"?

A. No, it says "reasonable."

Q. Does the statute use the word "equitable"?

A. No, it says "reasonable."

Q. Getting back to your paragraph, you then go on to say, "A synonym for reasonable is equitable." Do you have any citation for that or any basis for that?

A. A dictionary or a thesaurus.

Q. And the term "equitable" is considered by the utility industry to mean cost-based. Do you

have any citation for that statement?

A. I mean, it's often -- most likely one of the ratemaking manuals has something along that lines as citations. I didn't put a citation from the ratemaking manuals, but that's where ...

Q. Can you refer me to a ratemaking manual that has that statement in it?

A. I don't have the full ratemaking manuals at hand, but I mean, there's cost-based –- and equitable, and cost-based are considered, you know, for ratemaking purposes. You know, I stand by that statement.

Q. Do you ever use Principles of Water Rates, Fees, and Charges Manual of Water Supply Practices, M1, 7th Edition? Are you familiar with this book?

A. Yes. Yes, I've actually worked on that one.

Q. Does it have that statement that you just made? Is that in that manual?

A. I don't know offhand.

Q. What is cost-based? What does that mean in the water industry?

A. That rates that you charge a customer have a reasonable nexus or basis for –- that customers

–- of the cost to provide service to that customer.

Q. Does that definition exist, and can you refer me to a manual or anything that would provide that definition?

A. I have –- I don't -- again, this is something that was prepared two years ago, so it is most likely in the M1 Manual.

Q. Has the AWWA adopted one method of BFC charge?

A. The AWA recognizes the –- you know, there's flexibility in how the BFCs are charged. As I talked about, the M1 Manual does not really talk about the ERU methodology. I'm not even sure it even mentions it. But certainly, you know, they provide guidance on different types of rate structure options, and that's why I said the utilities -- in the first sentence there, utilities have a lot of options when determining a rate structure for charging customers.

Q. Has the AWA excluded any methods of BFC charge?

A. No, the ratemaking manuals are basically –- provide guidance. I mean, they're not -- and the AWA doesn't have statute –- doesn't have the authority to enforce. I mean, they're –- anything that the AWA says in there, you know,

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would be superceded by any state laws or local laws.
Q. Okay. Do you know of any state or local laws that have excluded any BFCs?
MR. APPEL: Object to form.
A. No, I'm not aware of any laws, as such.
Q. Let's refer down to your document here. And you say, "Most utilities charge rates that have a fixed charge component and a volumetric charge component." Why is it important to have a fixed charge component as a part of a water utilities' rate structure?
A. Primarily revenue stability because salaries and benefits, as well as debt service, are all fixed costs that the utility has to pay for regardless of customer usage.
Q. In fact, I mean, you can't just turn off –- I mean, you can't fire people, or you can't just simply turn off some of those fixed charges, can you?
A. That's correct.
Q. Even if water usage drops. Correct?
A. That is correct. It's not –-
Q. So it's important to –- go ahead.
A. Yeah, go ahead.

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Q. So it's important to have a rate structure that is not tied solely to usage. Correct?
A. It's important to have a rate structure that would be considered fair and equitable.
Q. Okay. So you've said that before, but what you've written here is that there are fixed costs that require servicing regardless of water usage. Correct?
A. Yes.
Q. So if water usage dips, the utility still has to pay these fixed costs. Correct?
A. Yes.
Q. So it would be important to have a part of your rate structure not be tied solely to water usage, because if it's solely tied to water usage, then your revenue stream is going to dip along with a dip in water usage. Correct?
A. I mean, there are some utilities that don't have a base facility charge. The base facility charge, as I mentioned, is considered to be a –- I mean, a utility has the option of whether to have a base charge. There are still some utilities out there that just have a pure volumetric charge for all usage.
Q. Do you recommend utilities have some sort of

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fixed revenue stream –-
A. Sure, absolutely.
Q. –- not tied to water usage?
A. I believe that the overall system –- again, I mean, I believe that the overall system of rates and charges has to meet the reasonable and equitable provations [ph], and how the utilities accomplish that, it –- you know, and whether –- you know, that the key is to come up with something that would be –- that you know, would -- that you could smile in court over.
Q. Okay, but I –- you know, you said that before, but that really isn't my question. My question is, you said there are some utilities who are solely –- base their rate structure on volumetrics, on use?
A. Yes.
Q. Yet there are fixed charges –- fixed expenses for these utilities that are not tied to use. Correct?
A. That's correct.
Q. So do you recommend to people that you consult with to have some type of rate structure that is not tied to use so that they can still meet their expenses if usage drops?

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A. Yes, I do. I do typically recommend base charges.
Q. And by "base charges" you mean a charge not tied to use. Correct?
A. Base charge not tied to use. Yeah, I mean, it's a fixed cost per month, but the amount of base –-
Q. But that has nothing to do with how much water you use. Correct?
A. But the amount of the base charge must be considered fair and equitable.
Q. Okay, but the base charge –- I mean, the base charge can simply be $100 dollars. I mean, it can be just a flat charge just on your bill that has nothing to do with anything. Correct?
MR. APPEL: Object to form.
A. I mean, you can have all sorts of systems of base charges and how you charge the base charge, but the key, again, is if it would meet the reasonable and equitable standard and would be defensible in court.
Q. Okay, but if both the volume –- the volumetric charge is based on use. We all agree with that. Correct?
A. Uh-huh (affirmative response).

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Q. And then if you have a fixed charge that is also tied to use, are you accomplishing a steady revenue stream?

A. Right. I mean, basically, you have to recover a certain amount of revenue, and show –- you're just trying to, you know, accomplish a goal of revenue stability by making a certain amount of the charges fixed. But as far as tying it to use, what I normally do in rate studies is, I will take the base charge and volumetric charges paid, and then divide it by the total usage to see what the customers' effective cost per 1,000 gallons is. So I try and make sure that there's not a –- that when I consider both the base charges and the volumetric charges, that there's not a huge difference in the overall effective cost per 1,000 gallons.

Q. Yeah, but is that --

A. So when I do rate setting, I do consider the overall charges to the customer divided by the customers' usage, and that includes both the base charges and the volumetric charges.

Q. And I appreciate that's a consideration that you make, and you look at that. But when you're setting up a rate structure, isn't it –- I mean,

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isn't it just a basic principle that it's important to have a steady revenue stream, and by steady, we mean not tied to use. Correct?

Mr. APPEL: Object to form.

A. You know again, I rely –- you know, in my practice, I relate it to use by, again, adding the base charges and the volumetric charges and divide it by the total consumption to –- so that I take –- I do take a look at the overall link to use. But I do agree with you that there should be some sort of revenue stability; that utilities should have a certain amount of revenue stability.

Q. Not tied to use. Correct?

MR. APPEL: Object to form.

A. Again, in my practice, I do link it to use because I consider the whole picture. So that's –- you know, that's just my practice.

Q. But the –- what your practice is, and what you told me is what you look at when you're considering –- when you're analyzing the whole thing.

A. Yes.

Q. However, there should be –- I mean, here in your document here, you say, "A utilities' water

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sales to customers can vary month to month, and yet most of a water, or wastewater utilities' operating expenses do not typically increase or decrease proportionally with changes in water sales." So as a result, there needs to be a part of the rate structure that is fixed, not tied to water usage. Correct?

A. Well, again, I mean, it's not tied to water usage, but it is –- but again, I –- you know, in my practice, I do tie it to usage. So I mean, that's ...

Q. So you tell your customers that their fixed rate should be tied to water usage, and thus, it would dip up and down based on water usage?

A. I mean, the fixed costs are the fixed costs, but I do try and make sure that the overall charge per 1,000 gallons –-- when you look -- when you consider both the base charge and the volumetric charge added together, and then divided by the customers' usage, that the cost per –- the over -- the effective cost per 1,000 gallons is within a reasonable range among customer classes.

Q. You consider that, and you look at that, but the fixed charge, again, is not tied to water usage.

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A. It is a fixed –-

MR. APPEL: Object to the form.

A. It's a fixed cost per month. I mean, that –- yes, regardless of how much you use, you have to pay it.

Q. And we talked a little bit about this before, but let me make sure I appreciate it. What is the difference between demand versus usage? Can you have a high demand but a low water usage?

A. High demand but a low water usage; I'm not sure what that means. I mean, usage is usage.

Q. Is usage different than demand?

A. I think we had talked about how they were synonymous, previously. So again, you know, go back to my –- you know, I think that rates should be tied to usage. So that's ...

Q. Let's turn to page two here. You have here that, "It's very easy for a customer to overstate the number of REUs needed." What do you mean by that?

A. You don't know when customers are at the planning stage. They don't –- you know, they can assume that it's just a certain -- that the development is going to be using a certain amount of gallons, but how much that gallon –-

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how much the customers ultimately use will depends on a whole range of factors. And it's –- I mean, you can plan for usage, but all we know is that the plans are always going to be different than the actual usage, and –-

Q. And then the customer -- go ahead.

A. So I stand by that statement. You can plan –-

Q. So if –-

A. Go ahead.

Q. I'm sorry. You were saying you could plan [inaudible].

A. Yeah, I mean, it's very easy to overestimate how many REUs you're going to need at that planning stage.

COURT REPORTER: Excuse me, Ms. Hill. Excuse me. Could you repeat that question? You broke up.

MS. HILL: He said –- I really was just trying to get Mr. Mantz to finish his sentence. He started with, "You can plan."

COURT REPORTER: Thank you.

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. So if a customer is designating their REUs, and as you stated in here, that it's easy for a customer to overstate their needed REUs, do you also believe that it's easy for a customer to

overstate the size of their water meter?

A. Sure, if –- usually, water meters are sized. You know, one water meter can accommodate a certain range of flow, so I would say that it's probably easier for a customer to overstate its' number of REUs than to overstate the meter size that's needed.

Q. And we talked about this briefly before, but MPW allows for a grace period for REUs. Correct?

A. Yes.

Q. And in fact, during –- I believe it's the first two years –- they can go back and revise their REUs and actually receive some type of refund. Correct?

A. Yes.

Q. Do you think that –- I mean, is there any issue with that ability to restate their REUs? Do you take any issue with that?

MR. APPEL: Object to form.

A. Yeah, for the customer to say, "Hey, yeah, I overestimated," I mean, I think that's a good policy that you're able to –- you know, that the –- it's a good policy.

Q. And in fact, they have the ability for some type of refund. Correct?

A. Yeah, I believe so.

Q. Do any of your water meter sized rate customers allow for something similar?

A. Well, most customers –- for impact fee determinations, most impacts fees, or capacity fees, or whatever you want to call them, are charged on a per ERC basis. And there are several accepted methodologies for determining the number of ERCs at the impact fee stage. But when it comes to actually setting up a system of user charges, at that point, I would say most utilities I work with just charge -- have a meter based system.

Q. Okay, but that really wasn't my question. My question was, you know, we just talked about that MPW allows customers to sort of re-evaluate their REUs within the first two years --

A. Uh-huh (affirmative response).

Q. -- of their service, and even provides the ability for a refund. Do the systems that you work with, where the customer selects the water meter size, if they determine that that water meter size is too large, do your customers allow this –- I mean, do your water utilities that you work for, do they allow the customer to get a

refund based on a need for a smaller water meter size?

A. No, but they do have the ability to downsize their meter.

Q. At their cost. Correct?

A. At their cost.

Q. And the cost –-

A. And I will say one thing about MPW's policy is that, I mean, I think you have a three year grace period. And it is possible that during –- you know, the development may not have significantly materialized during that three year period. And so, at that point, the customer may not really know what their ultimate demand is going to be, so they may not know whether they should seek a refund or not.

Q. So in your opinion, are you saying three years is too short?

A. I don't know what the proper –- again, I can't make general statements about all utilities because every single utility is different, and each one has to develop policies that are right, and equitable, and fair for their purposes.

Q. Let me refer you to your definition of

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"excessive BFCs" toward the bottom of page 2 of this document number 10.

DEFENDANT'S EXHIBIT 10 MARKED FOR IDENTIFICATION

PURPOSES (1 page - Draft Questions and Answers, 2/14/19, Definition of Excessive BFCs, page 2)

Q. You determine that "excessive BFCs" means that a customer is paying more BFCs than what is fair and equitable, given a customer's actual usage of MPW's utility system." Is the actual usage of MPW's utility system different than the actual water usage?

A. Well, again, the excessive BFCs are applicable to both water and sewer service. And so, you know, it's actual water and wastewater use. I could have –- I just put "use" but it could have been water and/or sewer use.

Q. And how do you measure wastewater usage?

A. Based on metered water flow.

Q. But water usage is the determination for both water use and wastewater use. Correct?

A. That is correct.

Q. And is that the accepted principle throughout the water utility industry?

A. Yeah, I mean, unless you have –- I mean, it's possible to have separate wastewater meters, but

the general practice is to charge wastewater based on water flow.

Q. So here you're saying that basically the customer is paying rates and generating revenue for MPW that exceeds the customers' proportionate share of MPW's cost. How is this different than the water meter size?

COURT REPORTER: I'm so sorry, Ms. Hill. Can you repeat that again?

MS. HILL: Sure.

COURT REPORTER: I had a briefly unstable internet connection.

MS. HILL: I'm sorry.

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. How is this different from the water meter size?

A. Well, if your actual usage reflects 100 REUs, but you're being charged 200 REUs, then your base charge is going to be disproportionate. If base charges are intended to recover a portion of the utility's fixed costs, then charging an unrealistic base charge means that the customer is going to pay an unfair share of the utilities' fixed costs.

Q. I mean, would that also be the case if a customer has the largest meter size, but yet,

you know, their business is greatly diminished for the past year? Would they likewise be paying a disproportionate amount based on their water usage?

A. Sure, and it would probably make sense for that customer to downsize their meter size.

Q. But again, that's up to the customer to figure that out. Correct?

A. Yes.

Q. Let me refer to Exhibit C.

(Screen shared)

DEFENDANT'S EXHIBIT 11 MARKED FOR IDENTIFICATION

PURPOSES (1 page - Draft Questions and Answers, 2/14/19; Exhibit C, Sample Evaluation of Rate Design Criteria; Excerpt Regarding Rate Equity from AWWA Publication Entitled "The Basics of Water Ratemaking")

Q. What is this document, and why did you include it as an exhibit to your Questions and Answers document?

A. Can you –-

Q. I'm going to see if I can make it a little bit smaller so you can see the whole document on the screen –- or can you see the whole document? Maybe you can. Is that too small?

A. Okay. What was the -– so that's Exhibit C, and yeah, that's from a little pamphlet that was prepared by the AWA to help educate, I guess, new utility managers or City Council members that may not be experts in rates and charges. And what –- can I see that? Again, this was prepared two years ago. Can I see the context under which I referenced it?

Q. Sure. I'll go back up. Well, hold on. Bear with me a second.

(Brief pause)

A. Okay, equity –- so it basically has the statement that "Rate equity is a challenging subject that considers" -- yeah, it talks about, "Rate equity is a challenging subject that requires interclass, intraclass, and intergenerational legal, and technical considerations." So I guess I was documenting that statement.

Q. Okay, let me refer you to Exhibit C. First of all, do you have this entire pamphlet?

A. Yeah, I have it some place. I'm just ...

Q. Did you provide that to us?

A. Well, I guess the issue I have is whether I can –- you know, I don't -- I try not to, you know,

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fully provide copyrighted material to the extent possible. But I mean, I don't think there's going to be an issue. I have no problem providing it; no problem.

Q. Okay. So you can provide us with that entire pamphlet or a copy of that entire pamphlet?

A. Sure. I'll write it, Basics of -– assuming I can find it. It's –- but I will -- I should be able to find it somewhere.

Q. So what does this page represent?

A. Well, this –- and this kind of talks about what we were talking about before, some considerations with ratemaking. We talked about equity. We talked about revenue stability. We talked about feasible –- you know, administrative feasibility. So this just talks about some considerations that could be applied and I guess, if I am interpreting this correctly, it says a Sample Evaluation, so this would –- I guess a utility would need to figure out which of these are the most important to reflect the utilities' rate objectives.

Q. And in fact, it says here –- well, let me ask you this. Are any one of these –- one, two, three, four, five, six, seven, eight, nine –-

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any one of these ten objectives more important than another?

A. Well, obviously, the objective of legal is probably the most important. And certainly, any objectives that you consider among these, you have to meet the statutory requirements of being fair, and reasonable, and equitable.

Q. In fact, it notes that, "Balancing all community goals, while preserving revenue sufficiency and rate equity needs can be a difficult challenge." Would you agree with that statement?

A. Sure, especially when you're working with governing bodies, and each one has a different opinion as to which direction utilities should go in with respect to its' rates.

Q. And then it goes on to say, "Rate equity itself is a challenging subject considering that it requires interclass, intraclass, and intergenerational customers, as well as legal and technical consideration." What does interclass mean?

A. Again, among classes –- different classes. It mentions that, and it has a parenthesis that says "different classes."

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Q. All right. What are some examples of different classes?

A. Residential, sometimes commercial. Sometimes people –- sometimes utilities will break out their commercial into industrial. Sometimes, I mean, multi-family. Those are classes.

Q. So they sometimes break out master meter multi-family. Correct?

A. Yes.

Q. Why is that? Do they provide their own unique set of challenges?

A. I would say that the whole rate system and making sure that all customers are paying their fair share of the costs, and to develop a system of rates and charges that would be legally defensible, I do think it's a challenge. And that's why it often requires specialized expertise.

Q. I guess that's not really the question I asked. I asked, do multi-family master meter customers require –- I mean, do they present specific challenges to that class?

A. Well, I mean, any customers within the classes have different usage characteristics, and you have -- there are just so many different

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customer dynamics and usage habits that, yeah, there are challenges with all classes.

Q. Why do some utilities break out master meter multi-family customers from other classes?

A. A lot of times, the multi-family customers have -- I mean, because they're different from other classes, as you mentioned, they are a master meter serving multiple units; whereas a commercial customer might have a meter for the entire -- a commercial customer that's not a master meter customer might have one single meter that serves the entire –- or multiple meters that serve the entire complex. I mean, it has –- they're a different service, and whereas, you know, the single family residential customer, that's just a house with a meter. And so there are certain -- there are obvious differences in service characteristics.

Q. So what are some of those differences in service characteristics, as to the master meter multi-family customer?

A. Well, as we talked about, there is typically a master meeting –- meter –- serving multiple residential units, and that's different than a single family residential customer or a

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commercial customer.
Q. So I have looked through utilities in working on this case, and I have seen quite a few utilities that provide different rate structures for master meter multi-family customers. Do you have any water utility customers that do that?
A. Sure.
Q. And why is that? I mean, why give them different rates than, say, your commercial customer?
A. Well, again, they have different service characteristics. And for example, you know, a multi–family -- again, it's a master meter serving multiple residential units which is a different customer classification. And it just depends on, you know, the utilities' decision to separate those service characteristics; that's a policy decision. And some utilities have a uniform rate where all customer classes, regardless of the meter size, pay the same system of base charges and the same system of volumetric charges.
Q. Is the water usage for master meter multi-family customers, does it have different characteristics?

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A. Well, a multi-family unit typically does not have an irrigation component, whereas -- you know, so you'll normally find that a multi-family unit uses less water than a single family home. And so that's one difference from a single family residential customer. I mean, just about all the water that a multi-family unit uses also returns to the sewer system; whereas for a single family house, some of the water usage often goes into the ground, and is not returned to the sewer system.
Q. So does a single family house have less stress on the wastewater system?
A. No, they probably have more because they have more gallons going into the wastewater system because it's a larger entity. And usually, multi-family units, in my experience, have lower usage than single family homes.
Q. And how does it compare to a commercial customer, these master meter multi-family units?
A. The commercial customers just have a wide range of different usage characteristics. Whether you're an office building, or a car wash, or a restaurant, you're just going to have a wide range water demand.

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Q. What does intraclass mean? It says "within the class." I mean, I can read that, but I don't know what that means.
A. I mean, that would be taking into specific customer characteristics –- customers within the class.
Q. All right, and what does intergenerational mean?
A. Customers who contributed capital in different time periods.
Q. So would that be –- for instance, you know, I know that Snee Farm Lakes was established, I want to say, back in the early '80s. I mean, did they pay their impact fees years ago and at a much lower rate than the current impact fees -– a much lower amount? Is that a part of this consideration? Is that what that means?
A. I don't know. You know, I don't usually talk about –- you know, in my practice, I don't really talk about intergenerational, but I mean, it makes sense. "Customers who contributed capital in different time periods." I mean, I guess there are some considerations that we may need to -- that might need to be -- I mean, certainly over time, I mean, you –- probably most of the treatment facilities that were in

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place when Snee Farm Lakes, you know, paid their initial impact fees, I don't know if those facilities are still in existence, or I'm sure they have been expanded; that you know, the utilities probably had more –- some expensive capacity expansions. So but, yeah, I mean, I think the bottom line here though is that rate equity is a challenging subject, and it does require, you know, a lot of considerations. And I mean, rate equity, I think we could probably just say, "Rate equity itself is a challenging subject, considering that it requires several legal and technical considerations."
Q. And nowhere in here does it list water use, does it?
A. Those would be part of the considerations.
Q. But I guess my point is, this sentence does not include the term "water use."
A. It does not have the term "water use" in it; that's correct.
MR. APPEL: Amy, real quick. I remember you said you had a thing at 1:00 o'clock, and I know I've been taken in by the spirit in a deposition before, so I just wanted to flag that, but it's your call. I just wanted to –-

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MS. HILL: No, no, no, and Ross, I'm glad you brought that up, but I am ready to stop right here, so ...

MR. APPEL: I just wanted to –-

MS. HILL: Yeah, I know. Let's take a break right here, and we'll reconvene. We could aim for 2:00. Is that enough time for everybody?

MR. APPEL: Perfect.

MS. HILL: If you need more time, let me know.

MR. APPEL: Perfect, that sounds great. Thank you all very much.

MS. HILL: Ok, great. Thanks again, Mr. Mantz.

(Off the record)

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. Mr. Mantz, during our lunch break, did you discuss your testimony with anyone?

A. The only thing I did was I forwarded a copy of the –- and I'm sharing my screen right now.

(Screen shared)

DEFENDANT'S EXHIBIT 12 MARKED FOR IDENTIFICATION PURPOSES (20 pages - Basics of Water Ratemaking)

Q. Sure.

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A. But I forwarded a copy. It's basically a 20 page document of The Basics of Water Ratemaking that you had requested. I forwarded it to Ross, and my understanding is that he forwarded it to you. But you know, one of the questions –- you'd asked about cost-based earlier. There's a –- on page four of this document, it talks about how AWA has adopted the following financial –- the following related policies, and one of them is that "Rates should be based on costs and avoid subsidizing customers." So that's one reference for you.

Q. What does "subsidizing customers" mean?

A. Meaning that one customer is paying more than its' fair share of the system costs.

Q. Is that always the case to some degree?

A. Well, we try not to -– I mean, we try to avoid excessive subsidization.

Q. But there's always some level?

A. Yeah, I mean, there's always some customers that are probably paying a little bit lower effective cost per 1,000 gallons, and some that are paying higher. But again, overall, we try and not –- avoid excessive subsidization. But the concern –- you know, with a pure volumetric rate though,

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I mean, you –- each customer would pay for whatever they use, and some utilities do still just have a pure volumetric without a base charge.

Q. But as we discussed earlier, you don't recommend simply a pure volumetric rate?

A. Right, because I recognize the need for revenue sufficiency.

Q. To the extent that there is a need for revenue sufficiency, does there have to be some portion of the bill that is not related to pure volumetrics, which means necessarily there is somebody being subsidized to some degree, if you're fully basing it on use? Right?

A. Right, right. I mean, the policy of AWA, as I mentioned, is to, you know, try and avoid subsidization. But as you mentioned, I mean, there's none of the -– most rate structures are not perfect.

Q. All right. So I guess that leads us to another question I had. Is there a perfectly equitable rate structure out there?

A. Well, I would say that, you know, a pure volumetric charge where a customer pays for exactly what they use, I think that's probably

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about as equitable as you could possibly get.

Q. But yet that –- you know, you don't recommend that to your customers?

A. Right.

Q. Getting back to document number 10, which is that February 14th, 2019, Questions and Answers that you put together; was this designed to be your report?

A. I wasn't really tasked to do a report. I was –- we decided to put together something, you know, called Questions and Answers and provided it over to MPW.

Q. Was it provided to anyone else?

A. I mean, I provided it to Ross, and I mean, whoever he provided it to is –- my understanding is that it was provided, you know, to MPW, and so all I know -– my correspondence on this document has been with Ross alone.

Q. Do you know if Ross or anyone else provided it to anyone other than MPW?

A. I have no idea.

Q. Do you intend to draft a report in the future?

A. I have not been tasked with doing that.

Q. Has anybody asked you specifically not to draft a report?

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A. No.
Q. And again, this document is dated February 14th, 2019. Have you received any documentation or learned any fact since that date that changes this document in any way?
A. I mean, I've uncovered, you know, two more utilities that right-sized, but there really hasn't been a lot of activity on the case as far as developing, you know, a document or opinions. There hasn't been a lot of activity since that time.
Q. Have you reviewed any deposition transcript?
A. I did review the deposition transcript of George Raftelis. I got through most of the pages of it; it was pretty long.
Q. Was there anything in there that changed your opinion in any way?
A. No.
Q. Any other deposition transcript that you have reviewed?
A. No.
Q. Any deposition transcript that you've been provided?
A. I was –-
Q. Perhaps maybe, but not reviewed?

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A. I believe I was provided with the Coffin deposition transcript, but I just have not had an opportunity to review it.
Q. Let's turn –- and I'll share my screen with you. Let's see ... hold on just one second.
(Screen shared)
DEFENDANT'S EXHIBIT 13 MARKED FOR IDENTIFICATION PURPOSES (1 page - Draft Questions and Answers, 2/14/19,"What Are the Problems with How Mount Pleasant Waterworks Assigns REUs and Charges BFCs?" page 3)
A. And as we talked about, I provided a copy of the full document of that.
Q. Yeah. Let me refer you to page three of document number 10. And on that page, I guess you start a portion that says, "What are the problems with how Mount Pleasant Waterworks assigns REUs and charges BFCs?" Do you see that?
A. Uh-huh (affirmative response).
Q. And then Problem #1, "Customers with an excessive REU assignment must pay a higher cost per 1,000 gallons than other customers with normal usage." And again, walk me through that. What do you mean by that?
A. As I talked about earlier, you know, in my

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practice, I usually add the base charge and the volumetric charge for different customers and classes, and then divide it by the usage to get the overall effective cost per 1,000 gallons. If you've got a customer with overstated or unrealistic REU assignments, when you divide that customer's base facility charges and volumetric charges, and then divide it by their usage, they are paying -– they can often pay a substantially higher cost per 1,000 gallons compared to a customer with right-sized REU assignments.
Q. And did you go through this exercise in this case?
A. I believe in this, I've provided some demonstrations in this document.
Q. Okay. Is that Exhibit D?
A. No, let's scroll down a few, if you don't mind.
Q. Okay, sure.
A. Okay. So I've got three customer types, and then I show the –- I think –- can you scroll down further?
Q. Yeah. Is it this table?
A. Uh-huh (affirmative response), yeah.
Q. Okay.

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DEFENDANT'S EXHIBIT 14 MARKED FOR IDENTIFICATION PURPOSES (1 page - Draft Questions and Answers, 2/14/19; Table 1, Water Bill Comparison Under Fiscal Year 2019 MPW Rates, page 5)
A. So it talks about if you have -– okay, so a residential customer with one ERU –- REU –- and I may have been using the 2019 rates. So they check -– if you had their BFC plus their usage charge, they're paying an effective cost per 1,000 gallons of $5.71. So let's go to the next example. All right, and so, if you have an equitable REU assignment, then you're paying the same cost per 1,000 gallons. All right, so let's go to customer three. So if you have an REU assignment that doesn't reflect your usage, then you can see that in this –- for this customer three, they're paying 20.8 percent higher –- 28 -– 20.8 percent higher cost per 1,000 gallons, compared with the residential customer or the customer with the right-sized REU assignment. So let's go to the last example. I think there's a –- oh, okay. So there was only three examples.
Q. Right. So have you run this calculation with the information that you've received from Mount

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Pleasant Waterworks?
COURT REPORTER: Excuse me, ma'am. Can you repeat that question?
MS. HILL: Sure.
DIRECT EXAMINATION RESUMED BY MS. HILL:
Q. Have you run –- have you done this math with the information that you received from Mount Pleasant Waterworks?
A. For every single customer, no.
Q. For all of the commercial customers?
A. The analysis that I performed for the commercial customers was to isolate what the right-sized REU values should have been –-
Q. Okay.
A. –- given the historical flow numbers. And again, you know, that analysis was performed by an outsider looking in. And certainly, you know, it's certainly subject to review.
Q. What do you mean, "It's subject to review"?
A. Meaning I am an outsider. I don't have the access to all the inside information or saying, "Oh yeah, this assumption is –- this data is right" or "this is ..." I mean, all I –- you know, I don't have the benefit of having MPW bless the numbers.

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Q. So you -– and just my simple question, you do not do the calculation of costs per 1,000 gallons?
A. I did not, but it would certainly -- it wouldn't be a big –- it wouldn't be a big deal to add that to the model that I put together. I mean, I have all the usage data in Excel, and I have total bills, so it wouldn't be –- I mean, it's just a total bill divided by the total usage.
Q. And so I think this is page three. You have underlined, "Because MPW failed to regularly review, rebalance, and right-size the REU assignments, hundreds of "Commercial and Other" customers have been paying excessive BFCs for many years or even decades." And again, I mean, what does "regularly review, rebalance, and right-size" mean? What does "regular" mean?
A. Well, we talked about earlier in this deposition how, you know, one year or three years, I think that's all -– every year –- you know, up to three years, that's -– you know, we talked about how I consider those to be reasonable time-frames for occasionally rebalancing, reviewing, and right-sizing.
Q. Let's go to Table 2, Problem #2, on page six.

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DEFENDANT'S EXHIBIT 15 MARKED FOR IDENTIFICATION
PURPOSES (1 page - Draft Questions and Answers, 2/14/19, Table 2, Problem #2, page 6)
Q. "MPW regularly adjusts its' fixed versus variable cost recovery whenever MPW chooses to increase its' basic facility charges. 'Commercial and Other' customers with normal usage and excessive REU assignments receive a rate increase percentage that is almost double that of a residential customer and a 'Commercial and Other' customer with a properly sized REU assignment." Walk me through that.
A. And this is –- and I think -– did I provide some examples there?
Q. Yes.
Q. Tell me to stop when I'm –-
A. Yeah, it's this table here.
Q. Okay. Table 2?
A. Yeah, well, okay. So yeah, and this is kind of what we were talking about earlier about how the –- here we have in the 2019 –- we were talking about the increases in the base facility charges for the water system increasing by 152 percent from 2015 to -– from 2014 to 2019. You can see that there was a 140 percent increase in the

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two-year period for the water BFCs, and 56 percent in the two year period for the wastewater. But I believe -– if you could scroll down, I think the –-
Q. Do you want me to scroll down further?
A. Yes. Okay, yeah. Again, and so I was talking about the three customer types again, and so I have two billing scenarios in the Table 3.
Q. So this is customer one in Table 3?
DEFENDANT'S EXHIBIT 16 MARKED FOR IDENTIFICATION
PURPOSES (1 page - Draft Questions and Answers, 2/14/19, Table 3, page 8)
A. Uh-huh (affirmative response).
Q. Then this is customer two?
A. Right.
Q. What am I seeing here?
A. So here again, we have –- the fact that if the resident –- I believe the residential is customer one, I believe. Can you scroll up, please?
Q. Uh-huh (affirmative response).
A. Okay. So customer one is the residential customer with a monthly usage of 9,200. Customer two is a commercial customer with a right-sized REU assignment, and you can see that

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the commercial customer with the right-sized ERU assignment received the same percentage increase as the residential customer. But for commercial customer three, when you have excessive REU assignments, suddenly, you know, the -– and if you have excessive or unrealistic REU assignments, and then you decide -– and then MPW, instead of increasing rates across the board, decides to substantially increase the BFCs, you can see that these customers, instead of getting a 6.5 percent increase, they receive an 18 percent increase. So it's a substantial increase in their –- a dramatically different increase based on that specific decision to increase the BFC charges.

Q. And let me ask you about this. This set of examples and the set of examples earlier are really just snapshots in time. I mean, can we agree that most customers, their water usage changes from month to month?

A. Sure.

Q. So I mean, you know, it's not going to be –- I mean, for instance, a residential customer –- I mean, you could have a single person living alone, and their usage is going to be less than

that 9,200. Correct?

A. Yes, you've been trying to –- keep saying that, that BFCs are not related to usage. And you know, these BFCs which are not tied to the customer's actual usage are substantially –- you know, because of these unrealistic BF -– REU assignments, you know, the decision to just suddenly astronomically increase the BFCs just really hammered the finances of the customers in the class that do not have the realistic REU assignments.

Q. Have you run this with a –-

A. I do have –-

Q. -– a standard water –-

A. –- that have unrealistic REO –- REU assignments. I think I may have reversed my –- the knot.

Q. Sure, and you know, I think you've said before –- I think somewhere up here you say, "Mount Pleasant is entitled –- has the right to adjust its' fixed charges versus variable charge recovery." And so they have the right to set up rates however they desire to set up rates. Correct?

MR. APPEL: Object to form.

Q. I mean, their increase of their rates –- I mean,

they are entitled to increase their rates. Correct?

MR. APPEL: Object to form.

Q. You can still answer.

A. (No response).

MS. HILL: Can you hear me, Mr. Mantz?

DEPONENT: (No response).

MS. HILL: Ross, can you hear me?

MR. APPEL: I can. I think Bryan might have frozen, perhaps. Bryan, can you hear us? Uh-oh, he's gone.

MS. HILL: All right. Do you want to go off the record a second? Do you want to try to call him?

MR. APPEL: Sure. Bryan, are you –-

COURT REPORTER: We'll go off the record.

(Off the Record)

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. I'm still sharing my screen here. I believe we had talked about the fact that MPW has the right to adjust -- you wrote in here that, "MPW has the right to adjust its' fixed charge versus the variable charge recovery." Do you see that?

A. Yes.

Q. So they have the right to increase rates as needed. Correct?

A. Yes.

Q. You take no issue with the fact that they are increasing their rates. Correct?

MR. APPEL: Object to form.

A. Yes, my issue is with equitability and reasonableness.

Q. So your issue is how those rates are distributed among the classes rather than the fact that they are raising their rates. Is that fair?

A. Yes. Who pays for -– what's a fair way to distribute the utilities' cost among the customer base.

Q. And again, you know, that touches on a point that now is probably as good a time as any to talk about. When we were talking about distributing the rate, I mean, we have a set amount that the -– in very simplistic terms, we have a set amount that the utility has to recover. Correct?

A. Yeah, the revenues have –- yeah, the analysis is done to determine what the expenditure needs or expenditure transfer needs of the utility are, and then so that determines how much revenue is needed. And then the question is how do we recover that revenue among our –- from our

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customer base, the fairest way to do that.
Q. And so when Snee Farm Lakes initiates this lawsuit, what they're really saying is not that Mount Pleasant Waterworks collected too much. What they're really saying is, "You collected too much from us. You should have collected more from another customer." Is that correct?
A. Sure. It's a subsidization issue.
Q. So there's no -– I mean, just to be clear, I mean, you're not saying that Mount Pleasant Waterworks has collected too much money overall?
A. That's correct. What we're challenging is the way the money was collected.
Q. And from which customer it was collected. Is that right?
A. Yes, which customers it was collected from.
Q. So do you know of anyone else in the industry that runs this total cost per 1,000 gallons analysis?
A. Well, Raftelis does because I was trained at -– and you know, was introduced to the concept while I was working for Public Resources Management Group, and they talked about –- PRMG –- it was acquired by Raftelis in 2019.

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Q. So prior to that acquisition, did Raftelis run this analysis?
A. I have no idea.
Q. Have you seen any other rate consultants run this analysis?
A. Well, I mean, I'm usually not privy to the work of other rate consultants, so I guess the answer is no. I haven't really, you know, searched for it, so I can't –- I don't know.
Q. Is this cost per 1,000 gallons, is that referenced anywhere in any AWA Manual?
A. Cost per 1,000 gallons? I mean, cost-based usage, those are all common terms in all the ratemaking manuals.
Q. Well, and I hear the term. What I'm specifically referring to is this calculation that you've done here.
A. Uh-huh (affirmative response).
Q. Is that -– and I don't know. I mean, this is no trick question. I'm just trying to find out if this is a typical calculation that's recognized within the water industry.
A. I don't know. I mean, I don't think it's really covered in the –- I mean, just like the ERU rate structure is, I don't think this is really

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covered that much in the ratemaking manuals. Maybe it is. I don't know, but I mean, it's ...
Q. I mean, does it appear in this manual, this Principles of Water Rates, Fees and Charges, Manual of Water Supply Practices, M1, Seventh Edition?
A. I have no idea. I'm not sure I've even read that book cover to cover. It's pretty dry material, but I mean, the point of this exhibit is to just show how these BFC decisions provide more of a financial effect on the customers with unrealistic REU assignments, compared to those that are right-sized according with actual usage.
Q. And let me switch gears for a second and look back at that article, that Exhibit G. We don't need to go back into it, but I meant to ask you when we were talking about it earlier. That article, The Common Denominator, which was Exhibit G to document number 10, where did you get that document?
A. From Raftelis, and I don't -– and not in relation to this case. I was working with another member of Raftelis as part of our -– we both serve on the AWA's System Development

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Charge Subcommittee of the System Development Charge Committee, and we were talking about another topic, and he sent me a copy of this article.
Q. What was the other topic you were talking about?
A. System development charge and you know, ERU determination methodologies.
Q. And what is a system development charge?
A. The same as impact fee or capacity fee. It's just another term. Those capacity fees go by a lot of different names, and there's not consistent terminology among utilities. AWA –-
Q. Who would -– go ahead and finish it.
A. The AWA –- you know, AWA refers to them as system development charges.
Q. All right. Who at Raftelis sent you this article?
A. That was -– I showed you –- in the packet, I showed the email. It was from, I think, Todd Cristiano. He was the Chair of –-
Q. Say that name again.
A. Todd Cristiano, and he was the Chair of the Rates and Charges Committee of AWA for some time.
Q. And when did he send this to you?

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A. I want to say two years ago because we were discussing –-
Q. Then after you were -– go ahead.
A. It was related to our discussion in our SDC Subcommittee.
Q. Was it after you were retained for this case?
A. Yes.
Q. Did you tell Mr. Cristiano that you had been retained for this case?
A. No, I didn't even know he was going to send me this article.
Q. Did he send it to the whole committee or just to you?
A. Just to me.
Q. Why did he send it to just you?
A. Because I think I had mentioned some sort of -– because we had an ERU determination discussion during the SDC. I think I brought up a comment, and then –- you know, I honestly don't remember the full discussion; that was, again, two years ago, but he provided that article which was helpful.
Q. Who is John Woodcock?
A. He may have –- where are you getting that name? I think the Basics of --

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Q. He's –-
A. I think on the Basics of Water Ratemaking, he's –- I don't know him.
Q. He's the one that wrote the article; that's why I asked.
A. Yeah, from the 1980s. He's probably –- I'm sure he's long retired.
Q. Well, oddly, he also wrote the brochure that you provided earlier.
A. Yeah.
Q. The Basics of Water Ratemaking.
A. Yep.
Q. So you're not familiar with him within the industry?
A. No, I think he predates my involvement, or he's just -– you know, we just don't cross paths.
Q. Let me ask this. The whole exercise that you've done here in this document –- determining the cost per 1,000 gallons –- that really assumes that the cost-based analysis solely falls upon water usage. Is there any other thought within the industry that cost-based analysis should fall on any other aspect of water or wastewater service?
A. I'm not sure.

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Q. Excuse me. You may have already -– we went through Table 3. Tell me about Table 4 here on page nine.
DEFENDANT'S EXHIBIT 17 MARKED FOR IDENTIFICATION PURPOSES (1 page - Draft Questions and Answers, 2/14/19, Table 4, Effect of MPW Water User Rate Increases, Fiscal Years 2005 to 2019, page 9)
Q. What does that represent?
A. That just shows that when MPW makes a decision to recover its' costs through the base facility charges versus the volumetric charges. So you know, if you needed to recover a million dollars of revenue, and you decided you'd recover it all –- you know, you need one million dollars of extra revenue, and you decided to –-
Q. Right.
A. –- to recover all that additional one million dollars through the base facility charges, the customers with the unrealistic REU counts that are not based on usage receive a significantly higher rate adjustment than customers with right-sized REU counts.
Q. And again, your example here assumes that the customers' water usage is static during that time period. Correct?

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A. Yes.
Q. But yet customers' water usage is rarely static. Correct?
A. Yes.
Q. Yes, I'm correct? Sorry.
A. Yes, I –- yeah, yes.
Q. Referring to -– let me scroll down. What is Table 5 on page 10?
DEFENDANT'S EXHIBIT 18 MARKED FOR IDENTIFICATION PURPOSES (1 page - Draft Questions and Answers, 2/14/19, Table 5, Water Bill Comparison, Fiscal Year 2005 vs. Fiscal Year 2019 MPW Rates, page 10)
Q. What does this represent?
A. That's just showing how much the –- under the –- okay. What's –- customer three?
Q. Uh-huh (affirmative response).
A. This just shows that again, it demonstrates that under the -– when MPW decides to increase its' BFC charges, the customers that do not have right-sized REU counts based on their usage, receive a substantially higher overall increase in their bills. And the amount of the difference in the increase is going to depend upon just how big of a difference there is between their right-sized amount and the amount

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they're being charged.
Q. Let me turn to the next page in your report –- excuse me, not report, your Questions and Answers –- on page 11 of 19, and you have Problem #3.
DEFENDANT'S EXHIBIT 19 MARKED FOR IDENTIFICATION
PURPOSES (1 page - Draft Questions and Answers, 2/14/19, Problem #3, page 11)
Q. Describe Problem #3 for me. This is –- again, it's another problem that you say MPW had. What is this Problem #3?
A. Okay. Can you scroll down, please?
Q. Sure.
A. Oh, okay. Yeah, and then we're not –- I think in this case, we're not really attacking the –- or we're not challenging the irrigation rate structure. We're only recognizing that the base charge for irrigation class, when you look at –- our customer usage statistics does not –- you know, should be quite a bit higher given the usage of an irrigation customer versus a non-irrigation customer. Okay, can –- if you could scroll down to Table 6.
Q. Sure.
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DEFENDANT'S EXHIBIT 20 MARKED FOR IDENTIFICATION
PURPOSES (1 page - Draft Questions and Answers, 2/14/19, Table 6, Comparison of MPW Monthly Water Usage Per REU - Residential Class vs. Irrigation Class, page 11)
A. Yeah, that just shows that an REU -– that, you know, MPW has historically recognized that the usage of a single family residential customer has been hovering around 5,000 gallons. It looks like in 2020, it was closer to –- or it's actually been going down, I think, a little bit. I think the last year I saw was about 4,300 gallons per month, but you can see that compared to the usage of, you know, a regular residential customer, an irrigation customer uses a lot more usage than a residential customer. And yet I believe the irrigation rates, you know, don't reflect this different in –- difference in usage.
Q. Is there any consideration given if the irrigation customer does not utilize the wastewater system?
A. Well, this is just purely a water analysis, and what should a fair base charge -– I mean, if the BFC or the base charge is supposed to recover a

proportion of the utilities' fixed costs, the irrigation base charges are not, you know, based on the water usage or the demand on the system; they are not sized to reflect the difference in irrigation demand versus the demand of a single family residential customer that –- a non-irrigation customer.
Q. Would you agree with me that wastewater treatment is a significant portion of fixed cost for any utility?
A. Well, again, this is just the water analysis. It doesn't –- this has nothing to do with wastewater.
Q. Okay, but isn't –- are the charges similar though?
A. Well, the water rates are supposed to recover the water system costs, and the wastewater rates are supposed to cost -– to recover the wastewater system costs.
Q. So you're saying that because this is simply –- you haven't addressed the wastewater portion of –-
A. What this is saying is that irrigation customers should pay a proportionally higher -– should pay a higher base charge –- higher BFCs than a

standard residential customer because their demand on the system is higher.
Q. Do you know if Snee Farm has an irrigation meter?
A. I have no idea.
Q. You haven't asked that question?
A. I mean, the only customer data I've been provided from MPW were the "Commercial and Other" customers –- that class. I haven't been provided -– although we asked for data for everything, we were not –- we were only provided with data for the "Commercial and Other" classes –- the "Commercial and Other" class.
Q. Have you met with anybody from Snee Farm Lakes?
A. No.
Q. Have you asked Ross if Snee Farm Lakes has an irrigation meter?
A. No, and again, this is –-
Q. And why not? Why not?
A. This was just an observation. You know, this was just an observation, as I was just taking a look at the overall rate structure of MPW.
Q. So in other words, I mean, part of what you're saying is that look, Snee Farm Lakes may be paying too much, but the irrigation customers

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are paying too little. Is that a fair summary?
A. At least from a BFC standpoint, but I haven't –- you know, I was never provided with the irrigation customer statistics, so I have no idea. And we're not -– in this case, we're not really focusing on the irrigation customers. This was a preliminary –-
Q. In fact –-
A. Go ahead.
Q. No, go ahead.
A. No, I said we're not focusing on the irrigation customers in this case. This was just a general observation that I made while performing a preliminary review of MPW's rate structure.
Q. Did anyone, at any time, suggest that irrigation customers may be a part of this litigation?
A. No. No, the focus of this litigation has been at the –- you know, with these -– the quote, "the 'Commercial and Other' customers" as defined in the class.
Q. Okay. Bear with me here.
(Brief pause)
DEFENDANT'S EXHIBIT 21 MARKED FOR IDENTIFICATION PURPOSES (1 page - Draft Questions and Answers, 2/14/19, Underlined Statement, page 12)

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Q. If I go to page 12, you have an underlined statement, "Because of MPW's flawed rate setting methodology, the residential and 'Commercial and Other' classes have been paying more water BFCs than what is fair and equitable for many years." And I think I understand where you're coming from, but explain that to me so I'm clear.
A. Well, if the irrigation –- and this, I guess, ties -– you know, the reason I drew in the residential there is because if the irrigation class is not paying its' fair share of BFCs, then the amount of revenue that would be recovered from BFCs would be distributed -– would be recovered from the other classes, and so this comment does relate to the irrigation issue as it was discussed previously. But I mean, the primary focus of this case is the "Commercial and Other" classes. And the fact -– I mean, and I'm not –- you know, the amount of the BFC, I guess, is not -– you know, MPW can set the BFC as much as they feel is reasonable. The issue really is the REU count, and how it does not tie to use, and is based on unrealistic assumptions; so it's really the REU counts. Because of the unrealistic REU counts that are

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not tied to use, the "Commercial and Other" classes have been paying more BFCs because the BFCs are determined by multiplying the effective rate times whatever REU value is assigned. And in the case of the customers in this class, the REUs assigned to these customers, are substantially higher than what would be reflected with the customers' actual usage.
Q. Let me refer you –- and in the top of that paragraph, you refer, right here, to Exhibit I. So I'm going to go now to Exhibit I.
DEFENDANT'S Exhibit 22 MARKED FOR IDENTIFICATION PURPOSES (5 pages - Draft Questions and Answers, 2/14/19 - Exhibit I; MPW's Cost Recovery Policy, Revised June, 2018)
Q. And I'm specifically referring to page five of Exhibit I. Well, I'm going to try to go –- and what is Exhibit I?
A. That would be from MPW's Cost Recovery Policy.
Q. So if I scroll down to page five, there's a basic facility charge, and you highlighted that, "MPWs basic facility charge is a charge for the reservation of capacity based on the total active REUs assigned to a property." Does it say anywhere in here that it is tied to the use

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of water?
A. It does not, and that's a fundamental issue in this case.
Q. Because it is not tied to use; rather it's tied to reservation capacity?
A. Yes.
Q. Is that correct?
A. Again, it's through the payment of the capacity fees.
Q. I mean, doesn't this policy put customers on notice that that's how they're being charged?
A. It does, but that doesn't –- again, it's all a matter of, you know, is the current practice fair and equitable, and if it was challenged; and in this case, it has been challenged.
Q. And so you're saying simply because somebody has challenged it makes it not fair?
A. Well, if the courts decide –- the decision on whether it's fair or not.
Q. Okay, but at this point, no court has decided that it is not fair. Correct?
MR. APPEL: Object to the form.
A. You know, again, I'm not an attorney, so I don't know a history of everything that's occurred in the court -– in the United States courtrooms,

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but I am not aware of any litigation pertaining to this matter. And as I mentioned, this rate structure is not really covered in some of the standard ratemaking manuals, and so the courts may need to make some decisions on this kind of rate structure.

Q. Let's go back. I think we're on page 12.

DEFENDANT'S EXHIBIT 23 MARKED FOR IDENTIFICATION

PURPOSES (1 page - Draft Questions and Answers, 2/14/19, continued analysis, page 12)

Q. So is this just a continued analysis of shifting some of the BFC –- some of the fixed revenue charges to irrigation customers?

A. Yes, it appears, yeah.

Q. Does it matter to you if Snee Farm happens to be an irrigation customer? I mean, are they essentially saying, "No, you should have charged us over here, but not charged us as much on this portion"?

A. You know, it's not –- the whole purpose of this case is not whether it –- it's just a question of fair and equitable, and I think the position is that, you know, we want the rates to be fair and equitable, and if that means that they really should have been paying more on the

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irrigation side, then you know, so be it. I don't have any information about any of the irrigation customers, so I've not done any kind of holistic analysis on, you know, what the usage habits of those customers are.

Q. Would it matter to you whether any of the class members are also irrigation customers?

A. Well, no, because what we're -– you know, the fundamental issue in this case is the REU assignments and having the REU assignments be reflective of each customer's usage.

Q. And I hear you, but you also have in here this bit we've just been going through, that irrigation customers have essentially been undercharged. So if a customer on one hand is saying, "I need a refund because I've been overcharged," and that same customer has also been undercharged, I mean, isn't that –- I mean, if we're talking about fair and equitable, isn't that something we have to consider?

A. I mean, as I mentioned, the irrigation rates are in the rate structure for –- the irrigation class is different than, I guess, the rate structure for the –- it's a different rate structure that was adopted for the irrigation

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class. And so, again, I don't know anything about the irrigation customers. You know, the impetus though is just to have fair rates –- fair and equitable rates, and if that means that irrigation has to go up, so be it.

Q. Right, but you had in your report, "The residential, and 'Commercial, and Other' customers have been subsidizing the irrigation class for an extended period of time." Again, just fair and equitable; if there is a class member who said, "I have been overpaying," and that class member is also an irrigation customer, doesn't that have to be taken into consideration? Because they've been -– you know, according to them, if they've been overpaying on one hand, according to you and your report, they've also been underpaying. I mean, don't we have to consider that if we're trying to make everything fair?

A. I think all things need to be considered when developing a system of rates and charges. And we've talked about -– you know, we've talked about, in this deposition, about how you have to consider different types of equity among classes and among customers, and that it is challenging.

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So yes, I mean, we have to set up a system of rates that is fair to all customers.

Q. And so, I mean, if somebody is asking for a refund, don't we have to consider whether or not that same person has been underpaying, as well?

A. Well, the irrigation side is -– again, we're not going after the irrigation rates; we're focused, I guess, on the normal rates. But I mean, I assume they were paying the rates that were adopted. So I mean, it's MPW's response -– burden of establishing rates that are fair. And maybe in my analysis, maybe there's some –- when you look at the volumetric charges and the holistic picture, maybe the irrigation rates are okay given the –- you know, the meter; they're meter based. But you know, the focus of our case is the REU assignments that are applied to the customer class.

Q. Well, I mean, you're telling in your report –- I mean, you've written in your report that the irrigation is not okay. And I mean, are you reconsidering this document?

A. No, I consider –-

Q. Is that what you're telling me?

A. No, I consider that the irrigation class –- I

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think the BFCs for the irrigation class are not properly sized, and how that affects the overall picture, you know, I don't have -– again, I'm an outsider looking in. I don't have –- you know, privy to all the –- again, I have not been provided with any irrigation customer data, so I can't make a full opinion, you know, on the irrigation rates. All I did was take a look at -– did some preliminary review of the rate structure –- of MPW's rate structure, and that was one of my observations.

Q. So are you –- I mean, do you stand by this observation?

A. Sure.

Q. Do you still believe this observation is true, that "the residential, and commercial, and other customers have been subsidizing the irrigation class for an extended period of time"? Do you still agree with that statement?

A. Sure. If the irrigation class is –- at least from a BFC standpoint.

Q. Okay. So I guess my question again -- because I know you're the one that put together the spreadsheet identifying class members. Correct?

A. Yes.

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Q. Is that right?

A. In that class and with the customer data that was provided to MPW –- by MPW.

Q. So don't we have to consider who among those class members are also irrigation customers?

A. (No response).

Q. I mean, this is your document. I didn't write this. You wrote this.

A. I mean, I'm not sure what -- irrigation customers are not charged on an REU basis; that's an inconsistency with the other customer classes. Our primary issue was with the –- is what the REU assignments for the rates that are based on –- that are REU based.

Q. Okay, but again, you have in here that the irrigation customers have been subsidized by the other customers.

A. From a BFC standpoint.

Q. Okay. So if a class member is also an irrigation customer, don't we have to take that into consideration in this case? If that class member is saying, "You have overcharged me," if we're being fair and equitable -– and this is all about fair and equity is what I've heard from you all day long –- don't we also have to

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consider that they have been undercharged in another aspect of their relationship with Mount Pleasant Waterworks? I mean, isn't that the fair thing to do here?

A. I mean, I do think the irrigation rates should be evaluated along with all the other rates. And again, fair and equitable, and you know, if there's a -– I have no idea about the irrigation. I have no idea what the irrigation customer statistics look like. And again, we're just focusing on a specific part of the rate structure –- that's the major rate structure. But I think everything needs to be taken into consideration. And again, I have no idea about who has irrigation and how many irrigation customers, because the only information I've been provided -– and again, we asked for all of the information, but we were only provided with customer statistics for this particular –- for the class in question. So I haven't been able to formalize my –- you know, the opinions on the irrigation class because I was not provided with that information.

Q. Is that an important piece of information that you need to know in order to make your opinion?

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A. I don't think so because it's pretty obvious. I could –- because I have been provided –- you know, some of the information was –- the analysis spreadsheets, which is where I was able to, you know, see where the irrigation customers are, you know, have a substantially higher water demand than single family residential customers, than, I guess, the non-irrigation customers. So I mean, yeah, like I said, that was an initial observation I did, preliminary analysis. I have not really –- since preparing this spreadsheet, we haven't moved forward with looking at the irrigation costs.

Q. Do you have any intention of further looking at the irrigation class?

A. No.

Q. Why not?

A. That's not the –- you know, because this case is focused on REUs and BFCs.

Q. So I mean, isn't it really focused on the plaintiff's perception that they have overpaid to MPW?

MR. APPEL: Object to form.

A. I think the entire customer class is under the perception that they have overpaid BFCs to MPW

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because of REUs that are not based on reality and reflective of their actual usage.

Q. Let's move on to page 14 of the report –- or excuse me, the Questions and Answers.

DEFENDANT'S EXHIBIT 24 IDENTIFICATION MARKED FOR PURPOSES (1 page - Draft Questions and Answers, 2/14/19; MPW Cost Recovery Policy, page 14)

Q. So here's page 14, and before I get into Problem #4, I note here that you have a statement highlighted, and it's been quoted from Section 2 of MPW's Cost Recovery Policy, that says, "Rates must be as equitable as possible among customer classification and between existing and future customers." What does that mean exactly, to you?

A. That rates must be equitable, fair and reasonable.

Q. So based on that, would irrigation customers need to refund MPW?

MR. APPEL: Object to form.

A. Again, I can't really –- I made the observation on a BFC, you know, perspective of the irrigation, and that customers –- and I don't know. Again, I don't have the analysis. Usually, in my experience, irrigation customers

are just a small fraction of all the customers in the system. But again, I don't know, you know, the exact number of irrigation customers off the top of my head.

DEFENDANT'S EXHIBIT 25 MARKED FOR IDENTIFICATION PURPOSES (1 page - Draft Questions and Answers, 2/14/21, Problem #4, page 14)

Q. All right. Explain to me Problem #4 because this is the fourth problem that you've listed with MPW. So explain this one to me.

A. It just talks about, you know, that existing homeowners don't benefit from paying HOA REUs that are not right-sized and unrealistic.

Q. Had you had an understanding of how homeowners are charged their HOA fees based on water expenses?

A. I'm sorry, I don't understand your question.

Q. Sure. Do you know how Snee Farm Lakes charges its' homeowners for the water expenses?

A. No, I do not.

Q. Have you asked that question?

A. No, I have not.

Q. Why not?

A. Again, these were my initial observations, and I didn't feel a need to look at how –- and I mean,

there are multiple Homeowners Associations in the class, not just Snee Farm Lakes. And I haven't really -— I mean, it's a class; it's not a specific customer.

Q. And I appreciate that, but Snee Farm Lakes is the class representative. Did you think it was important to know how Snee Farm Lakes passes on this expense to its' homeowners or members?

A. No. Again, my only concern was when the bill is sent to the customer, which is the HOA, and that the bill reflects, you know, a fair REU assignment based on the customers' actual use.

Q. So I mean, are the HOAs different from other commercial customers? Because you specifically pointed them out here, so that's why I'm trying to understand why they are specifically listed.

A. Well, obviously, an HOA is going to be different than a –- is going to have different characteristics, you know, than a gas station. But my point is, again, it's just what is –- you know, I don't –- you know, what customers do once they get their bill is not as relevant to me as to making sure that the bill is fair and equitable, and ...

Q. Okay, but again, I'm just trying to understand.

Did you have any reasoning for pointing out HOAs, specifically?

A. It was just talking about –- again, it's just related to the REU assignments and what's fair, and how existing homeowners don't benefit from REU assignments that are related to the -— that are not tied to use.

Q. So what do you mean here, when you say "associated"? Let's see, "However, these existing homeowners do not benefit from paying for the HOA REUs that are associated with capacity for future growth." Explain that statement to me.

A. I mean, obviously the HOA REUs were determined at the capacity fee or impact fee stage, and were assigned, and have never been right-sized. And so the REU values basically are associated with capacity for future growth, and they're not representative of the HOA's current usage.

Q. I mean, just help me here. How is that different from another commercial customer?

A. It's not. I mean, whether they're a commercial customer or an HOA, the key is to ensure that the REU values are fair and reasonable.

Q. Okay, but that's not helping me here because I'm

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not understanding. What does that have to do with "associated with capacity for future growth"? What do you mean by "future growth"?

A. If there are five homes behind an HOA –- and was having REUs –-

Q. Five condos.

A. Well, I mean, HOAs can serve homes, too. But let's just call them homes for now. But you know, if you have five homes behind your HOA, and the HOA's bill reflects REUs that would –- that are –- and let's say that the five homes –- I mean, that they're all five REUs. If your bill is, you know, based on your –- and let's say, if your bill is –- reflects 10 REUs, then the existing homeowners don't benefit from those extra five REUs that the HOA is charging –- that the HOA is being charged.

Q. I'm not understanding your example exactly, because each single family home in Mount Pleasant is assigned one REU, no questions asked. Correct?

A. That's correct.

Q. So an HOA with a master meter is going to –- they're either going to be townhomes or condominiums of some type. Right? Some type of

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multi-family dwelling. Correct?

A. HOA –- an HOA?

Q. Right.

A. I mean, my HOA serves all kinds of different homes including single family.

Q. Right, but for purposes of this situation, I'm assuming that the HOA -– I mean, there are no single family homes in the customer -– in the class that you guys have represented. Right?

A. There are H –- there are HOAs.

Q. Okay, that is correct. So would you agree with me that every single family home has one REU? Right?

A. Yes.

Q. So is that –- I mean, are you saying that that shouldn't be the case; that residential homes should be able to go below one REU?

A. No. My point is –- again, I mean, from a big picture standpoint, all I'm trying to say is that the REUs need to be reflective of the –- quote, "'Commercial and Other' customers need to be reflective of reality and actual usage." That's the fundamental assumption, and this issue kind of relates to –- I mean, maybe I could have put this text in one of the other

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sections. But I mean, it's just supporting this fundamental concept of fairness, and equity, and ensuring that the REU counts are fair.

Q. Okay. Let me go back to my –- I still don't appreciate what -– what does "associated capacity for future growth" mean? What does that even mean when it comes to REUs, in your mind? I mean, you're the one that wrote this in here. I'm not -– and I'm not trying to be difficult. I just -– I truly -– this is my chance to understand what you've written.

A. If you're being charged 10 REUs, and you basically have the equivalent -– and your HOA serves the equivalent of five ERUs, then those five ERUs do not benefit from paying 10 ERUs.

Q. Okay. So let me ask this way. I mean, Snee Farm Lakes, for instance; let's say they have 100 units. Are you saying that 100 REUs is okay?

A. What kind of units are we talking about?

Q. A family dwelling unit.

A. Okay. So –-

MR. APPEL: Object to form.

A. Again, the REUs are –- you know, based on how the REUs are assigned, it's based on actual

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usage and not the type of dwelling for non-residential customers.

Q. Okay, but I mean –- all right. So why should it be based on actual usage for non-residential versus residential?

A. Why should it be based on usage? Is that what you're asking?

Q. What I just heard you say is it should be based on usage for non-residential customers versus residential customers. And maybe I misunderstood you.

A. Well, there's a wide discrepancy of usage among the non-residential customers. And then I mean, I'm not –- this is how MPW has set up its' rates to base the REUs for non-residential customers, based on actual –- based on estimated use, you know; but I guess the issue is that the REUs are just not rebalanced over time to reflect actual usage. And that's an equitable –- that is an equity and fairness issue.

Q. Do you think there's anything wrong with a condominium situation having at least one REU per condo?

A. It depends on what that -– I mean, from an equitability standpoint, I guess I'd need to -–

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you know, the whole purpose of an REU is to equate the value of a customer's -– to assign an REU for multi-family units in an ideal situation should be based on the relationship between the usage of a -– multi-family usage of a multi-family unit compared with the usage of a single-family residential home. That's the whole purpose of an REU is to compare your –- a customer's usage with that of a single family home.

Q. Right. So if a single-family home has one REU, shouldn't a multi-family unit -– would each unit have one REU?

MR. APPEL: Object to form.

A. A multi-family unit, as we talked about earlier in this deposition, typically has a lower usage than a single family residential home; one of the reasons being that a multi-family unit often doesn't have irrigation –- as much irrigation as a single-family home. And so usually, you'll find that a lot of utilities will assign a multi-family unit to less than one ERU.

Q. Okay, but we've already talked about that MPW irrigation customers -– I mean, people have their own meters for irrigation, so that's taken

out of the single family REU?

A. Not necessarily.

Q. Okay.

A. Like I said, for most utilities –- and again, I haven't been privy to all the information –- but usually for most utilities, the irrigation customers are a small percentage. So you might have 5,000 water customers and only 200 irrigation customers; that's what I typically see.

Q. What is the reference to the Charleston County School District? What are you referring to, or what are you talking about there?

A. That was, I believe, a customer in the class.

Q. So at the point you were writing this, there was no class. So I'm trying to understand what –- at the point in time when you were writing this, what did you mean by this?

A. Well, it was –- you know, we did have access to the Water Audit Report, and that was used to help develop this analysis.

Q. But why did you single out the school district?

A. As an example.

Q. Right. So why did you single them out as an example?

A. Can you scroll downward, please?

Q. Sure.

A. Okay. The idea being is that if you've got Charleston –- if you've got a school district that is being charged excessive, or unrealistic, or unfair REUs, that school district is funded through taxes that are assessed. Typically, you know, it's funded through taxes that are assessed on the properties within the jurisdiction. And the point is, the people paying those property taxes do not benefit from those excess REU assignments.

Q. Let me ask this question. Are you familiar with the school system in Mount Pleasant?

A. No.

Q. Are you familiar with the population boom in Mount Pleasant?

A. No.

DEFENDANT'S EXHIBIT 26 MARKED FOR IDENTIFICATION PURPOSES (2 pages - Draft Questions and Answers, 2/14/19, Problem #5, page 14)

Q. Item number five, "By not right-sizing REU assignments based on actual usage, MPW risks overbuilding treatment capacity, a situation which can lead to excessively high user rates

for all of MPW's customers." Explain this to me –- and I can scroll down if you need me to.

A. You know, as shown in the engineer's report, MPW's engineers have indicated, you know, that the 300 gallons per day is unrealistic, and that back in 2014, for planning purposes, a value of 220 gallons per day, per year, should be assigned to an REU. So if MPW expands its' facilities, assuming that 300 gallons per day –- the unrealistic 300 gallons per day –- and assumes that each customer is going -– each REU is going to use 300 gallons per day, then MPW will oversize its' facilities and have more capacity than it needs. And the thing about having oversized capacity is that you don't have the –- in order to support this oversized capacity, you have to –- you base -– you know, which is more expensive to operate than if it was right-sized capacity, then you have –- you'd have to spread all those costs over MPW's customer base. And so, therefore, the costs that have to be paid -– and therefore, all customers have to pay for this oversized capacity.

Q. And again, you're not familiar with the growth

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trajectory in Mount Pleasant. Correct?
A. That is correct, but obviously, Mount Pleasant's consulting engineers have said that for growth and planning purposes, an REU should be assigned 220 gallons per day, not 300.
Q. Let me just ask this. I mean, what does that matter, really? Because if we're charging customers per REU, and we reduce the value per REU, they're still going to have roughly the same number of REUs, so their charge is going to be roughly the same. Right?
A. Well, we're talking about capacity planning purposes. If you're going to build your facilities so that the REUs are –- each REU is using 300 gallons per day and not 220 gallons per day that's recommended by MPW's engineers, then you will overbuild capacity because you're presumably getting all this development in the future. And you're assuming that every single family home that is being added to the system is going to be using 300 gallons per day, which is 9,000 gallons per month; whereas, you know, the average single family home uses only 5,000 gallons per month. And if you planned that all the developments in the future are going to be

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using 300 gallons per day, you will substantially overbuild your capacity to the detriment of all your rate payers; that's why, for planning purposes, you have to have a realistic level of service for an REU.
Q. But you don't have any evidence, do you, that Mount Pleasant has overbuilt its' capacity?
A. I don't. I don't know whether MPW has overbuilt its' capacity or not. I don't have the treatment flows. I don't know. I don't know, you know, what percent utilization is available at the existing plants; that was not something I looked at. But I mean, it would be very easy to see. I mean, a lot of utilities overplanned during the growth boom of the early 2000s, and as a result, some are, you know, only at 40 or 50 percent capacity utilization. But I don't know where Mount Pleasant -– MPW is with that respect.
COURT REPORTER: Excuse me one moment. Can we go off the record just for a brief second?
MS. HILL: Sure, absolutely.
COURT REPORTER: Thank you so much.
MS. HILL: Why don't we all –- we've been going over an hour now. Why don't we all take about a

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five to ten minute break?
COURT REPORTER: Okay, thank you.
MS. HILL: Okay.
(Off the Record)
DIRECT EXAMINATION RESUMED BY MS. HILL:
Q. I think we ended with talking about overbuilding treatment capacity by MPW. Let's see ... so let's turn to Problem #6 that you have listed, and let me share my screen again.
(Screen shared)
DEFENDANT'S EXHIBIT 27 MARKED FOR IDENTIFICATION PURPOSES (1 page - Draft Questions and Answers, 2/14/19; Problem #6, page 15)
A. We're still working from document number 10 in the list of documents which is that February 14th, 2019, Question and Answers. So Problem #6, it says, "MPWs current policy for reducing REU assignments and BFCs are potentially expensive or cost prohibitive to customers." Why is this a problem, Mr. Mantz?
A. Well, and this is just, you know, putting the customers, you know, that have been –- you know, we talked about with the increases in the BFCs and the REUs, and we've talked about how customers with the unrealistic or REU values

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that are not right-sized. But you know, we've talked about how they're hit with a larger increase than if they -- you know, because of their situation. And so that puts them in a difficult position with these higher BFCs -– you know, with the BFCs going up 152 percent. It puts them in a difficult position as to whether or not to give up some of their capacity under MPW's current policy, and whether or not to do it, and do they really need that capacity. It forces them to have a very difficult financial -– puts them in a difficult place for their financial decision making. And unfortunately, you know, if some of these customers that have been customers of MPW since the 1980s –- and I'm just making up an example -– they paid $100 dollars for their impact fees, per REU, back then, but then now it's a 1,000 REUs [sic]. So if they give up their capacity in order to get a lower REU assignment, then if they suddenly realize, "Oh my gosh, we've made a mistake," well, then they have to pay back their impact fees or BFCs at the current rates, which as I mentioned -– I mean, if your initial capacity was paid at $100 dollars, and now it's a $1,000

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dollars, that's very expensive or cost prohibitive. And so as I mentioned, these kinds of situations put them in a very difficult financial –- it puts them in a difficult spot financially and with respect to their decisions.

Q. Is this –- I mean, is this any different than a customer resizing their water meter?

(Telephone rings)

DEPONENT: Sorry.

A. Okay, well, usually a customer -– anytime you give up capacity, I mean, you have to -– it puts you in a difficult situation as to whether you really need the capacity you signed up for. And unfortunately, if you give it up, as I mentioned, it's very expensive to get it back. And so regardless of what a utility's policy is, it puts them in a difficult position as to whether -– and if suddenly they're slammed with these high BFCs, it puts them -– it puts added pressure on them to –- it almost incentivizes them to try and make a hard decision on their capacity. And so that's what happens when you increase the BFCs by 152 percent on water and 86 percent on wastewater in a short period of time.

Q. But again, I mean, if we had a water meter sized

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BFC, would there be any difference in this? I mean, if a customer decides, "Yeah, I really am not using enough water to justify the largest water meter size. I need to downsize my water meter size," I mean, you said earlier that the onus is on the customer; the customer typically pays for that. They have to pay for the new water meter. They have to pay for the new pipe. I mean, it's actually a construction job. I mean, they have something they have to engage in. How is that any different than this situation for Mount Pleasant's customers?

A. Well, I don't agree with the policy that you have to give up capacity that you paid for, and so I don't believe that's fair. I think once you buy into the capacity, that's your capacity. But as far as making decisions on your meter size, I think you have to take a consideration about the specific rate structure and decide whether it's worth the investment to upsize or downsize your meter.

Q. I mean, that's a hard decision isn't it? I mean, they're trying to decide how much capacity they're going to need in the future. Right?

A. It is a difficult decision, and when you slam

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these customers with BFCs that are not related to their actual usage, it really puts them in a very difficult financial situation. It puts them in a position where they have to make some difficult decisions. And also, as we talked about, that decision to increase the BFCs in such a short period of time, that's why MPWs policies and finances are now being looked at under a microscope.

Q. So but, I guess –- and going back to my question. If we had a water meter sized BFC, I mean, there's no –- there's no difference here. Right?

A. Again, if what the –-

(Telephone rings)

DEPONENT: I'm sorry.

MS. HILL: That's okay.

DIRECT EXAMINATION RESUMED BY MS. HILL:

A. Again, for ratemaking purposes, I don't -– I mean, the meter size that's chosen for ratemaking purposes I think should be separate and distinct from whatever capacity is paid for. I think the capacity that you pay for is your capacity, but your meter size has to be –- has to correspond with your usage –- have some sort

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of relationship –-

Q. But, I mean, it –-

A. –- with actual usage.

Q. But it doesn't in the end. I mean, I can have a large meter size, and yet, you know, maybe my building is no longer a restaurant; maybe I'm living in it. I mean, you know, that's not –- my usage can go down tremendously, but I'm going to be charged the same, because you're charging me based solely on my meter size, not by how much water actually flows through that meter. Correct?

A. Uh-huh (affirmative response).

Q. So I mean, the water meter sized BFC is not related to usage –- to actual usage, is it?

MR. APPEL: Object to form.

Q. You can answer the question. Is it related to actual usage?

A. It should be, and as you mentioned -– as you talked about, you know, the customer would need to determine if the meter size is proper for determining –- you know, what meter is appropriate for their usage.

Q. Why is it okay for a customer to have to decide what size meter it should have, but yet it is

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not okay for a customer to decide how many REUs it should have?

A. Well, again, a meter is a mechanical –- and those kinds of rate structures are based on mechanical characteristics and have certain technical specifications; whereas an REU can easily be adjusted, because as you mentioned previously in the deposition, I mean, if you consider that this is a more fair -–- a fairer rate structure, or it can be a fairer rate structure than a meter based rate structure, then, yeah. I mean, then obviously to keep it fair –- to keep the, say, quote, "fairer" rate structure than meter based, you would need to right-size the REU counts based on reality.

Q. And by the way, I didn't say that. That was in the article that you provided as Exhibit G.

A. Okay.

Q. But again, why is it incumbent -– why is it okay for it to be incumbent on the customer to determine their correct water meter size, but yet, you're telling me it's not okay for the customer to have to determine their correct REU amount? I mean, you're trying to say, "Well, it's mechanical, and it's technical." But if

it's mechanical and technical, it seems like it's even more difficult for the customer to determine their water meter size.

A. And it's also very difficult for a customer to determine their number of REUs because the concept of an REU is very technical, too. And so it's the utility's responsibility at all times to ensure that its' rates –- the utility always has the burden of ensuring that its' rates are fair and equitable. And so that's why, you know, this is a –- again, this is a case where the reasonableness, fairness, and equity is being challenged.

Q. But yet, you told me earlier that you have customers that have water meter sized BFCs, and you find it acceptable –- you've not told them to change their policy –- that the customer has to determine the correct meter size, and it's up to the customer to reduce their water meter size. Is that correct?

A. Yeah, and whether it's okay or not, I don't -– again, I don't know if such a policy has been challenged in court. But again, the whole purpose of all this exercise is to ensure the rates are fair, equitable, and reasonable.

Q. Have you ever advised one of your water meter sized customers that they need to do an audit and pay for their customers to reduce their water meter size if their usage does not match their water meter size? Have you ever given that advice?

A. I have not.

Q. Okay. Let me ask you about Exhibit K which you attached to document number 10. Let's turn to that.

(Screen shared)

DEFENDANT'S EXHIBIT 28 MARKED FOR IDENTIFICATION PURPOSES (1 page - Draft Questions and Answers, 2/14/19; Exhibit K, Excerpt from MPW Audit Letter Regarding MPW Policy 5.3.3 Pertaining to Management of Impact Fees; Sample Letter to MPW Customers, Basic Facility Charges Per Month)

Q. What is Exhibit K?

A. I think that is a sample letter that MPW sent to a customer advising them that their REUs were unrealistic.

Q. Do you know which customer it was sent to? There's not an address line on Exhibit K.

A. I don't know.

Q. Who provided you with Exhibit K?

A. That would have been Mr. Appel.

Q. And you don't know where Mr. Appel got Exhibit K?

A. No, it was –- no, I don't know.

Q. Have you seen the letter that was sent to Snee Farm Lake?

A. I think I did see it at some point. I think I saw some sample letters.

Q. And did you get it in your -– I mean, I didn't see it in your file; that's why I asked.

A. I think it was in a Dropbox, and I probably just referenced the Dropbox.

Q. Do you have more documents for your file than what has been provided to us?

A. No. What I gave you is what's in my file.

Q. So is it your understanding that Exhibit K was sent -– or a letter similar to Exhibit K was sent to some of MPW's commercial customers?

A. Yeah, I think this was –- a lot of them were sent to a lot of the customers that are in the class, if not most, or maybe even all.

Q. Do you take any issue with the letter, Exhibit K?

A. Well, I mean, again, MPW is requesting that –- you know, saying that, "Yeah, you should –- you

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might want to consider lowering your REU, but if you do, you're not –- you're going to lose all that capacity, and if you ever want that capacity back, you're going to have to, you know, pay us at the current rates, and pay all the BFCs that you should've been paying us all along." I mean, yeah, I have an issue with the policy, in general. And also, I think these allocations are based on, as I recall, like the highest quarter rather than the average usage. So yeah, I have multiple issues with this letter.

Q. Do you know whether Snee Farm Lakes reduced their REUs?

A. I have no idea.

Q. Do you think that's important to know that?

A. I don't. What's important to me is what the number of ERUs should be.

Q. Okay, but if MPW went to a customer and said, "You know, we've looked at this, and we think you should reduce your ERUs to this number," and they decide not to reduce their ERUs to that number, I mean, is that a part of your analysis? Do you think that's important?

A. No, I don't; it's not. Again, I think the

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reduction in the REUs for ratemaking purposes should be an automated process that's performed internally by MPW. I think that the capacity that was paid for at the impact fee stage should remain with the customer. And -– but I think that for ratemaking purposes, the rates should be based on the customers' usage.

Q. So regardless -– so we shouldn't even talk to the customer. We should -– if they have chosen not to reduce their REUs, we shouldn't worry about that. Let's just reduce it unilaterally?

A. Again, not necessarily just reduce, but to right-size, either lower or increase.

Q. So increase, as well?

A. Absolutely, absolutely. Again, fairness tied to use; that's all that –- and unfortunately, with this class, the REUs are not tied to actual use.

Q. So you think we should go across the board and increase some people's and decrease others?

A. I think that you have to, yeah, make it –- you right-size them based on the actual usage, and that, you know, this case is focusing on the customers that have excessive REUs. But I know that MPW has pursued customers that, you know,

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that have undersized REU counts.

Q. Do you know if MPW has unilaterally increased the REUs for those customers?

A. I have no idea what MPW has done.

Q. I mean, does that matter in forming your opinion?

A. I think one of the issues is that –- you know, again, the overall -– I don't have an issue if REUs go up or down as long as they're tied to a customer's usage; and so that's my –- you know, that's pretty much the basis of what I've been saying here.

Q. Have you performed any calculations to determine how much Snee Farm Lakes would have saved their homeowners by reducing their REUs at the time they got this letter from MPW?

A. No, my analysis has focused on the class and not specific customers. But I mean, certainly, the information in the spreadsheet analysis could be used to determine that information.

Q. So we could determine, based on your spreadsheet, how much each of these customers in the class would have saved had they reduced their REUs at the time they were notified back in 2018. Correct?

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A. Sure. I think the spreadsheet allows you to, you know, type in the REU that you want to assume, and then it recalculates the bill based on the current –- versus the current REUs –- versus what it should be based on, its' tie to usage.

Q. On page 16 of this report –- well, let me back up a second. Do you know -– does it matter to you whether or not any of the members of the class contacted Mount Pleasant Waterworks about this letter, Exhibit K?

A. Well, no, it doesn't. Again, I'm more concerned with what their REU counts should be and not what kind of action they took in response to MPW's letter.

Q. Okay. Let me refer you back to page 16.

DEFENDANT'S EXHIBIT 29 MARKED FOR IDENTIFICATION

PURPOSES (2 pages - Draft Questions and Answers, 2/14/19; Table 8, History of MPW Water and Wastewater Impact Fees Per REU, page 16)

Q. And you noted in here on Table 8. What is the purpose of Table 8?

A. We had talked about how if you gave up your capacity, and you wanted to -- and then you suddenly said, "Oh my gosh, you know, I made a

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mistake. I need to get that capacity back," MPW's policy requires the customer to pay for that capacity at current rates. So what this is saying is that a customer that gave up its' capacity for which it paid $513.75 per –- well, let's look at wastewater which is even a more dramatic change. They paid for some capacity, $324.00 per REU in 1983. So they give up some of that capacity in order to not be slammed on their BFCs on their bills. Well, if they suddenly say, "Oh my gosh," you know, or something happens, "Oh my gosh, we've got to have that capacity back," now they've got to repurchase that capacity of $5,164.00 per REU. That's a 1,493 –- almost 1,500 dollar –- percent increase in impact fees since they first purchased the capacity. I mean, that's a huge –- that's a very large –- I mean, it's an expensive proposition to force customers to make a decision on giving up their capacity.

Q. Why is it fair for a customer to give up –- I mean, to reduce their REUs, pay a lower BFC, but then somebody else has to buy in to these capacity amounts at a much higher rate than Snee Farm Lakes did in 1983? Why is that fair?

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A. Well, because the cost of inflation, and I mean, the costs of capacity increase over time due to new regulatory requirements, and inflation in the costs, and more expensive plant expansions. And so I mean, if the cost of capacity is compared, you know, to where it was in 1983, it's substantially increased.

Q. So does it make sense for people to hold onto those REUs that they purchased maybe in years past? I mean, is that a business decision?

A. Well, it is, but I mean, they're going to have to make hard decisions about whether to keep those extra REUs that they're being charged for that don't reflect their usage. If they give up the excess REUs, I mean, and they need it later, it's just very expensive to reinstate it. It's a very difficult situation, and MPW is, by jacking up the BFCs 152 percent over a short period of time on water and 86 percent on wastewater, you're –- I mean, these customers are having to make hard decisions on whether to give up the –- whether to lower their utility bills or preserve their capacity in the system.

Q. Isn't that a pretty individualized consideration?

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A. Sure, sure. I mean, and you know, each customer is assigned REUs based on that customer's specific usage characteristics –- estimated usage characteristics.

Q. So but would you agree with me that Snee Farm Lakes has benefitted because they paid –- their REUs that they bought in 1983 are worth much more today. Correct?

A. I mean, if –-

Q. I mean, if somebody came in –- let's say that the property that Snee Farm Lakes is on right now –- let's say they sell that property, and they have 148 REUs on it. And you clearly -- you probably don't know this –- but Mount Pleasant is very land-strapped. It is being developed to the fullest extent, and there's very little land left. So if somebody comes in and says, "Yes, I'll buy this piece of property because it's got 148 REUs, and I don't have to buy 148 REUs at roughly -– what is that –- $8,000 dollars total, per REU," I mean, isn't that a valuable part of that piece of property?

A. I don't know how many homeowners really take that into consideration, but I mean, that's a transaction that happens if the customer decides

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to move. But if the customer plans to stay put –- and they've certainly stayed put since the early 1980s –- I mean, they're having to live with very high BFCs that have been increased, again, 152 percent in the past few years on water and 86 percent on sewer. So that's their current reality.

Q. Are there some legitimate reasons –- I mean, do you take issue with the increase in these rates with MPW? I mean, you've brought them up a few times.

A. The amounts of the rates are, I assume, based on the costs. And we've talked about this throughout, you know, at least previously in the deposition. We talked about how, you know, the amounts of the BFC or the actual rates themselves -- the rate that's charged for REU or the volumetric rate for REU, you know, MPW has to set those at whatever is needed in order to collect the revenue they need. But this issue has been who pays -– what is a fair way to distribute MPW's costs among customer classes. And the fairness issue relates to the residential equivalent unit assignments.

Q. So you believe there's a legitimate reason for

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MPW to have raised its' rates?
A. I'm not questioning the increase –- the rate increases. I'm just questioning the fair –- we're just questioning that, you know, that the issue is the fairness and the reasonableness of who pays for all of these costs.
Q. And let me ask one further question about the REUs that you purchase when you buy a piece of property. And I know, to me, it looks –- the Snee Farm Lakes, the HOAs are a little bit different than other pieces of property. So let's say there's a piece of a property that's a restaurant. And so they came in, and they purchased -– let's say they purchased 20 –- well, let's go to Exhibit K. So let's see ... that customer –- whoever that customer is –- you know, they have a certain number of REUs. It doesn't say exactly how many they had before, but let's say they had 20 REUs. And now, based on usage, they determine that they can reduce them or should reduce them down to 13. Would their piece of property's rate -– it's on Coleman Boulevard, a heavily trafficked business district of Mount Pleasant –- isn't there some value to keeping 20 REUs attached to that piece

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of property for future sales?
MR. APPEL: Object to form.
A. Well, I mean, again, if you're selling a property that's, you know –- I mean, if the buyer wants to take that into consideration, that's fine. But what we're looking at here is the current reality of having –- I mean, we're dealing with an ongoing operation with long-term customers that are having to pay monthly service rates. And we're –- what goes on in a –- say, if the customer decides to disconnect from the system and sell their property, that's –- I mean, I don't –- you know, that's all the considerations that go into the purchase and stuff. I mean, I don't know; that will depend upon the buyer. But the current reality is that these customers are current customers. They've been around a long time. They are commercial businesses, and they are having to pay these BFCs every single month.
Q. Have they been around a long time? I mean, I looked at that class list you put together. There's a lot of members in there that have not been around a long time.
A. Yeah, I mean, Snee Farm Lakes has been -–

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there's quite a few that have been around since the 1980's. And I mean, I don't know what you consider to be a long time. I mean, there are some that are, you know, fairly recent, and I don't know. Some of them may have been, as you mentioned, sales of some existing businesses that were then converted to a new business. I don't know, but certainly, in the case of Snee Farm Lakes, they've been around for, you know, probably 40 years.
Q. What do you suggest should happen if REUs are reduced for a customer, but later that customer decides they need more REUs? What is your suggestion of what should happen there?
A. No, no. I think we're talking about -– now are we talking about on the impact fee side, or are we talking about the rate side?
Q. Well, let's talk about both. What happens on the impact fee side?
A. On the impact fee side, if the customer -– now are you saying the customer decided to forego some -– to give up some of its' capacity?
Q. Uh-huh (affirmative response).
A. Okay, and under MPW's policy, in order to get that capacity back, the customer -– and again,

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let's assume this customer has been, you know, around for 40 years. As we talked about, instead of paying $324.00 or a few hundred dollars per ERU, now they have, you know, a dramatically increased impact fees per REU. I think that the capacity that a customer pays for should remain with that customer. And on the user –-
Q. So are you saying they never should give it up? I guess I'm lost there.
A. Should not –- well, I mean, they've already paid for the capacity, so that capacity should be theirs –- is theirs. I mean, they've already paid for it, but then when we go to the monthly rates –-
Q. Let's not look at the monthly rate yet though. Let me ask this. So they paid for X capacity. Okay? They've got 10 REUs. But you told me that there's a lot of concern because if there are too many REUs for the system, we may believe our capacity is higher than it actually is. Right? So shouldn't there be some incentive for a customer to reduce their REUs if, in fact, they think they should?
A. Impact fees are a one-time charge. You pay

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them, and that's it. You've got your proportionate share of the system; that's a done deal. From then on, you're paying monthly use rates. If you want more capacity after you purchase it, then you purchase that additional capacity at the then effective impact fees. But it's a one-time deal. And then after you pay your impact fees, you then pay your monthly user rates.

Q. Okay, but so -– all right. So now let's go to monthly user rates. What happens there? Let's say Mount Pleasant does what you suggest, and they should just unilaterally re-adjust everybody's user rates sometime between one to -– every one to three years.

A. Uh-huh (affirmative response).

Q. What happens when a customer says, "Whoa, wait a minute. You reduced mine, and now I'm getting hit with excessive fees every month because I've changed -– you know, it's not the pandemic anymore. I actually have an operating restaurant." What should happen then? Should there be any -– well, you tell me. What happens?

A. Well, certainly customer communication is always

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important, and the customer should be able to communicate concerns with MPW. But in the absence of a customer concern, then it would -– as we talked about, it's MPW's burden to ensure that the rates, fees, and charges are fair, equitable, and reasonable. And so as we discussed previously in this deposition, I do consider that the REUs should be right-sized periodically, as is the practice of other utilities.

Q. Of two other utilities. So let me ask again though. My scenario is, we're doing exactly what you tell us to do. We're right-sizing. We're right-sizing every three years.

A. Uh-huh (affirmative response).

Q. No questions asked. Unilaterally, we're right-sizing. And then we've got a customer that is getting hit with excessive charges every month because they're exceeding their REUs. What happens? I mean, I'm –- I don't have the answer to this. I'm asking whether –-

A. Well, people –-

Q. Wait, wait, wait, Mr. Mantz, let me finish. I'm asking, under your scenario, what happens?

MR. APPEL: Object to form.

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A. MPW has never had an issue with increasing a customer's REU count, and so again, there's a –- you know, and this case is related to the customers that have unrealistic REU counts. But as I suggested, the REU counts should be right-sized periodically. But certainly, the customers should –- if there's a specific practice –- if there's a specific situation in which, you know, the customer needs to communicate a concern –- because a lot of -– I mean, utilities with this policy, I mean, they do provide for the customer. For the right-sizing policy, they do provide for the customer to explain, you know, circumstances and, you know, negotiate the REU. So while the right-sizing should happen automatically, that doesn't preclude a customer from going to MPW and say, "Hey, you know, this is not working for my specific circumstances."

Q. But what –- so what happens in that situation? Does MPW increase their REUs at that point, regardless of the right-sizing?

A. Well, it's a discussion between MPW and the customer. But as I mentioned, MPW has never had an issue with going after customers that should

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have higher REU counts than what their usage suggests.

Q. I guess my question -– I mean, I'm listening to you here. What do you suggest that MPW do in that situation?

MR. APPEL: Object to form.

A. Talk with the customer and determine a fair REU value based on customers' specific circumstances. And again, we're going back to fair, equitable, reasonable; you know, MPW would have to make adjustments as to what is fair.

Q. So is it a customer-by-customer analysis?

MR. APPEL: Object to form.

A. Well, you're talking about customers that come up to MPW and say, "Hey, you know, this assignment of REUs that –- you know, we've had some operating changes since that time, and so we need our REU counts adjusted because your right-size –- our historical usage is not indicative of our near future usage."

Q. And there's not a right or wrong answer right now. I'm just trying to understand. So let's say we right-size every three years. Year one and a half, we have a customer come to us and say, "You right-sized, but that's not the right

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number for me. Maybe I want more REUs now."
Should they have to purchase more REUs? I mean, what happens at that point?
A. As long as their REUs are under the amount of capacity that they initially paid for, then I don't think there's an issue. If their REU demand is higher than the capacity that they paid for through their impact fees, then yes, they should pay some additional impact fees for the additional capacity.
Q. I think this is probably a good stopping point. Let me see if there –- well, hold on, I do have some more. I'm trying to wrap up this one document at least. I know this is the biggest document you have. So Exhibit L, and this is at the top of page 17. No, wait –- yeah.
DEFENDANT'S EXHIBIT 30 MARKED FOR IDENTIFICATION PURPOSES (4 pages - Draft Questions and Answers, 2/14/19; Exhibit L, Section 58-133 of City of Melbourne Florida, Code of Ordinances Pertaining to Monthly Water User Rates; Section 58-243 of City of Melbourne, Florida, Code of Ordinances Pertaining to Monthly Wastewater Rates, page 17-20)
Q. "Unlike MPW, Melbourne reviews, rebalances, and right-sizes ERC" –- which is the same thing as

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REU –- "assignments to keep its' rates fair and equitable. As shown in Exhibit L at the end of this document, Section 58-133-(a)(1) of Melbourne's Code of Ordinances Pertaining to Water Service Rates states, 'A rate charged for potable water service shall consist of a monthly service charge based on the equivalent residential connections determined by the City periodically for the premises or point of connection.'" Where in Exhibit L does it show that they periodically right-size?
A. Can you go down a little bit?
Q. Sure.
A. Okay. There you have language of at least once per year on the –-
Q. It says, "The City shall have the right to." Does it require the City to do it?
A. In reality, the City does it at least once a year, because as I mentioned, I worked on Melbourne before, and so I'm aware of their practices.
Q. But I guess my question is, in this ordinance, does it require the City –- I mean, it doesn't say the City has to. It just says they have the right to.

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A. Right. I agree that the language says that, you know, it doesn't require it. In practice, they do to keep the rates equitable.
Q. Do you think Melbourne, Florida has a good rate system?
A. Sure. I mean, again, the ERU basis for rates, I don't have a problem with the rate structure –- the concept of the rate structure as long as it's done properly to maintain fair, equitable, and reasonable rates.
Q. Are Melbourne's –- let me turn to 11.
DEFENDANT'S EXHIBIT 31 MARKED FOR IDENTIFICATION PURPOSES (1 page - 2020 Florida Statutes)
Q. This is the ordinance that you attached from Melbourne, Florida. Do you see that?
A. Uh-huh (affirmative response).
Q. I didn't really understand this. The rate charged right here in number one; it looks like it's somehow tied to the water meter. Do you see that, the water meter five? Or maybe I'm misreading that.
A. Based on the number of equivalent residential connections determined by the City periodically, there are a lot of methodologies that are considered acceptable for determining ERCs, and

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I think theirs is the maximum of the usage or the AWA meter equivalent factor for ERC purposes.
Q. What does that mean? I'm sorry.
A. They'll take a look at –- if you can scroll down.
Q. Sure.
A. Okay. So for existing –- so if you look at number 2B, "For existing customers, the determination of the total ERC shall be based on the greater of the –- a consumption based calculation or the meter equivalent factor as based on meter size." So that's how they've chosen to determine ERCs, and they right-size this calculation each year.
Q. So it's either the greater of what they actually use or the meter size. Did I hear you right?
(Lengthy pause)
Q. Are you still reading through that?
COURT REPORTER: We may have lost him again.
MR. APPEL: Bryan, can you hear us?
DEPONENT: (No response).
MR. APPEL: Uh-oh, I'll text him.
COURT REPORTER: Okay. We'll go off the

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record briefly.

(Off the Record)

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. So Mr. Mantz, let me see if I can make it slightly bigger. For all of our –- for my old eyes. It says here –- and this is, "The determination of the ERCs shall be based on the greater of ..." Do you see that?

A. Yes.

Q. " –- the monthly average water consumption, divided by the monthly potable water allowance per ERC of 7,000 gallons, but not less than one ERC." So they can't go below one ERC, and it's the greater of, by the way –- "or the ERCs applied by the size of the meter serving the premises." So in reality, Melbourne is requiring its' customers to pay at least the size of the meter. Correct?

A. Yes, it is the meter equivalent as a minimum, yes.

Q. So even if their water usage falls way below their meter size, Melbourne doesn't care. They're going to require you to pay, at a minimum, the ERUs associated with your meter size. Right?

A. Yes.

Q. Is that fair?

A. I mean, that's how they –-

(Audio echo)

DEPONENT: Sorry, let me take care of this.

A. That's how they set it up. You know, the way that MPW has set up their rate structure is based on usage. And again, you know, Melbourne decided to set up their rate structure a certain way, and MPW has decided to set up their rate structure a certain way.

Q. Did you ever tell Melbourne that you felt that was not equitable to charge customers for an ERU number much greater than their actual usage?

A. You know, this is a rate structure that I inherited, and you know, we didn't –- at the time, that was not a consideration.

Q. So the answer is no?

A. No, I never told Melbourne to switch their –- to change their rate structure.

Q. Because you didn't consider it unfair, did you?

A. Well, this was 10 years ago. I wasn't even a Project Manager, so my level of knowledge at that time was less than what I know now. But I don't think it's an unfair rate structure.

Q. And I think we are good for the day.

MS. HILL: I'm going to stop here, and we will pick up on January 20th at 9:30.

(There being no further questions, this deposition concluded at 5:15 p.m.)

CERTIFICATE OF REPORTER

I, JANICE L. STANTON, COURT REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, HEREBY CERTIFY THAT I REPORTED THE DEPOSITION OF BRYAN A. MANTZ, ON WEDNESDAY, THE 13TH DAY OF JANUARY, 2021, THAT THE WITNESS WAS FIRST DULY SWORN BY ME AND THAT THE FOREGOING 200 PAGES CONSTITUTE A TRUE AND CORRECT TRANSCRIPTION OF SAID DEPOSITION.

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE PARTIES CONNECTED WITH THIS ACTION, NOR AM I FINANCIALLY INTERESTED IN SAID CAUSE.

I FURTHER CERTIFY THAT THE ORIGINAL OF SAID TRANSCRIPT WAS THEREAFTER SEALED BY ME AND DELIVERED TO AMY L.B. HILL, GALLIVAN WHITE & BOYD, 1201 MAIN STREET, SUITE 1200, COLUMBIA, SOUTH CAROLINA, WHO WILL RETAIN THIS SEALED ORIGINAL TRANSCRIPT AND SHALL BE RESPONSIBLE FOR FILING SAME WITH THE COURT PRIOR TO TRIAL OR ANY HEARING WHICH MIGHT RESULT IN A FINAL ORDER ON ANY ISSUE.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS 21ST DAY OF JANUARY, 2021.

JANICE L. STANTON, COURT REPORTER
MY COMMISSION EXPIRES MARCH 28, 2029

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VERIFICATION OF DEPONENT

I, BRYAN A. MANTZ, HAVE READ THE FOREGOING DEPOSITION CONSISTING OF 200 PAGES, WHICH WAS REPORTED BY JANICE L. STANTON, COURT REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA, ON JANUARY 13TH, 2021.

I FIND THE TRANSCRIPT OF THIS DEPOSITION TO BE A TRUE AND ACCURATE TRANSCRIPT ACCORDING TO MY TESTIMONY ON THAT DATE, WITH THE EXCEPTION OF _____ CHANGES AND/OR CORRECTIONS LISTED ON THE ATTACHED ERRATA SHEET WHICH WAS FILLED IN BY ME.

_____ _____

DATE BRYAN A. MANTZ

ERRATA PAGE

Page #	Line #	Change/Correction (& Explanation)
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The above changes were noted by me on this errata page before signing the attached Verification of Deponent. I have retained a copy of this errata page for my records, and the court reporter is to attach this page and my verification to the original transcript.

Dated:_____ _____

BRYAN A. MANTZ

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1226 Pickens Street
Columbia, South Carolina 29201
info@garberreporting.com
Telephone: (803) 256-4500 | Fax (803) 256-1999

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS	
COUNTY OF CHARLESTON)	FOR THE NINTH JUDICIAL CIRCUIT	
	CA NO.: 2018-CP-10-2764	
SNEE FARM LAKES HOMEOWNERS')		
ASSOCIATION, INC., INDIVIDUALLY)		
AND ON BEHALF OF THOSE)		
SIMILARLY SITUATED,)		
Plaintiffs,)		
)	DEPOSITION OF	
vs.)	BRYAN A. MANTZ	
)	JANUARY 20, 2021	
THE COMMISSION OF PUBLIC WORKS)		
FOR THE TOWN OF MOUNT PLEASANT)		
d/b/a MOUNT PLEASANT WATERWORKS,)		
Defendants.)		
_____)		

Deposition on oral examination of BRYAN A. MANTZ, reported by Janice L. Stanton, Court Reporter and Notary Public in and for the State of South Carolina; pursuant to Rule 30 of the South Carolina Rules of Civil Procedure; said deposition was held remotely via Zoom video-conference on Wednesday, the 20th day of January, 2021, scheduled for 9:30 a.m. and commencing at the hour of 9:35 a.m.

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APPEARANCES:

REPRESENTING THE PLAINTIFF:

ROSS A. APPEL, ESQ.
McCullough Khan, LLC
359 King Street, Suite 200
Charleston, South Carolina 29401
ross@mklawsc.com

REPRESENTING THE DEFENDANT:

AMY L.B. HILL, ESQ.
Gallivan White & Boyd
1201 Main Street, Suite 1200
Columbia, South Carolina 29211
ahill@gwblawfirm.com

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COURT REPORTER'S LEGEND:

dashes [--]	Intentional or purposeful interruption
...	Indicates trailing off
[ph]	Denotes phonetically written
[sic]	Written as said

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STIPULATIONS:

This deposition is taken in accordance with the South Carolina Rules of Civil Procedure.

It is agreed and stipulated by the deponent and respective counsel that the reading and signing of the deposition by the deponent is expressly RESERVED.

WHEREUPON:

BRYAN A. MANTZ, being duly sworn and cautioned to speak the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION BY MS. HILL:

Q. All right. Mr. Mantz, I did not go through this the other day with you, but can you give me your educational background?

A. Sure. I have a Bachelor of Science in Economics from the Wharton School of Business of the University of Pennsylvania; and I have a Bachelor of Applied Science in Management and Technology, also from the University of Pennsylvania; and then I have an MBA from Rollins College.

Q. Okay, and if you can give me your career background.

A. After graduating from college, I had a job with a defense contractor, and then I spent –- I also had some -– at one point I was a business manager

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for a college for students with special needs. Then I was also -– had a brief tenure as a business appraiser. And then I kind of finally came to this particular line of work, and I've been performing rate consulting work for local governments, I guess, since –- I think my start date was February 27th. I'm sorry, February 17th of 2001, where I started working for Public Resources Management Group which was acquired by Raftelis last year. And when I say "last year," I should say 2019. It's 2021 now.

Q. Okay, so you started working for Public Resources Management Group. Prior to that time in 2001, did you have any experience with utilities or rate settings for utilities?

A. No. No, but it was financial and accounting experience.

Q. Okay. So tell me, from 2001 forward, what did you do for Public Resources Management Group?

A. It was primarily as a rate consultant for local governments, this kind of work here primarily; utility rate studies, and utility rate work as the bread and butter. But we also dabbled into building fees, and you know, other fees that are charged by local governments.

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Q. So did you work under somebody in 2001?

A. Sure.

Q. All right. Who was that?

A. It would have been primarily the principals of PRMG which would have been Robert Ori and Henry Thomas. I mean, I guess when I started with PRMG, I even worked under some of the senior level consultants. But ultimately, we were all ultimately under the supervision of Robert Ori and Henry Thomas.

Q. Did they have sort of a structure such that you made it up to senior level consultant at some point?

A. Yeah.

Q. Okay. At what point did you become a senior level consultant?

A. A Senior Consultant? Probably within five or six years.

Q. Did they have anything higher than Senior Consultant?

A. I mean, they have different senior levels; supervising, associate, and I guess my ultimate job title, I think, was Supervising Consultant.

Q. So as Supervising Consultant, if there is a rate consultation to do, were you the head person

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handling that rate consultation?

A. Ultimately the rate decisions -– all the ultimate decisions on important issues were made by Mr. Ori or Mr. Thomas. And then you know, given that it was their firm and their liability, they obviously wanted to -– they had a more -– they wanted to be involved in all the major decisions.

Q. So did you ever work on a consultation without Mr. Ori or Mr. Thomas?

A. Mr. Ori and Mr. Thomas were always involved.

Q. Okay. Who were some of your larger clients? What were some of the utilities that you worked with?

A. I would say the largest utility that I worked with was Collier County, which provided a large amount of work each year for the firm, and I was kind of the Project Manager.

Q. Okay, and where is Collier County located?

A. Oh, I'm sorry; that was in Florida.

Q. What city is it?

A. It's headquartered in -– I mean, it's in Naples, Florida.

Q. And what type of BFCs does Collier County have?

A. It's a –-

Q. What was the BFC based on?

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A. It's a meter size based charge.
Q. Okay. Any other counties that you worked with –- or utilities, I mean to say? Any other utilities that you worked with?
A. I mean, over the course of my career at PRMG, I probably consulted with -– I've worked with hundreds of utilities. But you know, you asked about what -– you know, probably Collier County was the biggest client that I worked with as far as like getting regular work.
Q. Okay. Any others that fall in that category that you –- I mean, let's say in the last ten years, that you worked with more than just in passing?
A. I mean, I've done some -– I'm trying to remember. I mean, I've done a lot of work with the City of Miramar. They, again, have a base charge based on meter size. They provided a lot of on-going work.
Q. All right. Did you work with any that based their BFC on something other than meter size?
A. Yeah, as I talked about last week, I've done, you know, some work with the City of Melbourne, Florida, and I've also done some work for the town of Longboat Key.
Q. Any others in addition to this?

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A. That work -– that have their BFC based on -– no, those would be all.
Q. Something other than meter size?
A. I can't recall offhand. I don't believe so.
Q. Have you worked with any utilities in South Carolina?
A. No.
Q. Have you worked with any utilities outside of Florida?
A. Yes. Yes, I've worked with -– as GovRates we've done some work with some utilities in Oregon and, I have a client in Alaska, and I have a client in Colorado.
Q. Now describe your work on any review or –- let me back up a second. What is a rate study?
A. A rate study is -– there are two components of a rate study. One is figuring out how much –- there are usually two or three components to a rate study. One is to figure out how much revenue the utility needs, or if we're not dealing with utility, the entity. One objective is to figure out how much revenue the entity needs. And then the second part of the analysis is figuring out how to recover that revenue. It's done through the customer classifications.

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Q. When you said, "how to recover that revenue," is that basically saying how to determine rates?
A. So if we need five million dollars, how do we recover those five million dollars among the residential, commercial customers, et cetera.
Q. Do the rate studies actually deal with setting up rate structure, or does it deal with the amount of the rates? Does that make sense?
A. Yes. Yes, because as we've talked about in, I guess, part one of the deposition, just about all states have some sort of overall statute saying that the rates have to be fair, equitable, reasonable. Language varies among the different requirements, but certainly we were trying to develop rates and rate structures that would try and not only meet the communities' objectives, but would also be –- that would conform to state law requirements –- statutory and case law requirements.
Q. Does Florida have a statute that requires all water utility rates to be tied to use of water?
A. Not to my knowledge. I mean, I'm not familiar with one right now, but they do have a statute that, you know, the fair and equitable –- a similar type of statute just like other states.

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Q. Do Florida statutes include the words "fair" and "equitable"?
MR. APPEL: Object to form.
A. I don't know if –- I mean, I haven't read it for a while, but it has something -– it has some language to that.
Q. Is it different than South Carolina's statute?
MR. APPEL: Object to form.
A. Yes. Yeah, I mean, Florida -– South Carolina statutes are worded differently than Florida statutes.
Q. What is the Florida statute that governs rates?
A. I don't know the statute offhand. I have quoted it before, but I just don't have it in front of me.
Q. Is that something you could get me from one of your old reports?
A. Sure. I mean, I can look up the statute.
Q. And maybe if we took a break at some point you could get that for me?
A. Fine. You would just want the Florida statutes about what -– I will -– I'm writing a note.
Q. Okay.
A. You can continue.
Q. Okay. So you do these rate studies –- and maybe

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more than one rate study –- but you did a rate study for Collier County. Did you do a rate study for any other counties while you were at your prior employer?

A. I mean, I've done -– I've worked on county –- I've done some for Lee County, Florida. I've done a rate study. I've done –- I think, I was involved in a rate study for Seminole County, Florida, at one point. I've worked with –- yeah, it's just that all the names are –- it's been a while.

Q. Sure. Sure, and this is not a memory test. I'm really just –- you know, if you tell me later that there are others, that's fine. But as best as you can remember right now, I've got Collier County, Lee County, Seminole County. Any other rate studies that you remember while you were at your prior employer?

A. Just for counties. Right?

Q. Or for any utilities, and I may have phrased that poorly by saying "county," but really any utilities that you performed rate studies for.

A. Yeah, I mean, because Public Resources Management Group was purchased by Raftelis, Raftelis has all the information on utilities that I've worked

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for.

Q. Okay, and that's fine. I mean, I can try to find out another way, but with you here today, do you remember doing rate studies on any other utilities other than Lee County, Seminole County, Collier County?

A. I mean, I mentioned Melbourne, Florida; Longboat Key, Florida; Miramar, Florida; Maitland, Florida. I mean, I've done hundreds of rate studies.

Q. Okay. What are -–

A. And again, Raftelis has all that information about stuff I worked on while at Public Resources Management Group.

Q. Did you (inaudible) – involve water utilities?

COURT REPORTER: Excuse me. Ms. Hill, you broke up, and I missed the first part of that question. Can you repeat, please?

MS. HILL: Sure.

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. How much of your work, when you were at your prior employer, involved water utilities?

A. I would say probably 99 percent.

Q. Did you do work for water utilities other than rate studies?

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A. Sure. Like we'll do bond feasibility reports or –- just sometimes they didn't want a rate study. They wanted a revenue sufficiency analysis, which would be kind of the -– as we talked about, a rate study would involve two components; one would be to figure out how much revenue they need, and the next component would be to determine how to recover that revenue. And you know, some utilities would engage us for a revenue sufficiency study which would only cover the first step. But I mean, we dabbled in all kinds of things related to rates and charges. And you know, as GovRates –- you know, which is my current platform –- we don't consider ourselves limited to utilities. In fact, I'm doing a building fee study right now. You know, it's –- we do more work than just for utilities right now.

Q. And I'll get into GovRates in a second, but when you were with the Performance Group, do you remember ever finding or recommending to a utility that their rate structure was not fair or equitable?

A. We –-

MR. APPEL: Object to form.

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A. I don't really think so. I mean, our goal was to -– I mean, occasionally we would find some issues, I mean, in their existing rate structure that we felt could be strengthened, and we would recommend changes that we felt were –- you know, made sense for equitability purposes.

Q. All right. Do you remember specifically ever doing that? Specifically -- and let me back up a second and make this a little clearer. Do you remember ever specifically telling a utility they needed to make a change for equitable purposes versus another reason?

A. Usually the term we would say is "to promote equity."

Q. Did you remember making a recommendation to a utility based on the promotion of equity –-

A. Offhand, I'd have to jog my memory.

Q. –- because my next question is going to be which utility?

A. Yeah, I don't remember. And I think the nature of this work is we're just always bogged with a lot of detailed work 24/7, and so it's sometimes hard to remember what we did last month. I mean, we're just always dealing with a lot of current issues –- a lot of data at all times.

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Q. Sure. Tell me about forming GovRates. How did that come about?
A. We decided to -– that we were going to start our own firm, and so we did.
Q. And who is we?
A. My wife and myself.
Q. And what is your wife's name?
A. Jenny Mantz, J-E-N-N-Y.
Q. And did your wife work with utilities prior to forming GovRates?
A. No.
Q. What did she do prior to forming GovRates?
A. She was primarily taking care of our children, but before that she was –- she has an MD that she got from China –- she's from mainland, China –- and then she was a PhD candidate at the University of South Florida.
Q. Did she get her PhD at the University of South Florida?
A. No, she did not.
Q. Did she practice medicine in Florida?
A. No.
Q. I thought I saw somewhere on your website that she worked at Moffitt. Did she work at Moffitt?
A. Yes.

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Q. What was her role at Moffitt?
A. Research Assistant. I mean, that was part of her PhD program.
Q. And what type of research was she working in?
A. It's bio -– it's kind of biochemistry. I think if you saw one of her articles, it's pure amazing, the tech -–
Q. I wouldn't be able to understand it.
A. I don't understand it either. It's crazy.
Q. Yeah, I understand. I understand that we would not be able to understand it. Do you have any other -– is she an owner of GovRates?
A. Yes.
Q. Do you have any employees of GovRates, or is it just the two of you?
A. It's just the two of us.
Q. So when was GovRates formed?
A. On January 3rd, 2017.
Q. So why did you decide to leave your past employer?
A. I had issues with some of the management decisions that they would make.
Q. What were some of those issues?
A. You know, it seemed like I was not getting anywhere as far as being promoted to being a

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partner, and so I decided that it was in my best interest to leave to further my career.
Q. Did you leave on your own, or did they ask you to leave?
A. I left on my own.
Q. So you and your wife formed GovRates. What does GovRates do? What service does it provide is a better question.
A. You know, we basically consider ourselves financial rate and management consultants for governments. And whether it's local, state, or federal governments, I mean, we're open to any government work. Lately, most of our work has been with utilities, but we are certainly open to –- you know, to looking at or to doing work in other areas.
Q. And who are the utilities that you work with through GovRates?
A. I mean, I'm working with Longboat Key -– the town of Longboat Key, Florida; Miramar, Florida; Maitland, Florida; Seminole County, Florida; Glenwood Springs, Colorado; Seward, Alaska. I've worked with Cornelius, Oregon; Silverton, Oregon. I'm probably missing some.
Q. Of these, are the vast majority water utilities,

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or is it electrical utilities? What type of utilities are you working with?
A. They're water utilities.
Q. Have you done any rate studies for a water utility since you have started GovRates?
A. Yes.
Q. Okay, and which water utilities have you done a rate study for with GovRates?
A. I mean, just about all of the ones I just mentioned. I think Seminole County is just a capacity fee. Deltona, Florida, I just did one. But I mean, all of them –- just about all of them are water rate studies.
Q. Okay. I'm going to pull up your CV and ask you a few questions about that. Hold on one second. I believe I've got two CVs for you. One was from 2021, and one was from 2018. I'm using the 2021, so I assume that is the up-to-date CV. Is that correct?
A. Yes.
DEFENDANT'S EXHIBIT 32 MARKED FOR IDENTIFICATION PURPOSES (6 pages - 2021 Curriculum Vitae of Bryan A. Mantz)
Q. Let me ask you. Have you ever served as an expert in litigation prior to this case?

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A. Prior to this case, no.
Q. Are you currently serving as an expert in another case?
A. There's a case in Delaware that I am on that I have a contract to be an expert witness, but it really hasn't gone anywhere.
Q. What type of case is that in Delaware?
A. That was a wholesale wastewater rate.
Q. What is the issue up there?
A. It's two entities, and they disagree on what the wholesale wastewater rate should be.
Q. All right. Let's look through your CV here. What is a Certified Management Consultant? What does that mean? Is that a test you had to take?
A. No, it's actually a designation that is awarded by Institute of Management Consultants. It's a multi -– I mean, you have to basically, you know, get recommendations from at least five clients; you have an interview process; there's a vetting process; you have to have at least ten -– you know, I think you have to have at least ten years of experience. I mean, it's not easy to get, but it is considered a prestigious designation.
Q. And what is the Certified Government Financial Manager or CGFM that's listed?

A. So just like a CPA involves all kinds of areas of accounting, the CGFM is specifically for government accounting. And to get that you have to pass three fairly difficult tests, and then you have CPE requirements afterwards. And both the designations have a lot of the –- CGFM has a lot of CPE requirements, and then the CMC –- you have not only CPD, but that you have to -– it has a public outreach requirement. You have to continue being in the management consulting –- you know, you still have to continue having a certain amount of experience. I mean, it takes a lot of effort once you get these certifications to maintain them.
Q. Are there rules associated with being a CGFM, sort of like GAAP for accountants? Is there something similar, or is it –-
COURT REPORTER: Excuse me, Ms. Hill. Can you repeat the first part of that question?
MS. HILL: Sure.
Q. Are there rules associated with being a Certified Government Financial Manager that you agree to follow because you have this designation?
A. Sure, and I mean, a key consideration is -– I mean, ethics. I mean, you have to be ethical in

everything you represent. You know, and then also for the CMC, ethics is very important. But yeah, you have to have a certain –- you have to continue your education in those fields -– in the government accounting. You have to continue your education, since rules are always -– accounting rules are always evolving.
Q. Is there a list of ethical rules? I mean, for instance, being a lawyer, we have certain specific ethical rules set out that are associated with being an attorney.
A. Sure.
Q. Are there specific ethical rules listed?
A. Yeah.
Q. There are? Okay.
A. Yeah, I think there's probably a -– I think both of them probably have an ethical guidebook or something that you have to agree to abide with. But you know, ethics on a fundamental level, is knowing right from wrong, and certainly we strive to be ethical in everything we do.
Q. Okay. Referring to –-
A. And actually with the Registered Municipal Adviser, that's very ethics-oriented too.
Q. What is a Series 50 Qualified Municipal Adviser

Representative? What does that mean?
A. Starting in 2017, the rate consultants are considered to be Municipal Advisory Professionals, meaning that they are often involved in situations where they might make recommendations on the structure timing of -– in terms of debt financing issues. And so in 2017, the law that was enacted says that in order to be able to make those kinds of recommendations regarding debt financing issues, the firm has to be registered as a Municipal Adviser. And Raftelis is also a Registered Municipal Adviser. And then in order to make those recommendations, anyone associated with that firm, in order to make those recommendations, must have passed the Series 50 Municipal Adviser Representative Exam, which is another difficult exam.
Q. Let me scroll down here to your publications and presentations.
A. Uh-huh (affirmative response).
Q. It has you listed as co-author of the AWWA Manual Practice 1, M1, Principles of Water Rates, Fees and Charges, Seventh Edition.
A. Uh-huh (affirmative response).
Q. And I believe that's the book that I showed

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before –- that we were talking about the other week. Specifically, what parts of that book did you work on?

A. While I reviewed other sections, the primary part was on the system development charges. I substantially upgraded that chapter.

Q. Who did you work with on the system development charges?

A. At the time he was -– oh, what's his name? Sorry, let me look at my emails real quick. Oh, Brian -– Brian Jewett. He was in Black and Veatch at the time. Now I think he works for a utility in California.

Q. The technical reviewer of Manual of Practice 5 (M5) is by Water Utility Management. What does technical reviewer mean?

A. Meaning I reviewed the content. I didn't really do much writing, but I mean, I reviewed it and made some suggested changes to the text, so I guess you could say I did kind of participate in the writing. But I got an email the other day saying that they are ready to update that one again, and they want me to be involved again.

Q. And this co-author of Manual of Practice, AWWA Manual of Practice, 29 (M29), Water Utility

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Capital Financing –- and then that has a portion that you wrote. Is that still in existence today?

A. Yes.

Q. And then AWWA Manual of Practice 52 (M52), Water Conservation Program, The Cleaning Manual. Did you work on a specific portion of that?

A. No, that was -– oh yeah, I worked on the rates and charges section of that one.

Q. How do rates and charges come into a conservation program? I mean, how are they relevant to a conservation program?

A. A lot of rates are structured so that the more you use, the more expensive the water gets, and it's to –- as we have talked about rate objectives last week in part one of the deposition, you know, water conservation is certainly sometimes a –- I should say it's probably most of the time a consideration in the rate setting process.

Q. And then we have AWWA Manual of Practice 54 (M54), Developing Rates for Small Systems. Would you consider Mount Pleasant Waterworks a small system?

A. No.

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Q. Is it a medium system, or is it a large system?

A. I don't know the official classifications. I know that there are some standards out there as to what –- I think even for small systems, I want to say it's like less than 10,000 customers. But I don't –- I mean, in that manual, it specifically says what, you know, they consider to be a small system. I don't have those standards in front of me. I mean, Mount Pleasant, it's probably a medium-sized utility, or maybe they consider themselves large. I mean, there are some huge utilities out there that –- I mean, obviously, Mount Pleasant is not, you know, the city of Philadelphia or New York which are massive utilities, so I don't know how they consider themselves.

Q. And then scrolling down, there's WEF Manual of Practice 27, (MOP 27), Financing and Charges for Wastewater Systems. In that one you were a technical reviewer. Correct?

A. Yes.

Q. In any of these manuals of practice, are these rules that utilities have to follow, or are they suggestions to assist utilities?

A. I would say they are –- you know, all of these I

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think I also covered in the last -– in part one of the deposition. I want to –- you said that this is going to be one single deposition, so I'm going to say part one and part two. But all these manuals say that, you know, while they are guidelines, any state and local laws and regulations take precedent over any of the content. I mean, they're not authoritative. They don't have any law that –- they're not requirements. They don't trump state, or local laws, or federal laws.

Q. Okay. What's the different in WEF? What does WEF stand for versus AWWA?

A. I think I probably -– I think I'm going to probably spell it out in my CV now, but it's the Water Environmental Federation. So the AWA primarily focuses on water systems, whereas the Water Environmental Federation focuses on wastewater systems. And both –-

Q. Do they –-

A. Go ahead, that's fine.

Q. No, no, go ahead.

A. Just the AWA M1 Manual and the WEF Manual, Manual Practice 27 are both considered rate making practice manuals that are often referenced by the

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utility industry.
Q. And then I noticed in your CV, you have a number of papers and articles that you listed. Can you make those available, and can we get a copy of those? Do you have those articles?
A. Sure.
Q. Okay. So you can provide those to us?
A. Uh-huh (affirmative response).
Q. All right, and same with the presentations; do you have those available?
A. Yes. Some of them I will have to search for, but I don't know if I have them all in a folder, but I can dig them up.
Q. Sure. How did you come to be hired in this case?
A. I actually think I was referred to –- I got a reference. I'm not sure if the reference was from my former employer, PRMG, or from Exeter Associates. But it was -– I was referred. I think, you know, the attorneys, McCullough Khan, was looking for expert witnesses, and again, I think they may have first –- I mean, I can't put words into Ross' mouth, but I think it was a reference from another firm.
Q. What were you asked to do?
A. Well, initially, I was provided the details of

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the case and you know, to provide a -– to kind of look through the various pieces of information and provide some observations and whether, you know, I felt there was a legitimate basis for the case.
Q. Had the case already been filed at that point?
A. Yes. Yeah, my involvement, I think, in the case really started in the latter –- late 2018. The case, I think, had already been filed and was a thing.
Q. Did they provide you with what they believed your opinion should be?
A. No, I think they –- I mean, I –- obviously, they provided me with their arguments for the case, but then I did my own independent analysis of the rate structure, and that's kind of what prompted or that led ultimately into the development of that draft memo that we were covering last week.
Q. Did that draft memo contain all of your opinions in the case?
COURT REPORTER: Excuse me, ma'am. Can you repeat that again?
MS. HILL: Sure.
Q. Does that draft memo, which was document 10, did that contain all of your opinions in this

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case?
A. I think it certainly provides the most relevant opinions because I mean, the case is really, I think, focused on the REU assignments more than anything else. And all the opinions related to REU assignments are included in that paperwork.
Q. Have you consulted with anyone else in forming your opinions in this case, other than the attorney?
A. No.
Q. Have you communicated with the client, Snee Farm Lakes?
A. No, I've had no correspondence with Snee Farm Lakes.
Q. Have you communicated with anyone who disagreed with your opinions that you have proposed in this case?
A. No. No, I have not. The primary correspondence has been between myself and Mr. Appel in this case. I don't think I've really consulted anyone else or corresponded with anyone else.
Q. Okay, and I'm going to share my screen again.
(Screen share)
Q. This is a document that you provided to us, and I'd like to mark this as an exhibit.

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DEFENDANT'S EXHIBIT 33 MARKED FOR IDENTIFICATION PURPOSES (1 page - Talking Points, 1/21/19)
Q. It's document –- hang on, I believe it's document 31 –- right, document 31 in our list of documents for this deposition. And you produced this to us, and it had a title entitled, "Talking Points, 1-21-2019." What is this document?
A. I think that was a document that I was going to use, you know, in a conversation with Mr. Appel regarding the issues with the case.
Q. And did that conversation take place on the 21st of January 2019?
A. Somewhere around that time-frame.
Q. Was anyone else present in that conversation?
A. No, again, there -– the only correspondence I've had with respect to this case is, you know, between myself and Mr. Appel. I mean, I carbon-copied -– I mean, other people have been carbon-copied on some correspondence, but in general –- but my only correspondence has been with Mr. Appel.
Q. And then I see at the bottom, it says, "Should I criticize MPW's highest quarter decision in my letter?" Was that a question you posed to Mr. Appel?

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A. I may have. I don't know where the -– again, I don't remember everything we covered in the conversation, but you know, this was a conversation that, obviously, you can see from the date that it –- you know, these kinds of conversations ultimately led to that Questions and Answers document that we talked about last week.

Q. Okay. That was going to be my next question. Did you ever draft the letter?

A. It was the talking points that –- you know, the quote, "Questions and Answers" that was -– I don't know if you want to call that a report, or a memo, or whatever it was. You know, these kinds of conversations led to the -– you know, started to form the basis for that Draft Questions and Answers.

Q. And just so I fully understand this issue, who were you going to draft the letter to?

A. Ultimately we -– the direction I had was to put together that Questions and Answers memo, and the intent was to provide it to MPW and its' representation.

Q. Okay, and I appreciate that, but did anybody ever tell you to draft a letter?

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A. Again, the term "letter," I don't know if we were –- I don't know. Again, the letter, I guess, turned out to be more of a memorandum or a report. I think at the time, I'm not sure we were –- you know, I wasn't sure what the ultimate deliverable was going to be, but the ultimate deliverable turned out to be that Questions and Answers document.

Q. Gotcha, okay. I want to go to document 21 in the list of documents that we provided for today, and I'm going to share my screen again.

(Screen share)

Q. Whose handwriting –-

COURT REPORTER: Would you like this marked as an exhibit?

MS. HILL: Yes.

COURT REPORTER: Okay, thank you.

MS. HILL: Yes, ma'am.

COURT REPORTER: So if any document is referred to, do I just assume it's being marked?

MS. HILL: Yes.

COURT REPORTER: All right, thank you, ma'am.

DEFENDANT'S EXHIBIT 34 MARKED FOR IDENTIFICATION PURPOSES (1 page - Handwritten Notes, 1/18/19)

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Q. Whose handwriting is this on document 21?

A. That was mine, and I –-

Q. Is this the –-

A. I scanned it because my son has an issue with ripping up any paper that's available, and it actually looks like he contributed to the writing.

Q. I saw that. I was guessing that was not your handwriting.

A. No, it's not.

Q. So the document stated –- the handwritten notes are dated January 8, 2019. Was that your first meeting with MK Law?

A. No. Again, we've had correspondence since I started being involved in the case in late 2018, but this was just like a conversation or a Webex. I don't remember which one it was, whether it was on the phone or virtual, but it was just -– you know, again, you can tell from the date, this is just another conversation we had toward the –- you know, that ultimately led to that Draft Questions and Answers document that was discussed last week.

Q. What is this at the top that says "three year"? What is that?

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A. I don't remember.

Q. So what is this document? Is this notes from that meeting?

A. I believe it may have been. Yeah, I mean, again, these are just notes, and some of them were probably -– that is something that I wrote down before the meeting, and then I probably added to it during the meeting. And the ultimate goal, again, as part of this conversation, was the production of that Questions and Answers document.

Q. So these are points that you addressed in the Questions and Answers document. Is that fair?

A. Yeah.

Q. And then I see, "What should MPW have done?" and then you write, "Melbourne." Is that a reference to Melbourne, Florida?

A. Yes.

Q. And then what does "make clinical" mean?

A. That was probably –- I think that was just to address –- to kind of talk about the tone of the ultimate Questions and Answers document.

Q. What is the "get rid of secondary argument"? What is the "secondary argument"?

A. I honestly don't remember. In the information

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that you were provided, you know, there were multiple drafts of the Questions and Answers, so probably that secondary argument may have been in –- whatever that secondary argument is referring to was probably –- may have been in one of the earlier drafts.

Q. What do they mean by "amount of claim" and "who is the class"? Were those items that you were going to determine?

A. Ultimately, you know, in this litigation, you have to determine who is the class and what is the value of the claim. And so, yeah, those were some of the objectives ultimately that we had to –- you know, we're looking at.

Q. What is the notation "more utilities that rebalance"? Were you instructed to find more utilities that rebalanced?

A. Sure. I mean, that's all part of the case is to identify the other utilities that -– you know, that right-size their REUs.

Q. And then it has "simplify Number 3 Chart." What chart was that?

A. I don't remember, but it may be in an earlier draft of some of the information we provided.

Q. And then there's a notation. I can't quite read

it. Can you read this notation here? It starts with "Even."

A. "Even when BFC is held constant, paying unreasonable." So that relates to the REU assignment.

Q. And then, "Yes, on report." I guess that's them telling you to draft a report?

A. Yeah, exactly.

Q. And then it says, "draft watermark." What was the significance of that?

A. I think I was –- the idea was that the Draft Questions and Answers would be provided with a draft watermark on it.

Q. Is that so that you can change it later?

MR. APPEL: Object to form.

A. I mean, as long as it's called "draft," it's a draft.

Q. So I noticed that the one that we went through for quite a while the other day still has the draft watermark on it.

A. Yes.

Q. Do you consider that document to be a draft?

A. Yeah, it's a draft until it's final.

Q. So is it fair to say that –-

MS. HILL: Can you hear me?

DEPONENT: Sure.

COURT REPORTER: Ms. Hill, you said, "Is it fair to say that," and then it was an unstable connection.

MS. HILL: Yeah, my earpod went out. There we go. Can you hear me now?

COURT REPORTER: Yes.

MS. HILL: Okay.

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. So my question is, the most recent -– the one we went over for quite a while the other day still has the draft watermark on it. Have you finalized your opinion in this case?

MR. APPEL: Object to form.

A. I consider that the points in that draft are still relevant, and so, you know, I was never instructed to finalize it. Or I mean, again, it's just Questions and Answers, and I don't think I even signed it. But it just –- it's a document that reflects some opinions and observations in the case.

Q. So are you planning on changing your opinion in this case?

MR. APPEL: Object to form.

A. No. No, and you know, that draft has been –- that was formulated two years ago.

Q. Okay, but that doesn't answer my question. I guess, you're saying you have no intention of changing the opinions that you have stated in this deposition?

MR. APPEL: Object to form.

A. I mean, I can't -– I consider that based on the information I've provided, that the opinions that I outlined in that draft memorandum or Questions and Answers –- whatever you want to call it –- I consider them –- that they are still valid.

Q. But that doesn't really answer my question. Do you have any intention in changing those opinions that are stated in that Questions and Answers document that we went through before?

A. Not at this time.

Q. Okay. Is there any reason that you would change your opinion?

MR. APPEL: Object to form.

Q. Is there any additional information that you need?

MR. APPEL: Object to form.

A. No.

Q. Are there any additional resources that you would review that might change your opinion?

A. I consider –-

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MR. APPEL: Object to form.
A. I consider that -– I've looked at plenty of -– you know, a lot of information, and I do think that the issues in this case are -– I think that, you know, it's a -– I think the issues brought up in this case are worthy for a court to determine.
Q. Okay, but that's not really the question I asked. The question I asked is, are there any resources that you would review that you think may change your opinion? And let me -– scratch that –- let me explain better. This is my chance -– this is my client's chance. You've been listed as a testifying expert in this case –-
A. Uh-huh (affirmative response).
Q. –- as the plaintiff's expert in this very expensive litigation, so this is my client's chance, and they spent a lot of money preparing and taking your deposition. This is our chance to understand your opinion. Do you have any reason to believe that the opinions that you have stated in this deposition are going to change?
MR. APPEL: Object to form.
A. No. No, I'm not changing my opinion, and I think it's only fair and reasonable that, you know, that you be provided with what my opinion is on

the case. And I do consider that the points that were in that Draft Questions and Answers that were provided to MPW, I consider that those are still valid points, and I do not anticipate changing them.
MS. HILL: Why don't we take a break? We've been going a little bit over an hour. Why don't we take a brief break right now, and then we'll get into some other things?
DEPONENT: Sounds good.
MR. APPEL: What do you say, maybe 10 to 15 minutes?
MS. HILL: Maybe –- yeah, 10 minutes, 15 minutes max.
(Off the record)
DIRECT EXAMINATION RESUMED BY MS. HILL:
Q. Okay. Mr. Mantz, after a brief break, let me ask you this just so I best understand your process here. Did you form an opinion and then find support for that opinion, or did you review items and then reach your opinion? How did that work for you in this case?
MR. APPEL: Object to form.
A. The way my mind works is I start out with something, and then I gradually hone the detail,

or I rearrange it, and I form coherent thoughts as far as -– I mean, you know, everyone's minds work differently, but you know, I did a lot of research and thought. There was a lot of time spent thinking about all of these issues, and I mean, there was a lot of hours spent thinking about the issues and deriving that Draft Questions and Answers.
Q. And the reason I ask that is when I look at your handwritten notes –- and I can show the screen again –- that we were talking about right before the break, it seemed like you were, you know, looking to find, for instance, utilities that rebalanced. I mean, at this point, have you reviewed the statute in South Carolina that you thought applied?
MR. APPEL: Object to form.
A. Yes, that's all part of the research.
Q. So at this point on January 8, 2019, have you formed an opinion as to Mount Pleasant Waterworks' BFC charge?
A. Yeah, the same general opinions that are expressed in that same Draft Questions and Answers are what -– you know, that's been the fundamental basis for the case.

Q. Well, and I hear the basis of the case. What I'm trying to understand is, you know, that they had already filed their case before retaining you, as I understand it.
A. Uh-huh (affirmative response).
Q. And so they then retained you, and your opinion -– I mean, did your opinion differ at all from the complaint?
MR. APPEL: Object to form.
A. No.
Q. But yet, at that point, you had not done any research or found any supporting sources. Correct?
MR. APPEL: Object to form.
A. I mean, I did a couple of weeks of research prior to January of 2019, so yeah, I did look at a lot of material. You know, and I mean, these kinds of analyses, they're a learning process. I mean, we're learning all the time, and our thoughts evolve the more we learn.
Q. Okay, but your thoughts –- I mean, your thoughts today are the same as they were in that February 14th, 2019, document. Is that correct?
A. Yes.
MR. APPEL: Object to form.

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A. I have not encountered any information that would suggest that any of that information is wrong.
Q. Bear with me a second. I'm trying to pull up some documents. Let's go ahead, and we'll look at the statute that you provided during the break. I had asked about whether the Florida statute was any different than the South Carolina statute, and you said that it was. And then you were kind enough to pull this up while we were on break. So this is Florida Statute 180.13 Administration of Utility; Rate Fixing, and Collection of Charges (Exhibit 31 from 1/13/21).
Q. So is this statute different than the statute that you cited in your February 14th, 2019, Question and Answers from South Carolina?
MR. APPEL: Object to form.
A. Is it different than the South Carolina statutes?
Q. Right.
A. Yeah, I mean, the wording –- but there is some -– a little bit of –- you know, as you pointed out last week, the South Carolina statute, you know, talks about the word "reasonable." Here we see in Item 2, "the City Council may establish just and equitable rates or charges to be paid for the use of the utility." And the South Carolina

statute also -– there's also a South Carolina statute that talks about, you know, the use of the utility.
Q. So in a water utility, does that necessarily mean the actual use -– turning on the tap using the water?
MR. APPEL: Object to form.
A. You know, it's not my position to interpret the law. But all I'm saying is that the South Carolina statute and the Florida statute both talk about the use of the utility. And I mean, to me as a layperson, I would say, it would –- I mean, use is use.
Q. Okay, but you're not a layperson, so I'm asking you as the testifying expert here today named by the plaintiff, in this Florida statute that you have worked with for a number of years, does "use of the utility" mean actually turning on the water, or does it mean something different?
MR. APPEL: Object to form.
A. I think that just a straight reading of the statute would suggest turning on the tap water, or actually –- well, I mean -– but of course, you know, I think it depends. I mean, I think it's open to interpretation; that's all I can say.

Q. Okay. When you're working with your Florida clients, do you interpret it as simply turning on the tap water, or does it mean something different like having the water line up to your house with the ability to use the water?
A. I mean most Florida utilities, I would say that whether they use the water or not, they are still charged a monthly base charge, you know, to recover some of the utility's fixed costs, you know, whether they actually have –- certainly we have a lot of snowbirds that will have some -– you know, that may have zero usage during some months, but they would still be responsible for the base charge.
Q. Looking in the Florida statute, it has the terms "just and equitable" which we do not have in our South Carolina statute. Correct?
MR. APPEL: Object to form.
A. You have the word "reasonable."
Q. But we don't have the words "just and equitable," do we?
MR. APPEL: Object to form.
A. No, you don't.
Q. So what does "just and equitable" mean to you? When you were doing these rates studies, how do

you interpret "just and equitable" when you're working with your clients?
MR. APPEL: Object to form.
A. Well, as outlined in my memo, and as we also looked at, you know, the AWA Basics of Water Rate Making, you know, the predominant thought in the industry is that "equitable" means cost-based.
Q. And cost-based are –- explain what cost-based means.
A. That there's a nexus between the cost of providing service and the rates that you charge to the customers.
Q. I'll share my screen here with you.
(Screen shared)
DEFENDANT'S EXHIBIT 35 MARKED FOR IDENTIFICATION PURPOSES (5 pages - Emails from Bryan A. Mantz to Ross Appel, 1/5/21 Regarding Deposition Notice)
Q. This was provided to us by you. This is just an email between you and Ross Appel. Just to be clear, I think you testified on this earlier, but I just want to make certain that you have not communicated with anyone regarding this case other than Ross Appel.
A. Yes, that is correct.
Q. You haven't met with Clay McCullough or Jay Ward.

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Is that correct?

A. That's right. I have had no correspondence with them other than I think they've been cc'd on some emails.

COURT REPORTER: Ms. Hill, what document number is that on the list –- that email?

MS. HILL: Sure, sorry. It's document number 12.

COURT REPORTER: Thank you very much.

MS. HILL: It's an email dated 1/5/21.

COURT REPORTER: Okay, thank you.

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. Okay. So in preparation for this deposition, did you meet with Mr. Appel?

A. Yeah, I think we talked on the phone maybe an hour.

Q. What did you all discuss in that meeting?

A. You know, given that I had not been deposed before, he was just kind of talking to me about the process and questions that you might ask.

Q. Okay. I'm going to share my screen again.

(Screen shared)

DEFENDANT'S EXHIBIT 36 MARKED FOR IDENTIFICATION PURPOSES (1 page - Email from Bryan A. Mantz to Ross Appel, January 6, 2021)

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Q. And this is document 13 in the list of documents for this deposition. Are you familiar with this email? And I'll go to the bottom first. All right. It looks like an email from you to Ross, January 6, 2021, that says, "Attached is a .pdf page from MPW's 2021 budget that shows their rate history. It even has two charts at the bottom of the page that illustrates just how much the BFCs were increased from 2014 to 2019," and you sent that to Ross. What was the significance of that document?

A. The significance was just to -– and these are issues that we also discussed during part one of this deposition where the -– you know, because the BFCs were issued -– were increased by 100 -– the water rates were issued -– where increases in the BFCS were increased by 152 percent and the wastewater by 86 percent. I've quoted those so many times that I've memorized them now, but that's really what prompted this case. And when you have those massive increases in the BFCs, you know, the customers that are slammed by those kinds of decisions, are –- might take a look at the utility's finances under a microscope, and that's where this whole issue of the REUs, you

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know, came into discussion.

Q. Okay, and I'm going to share my screen again with you.

(Screen shared)

DEFENDANT'S EXHIBIT 37 MARKED FOR IDENTIFICATION PURPOSES (1 page - Email from Bryan A. Mantz to Ross Appel, 1/21/19)

Q. And this is an email from you to Ross, January 21st, 2019, approximately two years ago today. And you write to Ross, "My progress to date can be found via the following. Please let me know your availability for a call on Monday. I need to speak with you about a very important issue that effects how we proceed." What was that very important issue?

A. It may –- I really don't remember. It may have been some document that I uncovered, but it would have all -– I know that whatever the finding –- whatever it was, it would have been reflected in the Questions and Answers document.

COURT REPORTER: Ms. Hill, what document was this email on the list?

MS. HILL: Sure, let me see. I was just looking at that. It's number 14.

COURT REPORTER: Thank you.

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DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. So sitting here today, you don't remember what that very important issue was?

A. It was probably something I -– a document that I found and wanted to incorporate into the discussion.

Q. Do you know what the document was?

A. Again, that was -– wow, that was exactly two years ago today. Again, I don't -– I have a hard time remembering what -- everything I did a month ago, so I don't remember what the important issue was. But it wouldn't have –- it would have been -– I'm sure it was a positive development rather than a -– it would've been something that supported the argument rather than the other way.

Q. Let's see, and I'm going to share my screen again.

(Screen share)

DEFENDANT'S EXHIBIT 38 MARKED FOR IDENTIFICATION PURPOSES (1 page - Email from Bryan A. Mantz to Ross Appel, 1/22/19)

Q. This is document 15, and this is an email dated January 22nd, 2019. It says, "See the article via the link below. Someone brought it to my attention today. Please note the year it was

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published." Is this referring to the 1984 article that we discussed at length previously?
A. Yes.
Q. Okay.
A. Uh-huh (affirmative response), yes.
Q. So before January 22nd, 2019, you were not aware of that article?
A. I was not.
Q. I'm going to share my screen again.
(Screen shared)
DEFENDANT'S EXHIBIT 39 MARKED FOR IDENTIFICATION PURPOSES (1 page - Email from Bryan A. Mantz to Ross Appel, 6/18/19)
Q. And this is document 16. This is an email from you to Ross, June 18th, 2019, and you discuss that you've learned that Raftelis has acquired PRMG, your former employer?
A. Yes.
Q. What is the significance of this email to Ross?
A. Well, you had –- you know, I worked for PRMG for 18 years, so they have all the materials. And we talked about this earlier today about how Raftelis now has all the information about everything, every client I have, and all the work I've done at PRMG. So I just needed to let Ross

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know that –- you know, that development.
Q. And I want to share the screen again.
(Screen share)
DEFENDANT'S EXHIBIT 40 MARKED FOR IDENTIFICATION PURPOSES (3 pages - Email from Bryan A. Mantz to Ross Appel, 7/16/20)
Q. This looks like an email –- by the way, this is document 17 that was provided for this deposition. This looks like an email from you to Ross, dated July 16th, 2020. Take a second and read that over, and then let me know what this is referring to, and I can scroll up.
A. That's referring –-
Q. And I can make it smaller so you can see the whole thing. Let's see, there you go.
A. Yeah, I mean, we were provided with a large amount of information from MPW, and I developed an Excel tool that helped size the amount of the case. And the whole purpose of the tool was, you know, was a discussion tool. But you know, there were a number of drafts that I had to –- my first draft, I found some calculation errors that I needed to fix, and then the second draft was the one that I think was forwarded to MPW.
Q. And I just have a few things I wanted to ask you

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about. Was it important that the damages be over 5.5 million?
MR. APPEL: Object to form.
A. No, it is what it is. But I think the first draft –-
Q. Do you have any –-
A. I think the first draft had 6.5 million, but then I found some calculation issues, and so it was a lower amount on the second draft.
Q. What is "the valuation should probably not exceed the 5.8 million dollar BFC difference"? What is that referring to?
A. The idea is that under MPW's rate structure, the volumetric charges are based on the REU count, and so your volumetric rates are sized based on the REUs that you are assigned; and so therefore, when you change someone's REU count, you also change their pricing tiers.
Q. Well, what is "the 5.8 million dollar BFC difference"? What is that?
A. So that would be if you just did a calculation of the BFC differences; I arrived at a total of 5.8 million dollars. But then when you consider the effects on the volumetric charges under MPW's rate structure, it goes down to 5.5 million.

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Q. Okay. I'm not following that. So what do you mean when you say, "should not exceed"? What is the 5.8 million dollar BFC difference?
A. That would be that if you looked at the difference in the BFCs based on average daily flow –- if you just look -– set it -– you know, this BFC should be -– they were charged for 1,000, but it should have been 500; the difference in the BFCs collected would have been that amount.
Q. So you're saying if -– and just bear with me here, because I'm just really just trying to understand it. So if the REUs are reduced to the amount that the plaintiff suggests they should be reduced to, is that different than BFC collection from -– for MPW?
A. Yes, if I'm understanding your question correctly.
Q. And I'm probably not saying it great, so -–
A. This is technical stuff.
Q. Yeah.
A. I'm on my second Monster drink because it's pretty dry stuff.
MR. APPEL: It's not even noon!
Q. So if we get to –- and we're going to get to that

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spreadsheet, and we're going to spend some time with that spreadsheet. But suffice it to say, the bottom line of that spreadsheet, the plaintiff –- based on your calculations of this spreadsheet –- have a number of REUs that they think Mount Pleasant Waterworks should take back, so to speak. The class should reduce their REUs by a certain number?

A. Yeah.

Q. So are you telling me here that that certain number is valued at 5.8 million, so it's going to reduce the inflow of money into Mount Pleasant Waterworks on an annual basis by 5.8 million?

MR. APPEL: Object to form.

A. It would need to be recovered from other customer classes, or other –- yeah, other customers or other customer classes. There would be a —-

Q. I mean, could it also –-

A. –- a rate restructure. It would have to be a -–

Q. Okay.

A. –- rate structure change to reflect that. But, of course, there would be presumably a revenue neutral change where you'd still collect the same amount of revenue, but it would just be allocated among the customer classes differently.

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Q. Could it also be a change in the volumetric rate?

A. That depends upon, you know, how Mount Pleasant Waterworks ultimately decides to structure the rates. I mean, they have a lot of flexibility as to how they structure the rates, as long as it's fair, equitable, reasonable, et cetera.

Q. Okay. So in other words, they're going to have to find another way to collect 5.8 million from their customer base?

MR. APPEL: Object to form.

A. Well, the 5.8 million dollars is over five years, so it's really more like a million. I mean, on an annual basis, it's probably a little bit over a million.

Q. And in fact, let me ask you a better question. Any amount Mount Pleasant were to pay out in this case is going to have to be collected. Correct? I mean, that's their only source of funds. Right?

MR. APPEL: Object to form.

A. Right. So I mean, they have insurance, I assume. And I mean, when I say, "I assume," I know they have insurance.

Q. Do you know whether their insurance has agreed to pay for this case?

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A. I believe the insurance -– I believe you were retained by their insurance company, so I think it's something that's -– I don't think there's been any agreement which is why we're here.

Q. But do you know whether the insurance company has agreed to pay any -– I mean, just -– I mean, do you know if they're operating under a reservation of rights?

A. I have no further details about the arrangements or -– you know, my goal is simply to analyze the rate situation –- or my objective.

Q. Sure, but you're also an expense guy. I mean, you work with utilities to manage their revenue and understand how much money they need to bring in. Correct?

A. Uh-huh (affirmative response).

Q. And if Mount Pleasant Waterworks has to pay back money that it has previously collected, that's going to impact the amount of money it has to collect. Correct?

MR. APPEL: Object to form.

A. I mean, not necessarily. It depends upon, you know, the level of operating reserves, too. There may be some sufficient cash reserves to make the payout. I don't know. So it may not

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have to be recovered through the rates. There may be sufficient cash for a payout.

Q. You also talked here about recalculating about 40,000 bills. Is that for the customer class?

A. Yes, I believe so.

Q. And that's what resulted in that spreadsheet that we're going to look at in a minute. Is that correct?

A. Yes.

Q. And then here you note that "for a few customers you can see their REU count decreasing during 2014 to 2019. They probably chose to give up part of their capacity allocation to save money on their utility bills." What did you mean by that?

A. That there were some customers who, during the 2014 to 2019 time-frame, it looked like their REU values were decreased somehow. And so it was most likely they chose to reduce their REU count and give up the capacity.

Q. In a previous email on July 13th, 2020, to Ross Appel, you note, "if you decide to move forward with the highest annual average daily flow." I mean was that your recommendation that they use the annual average daily flow, or did you have a

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recommendation as to how to calculate the class?
A. Well, the class has been already kind of defined on an annual -– on a average daily flow basis. And so their -– you know, we had to make a decision on how to look at the -– you know, use the data that was provided for 2014 and 2019 to right-size the REUs.
Q. Did it matter to you that the excess REU customer count with the highest-year-approach is smaller than with the multi-year approach?
MR. APPEL: Object to form.
A. I mean, we had five years of data, and I think that we ultimately just chose the –- of the entire –- you know, I think we only used data in which 12 months were available; so where 12 months of a customer's bills were not available, they were not included in the analysis. And then for the data that was available with the average daily flow convention we looked at during the time period in question –- for the years in which data was available –- what was the highest average daily flow? And this is not a peak or a maximum analysis. We were still looking at average daily flow, but we were looking at what average daily flow the customer experienced

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during that time-frame.
Q. And you did mention this. What's the difference between average daily flow versus a peak analysis?
A. Peak daily flow would be –- okay over the year, you use an average of 5,000 gallons per month, but then in July you did a lot of irrigation, so used 9,000 gallons per month. So you're peak usage was 9,000 gallons. Your peak month usage was 9,000 gallons.
Q. Why would you use an average daily versus a peak, and what are the advantages or disadvantages in using either one of those for calculating this class? Or let me –- that's a poorly worded question. Let me start over. What are the advantages or disadvantages to using peak versus average daily flow for determining a customer's REU?
A. I mean, it's how –- I mean, the analysis is based on how Mount Pleasant has set up its' rate structure. Based on estimated average –- estimated use of the customer, there's not a relation to maximum, or peak, or anything; it's just how Mount Pleasant has set up its' system.
Q. But that really wasn't my question. My question

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is -– forget Mount Pleasant. What is the difference in using average daily flow versus peak to determine a customer's REU?
A. I mean, I don't know what you're -– and again, that's not how Mount Pleasant has set up its' rate structure, so you know, I can't really answer that question.
Q. Would it matter to you if Mount Pleasant had set up a rate structure based on peak flow versus average daily flow?
A. Well, sure, that would have affected the analysis. We would have run the numbers based on peak numbers.
Q. Is a utility only required to provide water based on the average water usage, or do they have to have water available for the peak usage?
MR. APPEL: Object to form.
A. They have to have water available for all times. But again -–
Q. So –-
A. Okay, but –- go ahead.
Q. No, no. I didn't mean to interrupt you. Go ahead.
A. But again, I'm just basing this analysis on how Mount Pleasant has decided to set up its' rate

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structure.
Q. Your claim is that somewhere in Mount Pleasant's rate structure, it says it's based on the average daily flow?
A. It says "estimated use of the customer."
Q. That's not my question. My question is, in Mount Pleasant's rate structure, are you telling me that it says "average daily flow"?
A. It says "estimated use" which implies average daily flow, and the class was, you know, based on -– I guess the class has been determined to be based on average daily flow.
Q. Why can "estimated use" not mean peak use?
MR. APPEL: Object to form.
A. Well, the South Carolina regulations that we talked about in part one of this deposition specifically mentioned average daily flow. The 300 gallons per day mentioned in the South Carolina regulations specifically say that the 300 gallons per day is average daily flow.
Q. Is there a particular regulation that you are referring to?
A. Yes, it's the same one we were talking about in the first part of the deposition, South Carolina Standards for Design, the R.61 to 67.

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Q. But getting back to my question, is there anything in Mount Pleasant's rate structure that says the REUs are based on average daily flow? And I'm not saying there isn't. I'm just really trying to find out from you what your basis was for this.
A. There's an implied average daily flow based on the South Carolina standards; so whether it says "average daily flow" or not, in any of Mount Pleasant's documents, there is an implication of average daily flow.
Q. Now on July 15th, 2020, Ross writes back to you and says, "I think it would be a good idea to have the analysis just show the highest-year-approach. MPW has asked us to provide them with our preliminary analysis." Why -– I mean, did you think it was a good idea to just show the highest-year-approach?
A. Highest year of average daily flow; I thought it was reasonable for discussion purposes because, you know, again, we're trying to be fair to everyone. We're not -- you know, and I'm not trying to slant the analysis in any way. But if we have five years of data in the period we're looking at, and I mean, using the highest year of

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average daily flow, it seems like a reasonable -– for discussion purposes.
Q. Okay. Let me share my screen here.
(Share screen)
Q. This is an email from October 29th, 2020, from you to Ross, with the AWWA M1 Manual.
COURT REPORTER: Excuse me. What document number is this?
MS. HILL: Yes, ma'am, it's document 18.
COURT REPORTER: Thank you.
DEFENDANT'S EXHIBIT 41 MARKED FOR IDENTIFICATION PURPOSES (28 pages - Email from Bryan A. Mantz to Ross Appel, 10-29-20; AWWA Manual of Practice 1: Principles of Water Rates, Fees and Charges, 7th Edition)
DIRECT EXAMINATION RESUMED BY MS. HILL:
Q. And it says, "Ross, per our discussion, I have attached a Table of Contents and Index for the AWWA Manual of Practice 1: Principals of Water Rates, Fees and Charges. This is the leading utility industry manual on rates, and yet there's no or minimal discussion on ERU based rates. Your case is helping to shape to standards for these types of rate structures." So tell me

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about this email.
A. Okay.
MR. APPEL: Object to form.
A. Well, first of all, "to" should have been "the" –- "shape the standards." Senior moment, but anyway ...
Q. Uh-huh (affirmative response).
A. And this is something we talked about in the first part of the deposition where these rates really are not –- and in the second part of this, you know, earlier today, we were talking about how the AWAs M1 and the Water Environmental Federations Manual of Practice 27 are kind of considered probably the standard ratemaking manuals that are frequently referenced, and neither manual really discusses ERU based rates. And so I do think that this case is helping to shape the standards for these kinds of rate structures.
Q. So in essence, I mean, the standards for these type of rate structures don't really exist today. Is that fair?
MR. APPEL: Object to form.
A. I think -– well, obviously there's some –- these kinds of rate structures are out there. Whether

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they have been challenged in court –- in the first part of the deposition, you know, I definitely disclosed I'm not an attorney. I don't know what cases are out there, or what's been litigated, or what's been challenged. So you know, I certainly think that the issues brought up in this case are -– it's good to get some validation on what's fair and equitable.
Q. Is anything -- you say in this email there's "no, or minimal discussion on ERU based rates in this book." And we've talked about that book –- I've held it up a few times -– the AWWA Manual of Practice 1. Is there anything in that book that says Mount Pleasant cannot charge its' BFCs the way it charges its' BFC rate?
MR. APPEL: Object to form.
A. Right, and I don't –- because the rate structure is not really covered; standards are not really disclosed in any of those books. And again, the books are intended to be guidebooks –- guidelines or references, but they're not –- state law and local laws trump, you know, anything in any of those manuals.
Q. So it's okay if it's not banned by state or local law. Is that fair?

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MR. APPEL: Object to form.
A. The key consideration is if the rates were challenged, would a court consider them to be reasonable, fair, and equitable, or whatever the statute –- prevailing statute is. In the end, whatever rate structure you come up with, you have to be able to defend it in court.
Q. Okay. I want to share with you –- I'll show my screen.
(Screen shared)
Q. This is document 19 from the documents that we provided for this deposition.
DEFENDANT'S EXHIBIT 42 MARKED FOR IDENTIFICATION
PURPOSES (2 pages - Email from Ross Appel to Bryan A. Mantz, 12/11/20)
Q. This is an email exchange between you and Ross on Friday, December 11th, 2020. I'm trying to get to the bottom. I think it just starts with, "I hope all is well."
A. That's Ross' standard greeting.
Q. Do you know what that FYI was? It has "REU Audit." What is the REU Audit?
A. Ross, in his -– I guess in McCullough Khan's research, they came across this Georgia utility –- another Georgia utility that right-sizes their

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REU counts, and then I looked at the website and learned that they are a Raftelis client. And so we've been trying to get some information on, you know, the rates that were recommended and the documentation associated with his recommendations.
Q. Okay, but at this point, you've already drafted your opinion. Correct?
A. Uh-huh (affirmative response).
Q. I mean, this is December 11th, 2020. Is that right?
A. Yes.
Q. So your review of this information did not help you form your opinion. Is that fair?
A. Yeah, it actually supported the opinion because as you pointed out in the handwritten memo, you know, we were trying to identify more utilities that had this right-sizing. And I do think it's important to note that there's just a small number of firms really in the industry that do utility rate studies. And so, you know, you can say that "Oh, well, you know, only three people –- you know, only three utilities do this," or four utilities, or whatever the number is. But if one firm is performing, you know, most of the

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rate studies in the nation, you're going to have some group-think to some extent. And the key is, again, whatever rate structure you design, the question is whether it would be defensible in a court of law.
Q. What rate study –- what county was this that you said right-sizes their REUs?
A. Let me look at my notes. I mean, it's got the website there, the BJ [sic] -– Brunswick-Glynn County.
DEPONENT: So for the Court Reporter I'm going to spell it out for her. Brunswick, B-R-U-N-S-W-I-C-K (dash) Glynn, G-L-Y-N-N, County Joint Water and Sewer Commission, and that's in Georgia.
Q. And how do they right-size it?
A. Again, with -–
Q. Let me rephrase that. How often do they right-size their REU values?
A. I don't know the full details. I believe that Ross' firm at McCullough Khan has tried to get some information. We don't have –- I think there's been some objections on your side to providing the analyses by Raftelis, you know, for this utility, so I don't have enough information to be able to give you a definitive answer on

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your question.
Q. So I guess my question is, based on what you know now, do you know if this county supports your theory of the case?
A. The theory of the case that the REU counts –- or ERUs, or ERCs –- from my understanding is that they are periodically right-sizing them.
Q. But you don't know how often, and you don't know what that analysis entails. Correct?
A. At this time, I do not.
Q. Okay. Let me share my screen with you again.
(Screen share)
Q. And this is just, you know, going through your file that you provided. So I'm just trying to understand the significance of something. So this is the AWWA Manual, M1, Chapter 4, Increasing Block Rates, and I noted that on page –- it looks like, page 124, there's some highlighted language. Did that highlighted language have any significance to your opinion in this case?
A. No, because I don't think we're really focused on the volumetric charges at this point. We're focused on the REUs.
COURT REPORTER: Ms. Hill, is that document

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MS. HILL: Yes, ma'am, it's document 20.
COURT REPORTER: Okay.
DEFENDANT'S EXHIBIT 43 MARKED FOR IDENTIFICATION PURPOSES (6 pages - Excerpt from AWWA Manual, M1, Chapter 4.4)
DIRECT EXAMINATION RESUMED BY MS. HILL:
A. Wait, wait, wait, can you -– let me take a look at it.
Q. Sure.
A. No, I don't think it really has a significant bearing to the case.
Q. Okay, and then I notice there's a point about equity, and you highlighted, "Overly simple or poorly designed increasing block rate structures run the risk of being inequitable." Did that have any bearing on this case, or is that applicable?
A. We're not really -– as I mentioned, we're not really focused on the volumetric rates at this point. We're talking –- the case is really focused on REU assignments, so I don't really think that this is really relevant.
Q. Well, I did notice it talks about increasing block rates can address "various definitions of

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equity." Is there more than one definition of equity in the water utility system?
MR. APPEL: Object to form.
A. Well, the fundamental definition recognized by the AWA is cost-based.
Q. Okay. Well, this is the AWWA Manual, and it addresses various definitions meaning there's more than one. Do you know of more than one definition of equity that it's referring to?
MR. APPEL: Object to form.
A. Well, I mean, equity being what's fair and equitable, I mean, just like any statutes, they're open to interpretation, and it's up to the utility to develop rates that, you know, would meet the equitable standard in court.
Q. Okay. Well, I'm not talking about equitable standard in court. I'm saying here it refers to "various definitions of equity." Do you know –- I mean, you're supposed to be an expert here. Do you know what the "various definitions of equity" that the AWWA Manual that you provided refers to?
MR. APPEL: Object to form.
A. If I had to guess on what the author was -– maybe they were talking about the types of equity that they were referencing in that Basics of Water

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Rate Making; the intergenerational equity, and the equity among customer classes and within customer classes.
Q. There's multiple considerations when trying to find equity in water rates. Correct?
A. Yes.
Q. Let me refer you –- this talks about "blocks by customer class," and I understand that you've said more than once that block rates are not applicable in this situation.
A. Well, I think that's –-
Q. You've highlighted –- go ahead.
A. Yeah, Mount Pleasant has block rates, but we're not -– you know, the fundamentals of this case are tied to the REU assignments.
Q. But this highlighted language that you highlighted, discusses, "problems with inequity within the commercial class where customer demands may vary greatly (e.g. clothing store versus restaurant or hotel)." What does that mean to you?
MR. APPEL: Object to form.
A. So you're asking what the -– well, again, this all relates to cost-based rates and whether the rate design –- whether the block rate structure

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implemented by the utility meets the equitability standards among all customer classes. So I mean, there are a lot of different –- as you mentioned, there are a lot of different considerations in rate design, and I mean, you have to look at all of them in creating a set of, you know, rates that, you know, would be equitable for all classes. And again, all utilities are different. All utilities have different customer usage characteristics. No utility is the same. There's not one size fits all. But in the end, we have to have a rate structure that, if challenged, would survive a challenge in court.
Q. Okay, and let me share with you document number 22 in our list of documents we provided.
(Screen shared)
DEFENDANT'S EXHIBIT 44 MARKED FOR IDENTIFICATION PURPOSES (1 page - The Post and Courier Editorial, 6/27/19)
Q. Are you familiar with this editorial that was published in the Post and Courier on June 27th, 2019?
A. Yes, and I was not involved in this editorial I should mention, but I thought it was very well written.

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Q. Do you know who was involved in the editorial?
A. I don't.
Q. Do you know if anyone was involved in the editorial other than people at the Post and Courier?
MR. APPEL: Object to form.
A. I really -– I don't know the basics of the article development, and it was something that I actually found myself; it was not something that was forwarded to me. I was just, you know, trying to see what kind of write-ups had been done on this case, and I found this article. So I don't -– I have no idea about its' history.
Q. I note in here it says, "If they're going to charge people based on how much service they use, then the charge needs to be based on how much of the service they actually use." Is Mount Pleasant –- were they charging people based on how much of the service they actually used with the BFC rates based on REUs?
A. Well, no, because you have REUs based, you know, for non-residential customers that are not reflective of the amounts that the customers are actually using, and that's the fundamental issue in this case.

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Q. Whether or not they could do that. Is that correct?
A. Whether or not who could do it?
Q. Whether or not Mount Pleasant Waterworks could charge a BFC based on an REU that's based on reservation of capacity. Correct?
MR. APPEL: Object to form.
A. I mean, again, there's nothing that says you can or can't do something. I think you have a lot of flexibility in how you set up your rates, but in the end, the rate structure that you come up with has to –- you know, you want it to be able to survive a court challenge. And in this case, the -– I guess some of the decision making, as we talked about –- to jack up the BFCs by, again, 152 percent for water and 86 percent for wastewater –- that action has caused MPW's finances to be looked at under a microscope, and so that's where these, you know, REU assignment issues are being challenged.
Q. So when you say "jack up," I mean, you're talking about the rate increasing from 2014 to 2019. Correct?
A. That is correct.
Q. I mean, the REU assignment or collection didn't change from 2014 to 2019, except for some customers who chose to reduce theirs. Correct?
MR. APPEL: Object to form.
A. Yes, the key [inaudible]. I'm hearing some interference.
Q. [Inaudible].
COURT REPORTER: Excuse me. Mr. Appel, did you make an objection?
MR. APPEL: Sure.
COURT REPORTER: Okay, I just wasn't sure.
MR. APPEL: Thank you.
COURT REPORTER: And Ms. Hill, can you repeat your question again? There was a bit of talking over each other.
MS. HILL: Sure. I was just pointing out that, I mean, he referred to a number of times -–
DIRECT EXAMINATION RESUMED BY MS. HILL:
Q. Mr. Mantz, you've referred a number of times to the BFC rate going up 2014 to 2019, but that is simply the rate. The REUs did not change from 2014 to 2019, unless a customer chose to change them. Correct?
MR. APPEL: Object to form.
A. REUs did not change, however, when MPW made the change to -– decided that the increases that they

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wanted should be through an increase in the BFCs versus the volumetric rates, the customers with a lot of BFCs suddenly got hit with huge bills, and that's what prompted this lawsuit.
Q. I mean, do you have any opinion as to whether or not Mount Pleasant Waterworks collected more money than it should have collected?
MR. APPEL: Object to form.
Q. Is that part of your opinion today?
A. My opinion is that the –- you know, my opinion is related to the REU assignments of the customers in this class and how they are not tied to use.
Q. But you have no opinion as to whether or not increasing rates –- you're not here to say that there's a problem with Mount Pleasant Waterworks increasing its rates. Correct?
MR. APPEL: Object to form.
A. Absolutely. Earlier in this deposition, we talked about how a rate study has two components; one is to figure out how much revenue the utility needs, and the other –- the next part is to determine how to collect that revenue among the different customers. So I'm not here to make an opinion about how much revenue MPW actually needs, but my opinion is related to the rate

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structure and the REU assignments of non-residential customers.

Q. I mean, is there anything inherently -– is there anything wrong with a utility raising its' rates?

MR. APPEL: Object to form.

A. Utilities have to raise rates to keep up with the inflation. So and again, I'm not -– but the rate structure that recovers the revenue that the utility needs, needs to be fair, equitable, reasonable, whatever the state statute –- whatever the language is –- in statutory and case law is.

Q. Okay, but I mean, the rates for BFCs for water and wastewater were the same across all customer classes. Correct? I mean, some customers may have had more REUs than others.

A. Well, I haven't –- again, in the first part of this deposition, it's not a question of the BFC rates; it's a question of the REU assignments and how they're assigned.

Q. And I'm just asking because a number of times you have talked about slamming customers with increased rates, but that's really not what this case is about. Correct?

MR. APPEL: Object to form.

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A. The key is if it's related to the REU assignments and how when you have customers that have unrealistic REU assignments that are not tied to use, they are materially affected more than customers with right-sized REU assignments.

Q. Okay. I'm trying to see what other documents -– I'm just trying to save the spreadsheet for last because I know that's going to take a little while. I'm trying to make sure I've gone through all of these.

MR. APPEL: Can we do a quick bathroom break?

MS. HILL: Oh, sure, absolutely.

MR. APPEL: Awesome –- appreciate it you all. Thanks, Amy.

(Off the Record)

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. Mr. Mantz, you talked a few times about whether a rate is good or not is based on whether or not it will be upheld in court. Do you remember that?

A. Yes.

Q. What do you know about what will happen in court here in South Carolina?

MR. APPEL: Object to the form.

A. I don't know. I don't claim to be an attorney or to interpret laws or to -– I don't claim to have a history of all the, you know, litigation that has happened in South Carolina, so I can't really hypothesize what may or may not hold up in court.

Q. So you have no particular expertise as to interpreting statutes. Is that correct?

MR. APPEL: Object to form.

A. I do consider that, you know, in a reading of statutes, I do try and -– you know, interpreting statutes is the role of attorneys and judges.

Q. Okay. So that's a -– basically, interpreting a statute is a legal opinion. Is that correct?

MR. APPEL: Object to form.

A. I believe that the lawyers and judges are fundamentally responsible for interpreting the laws, and all rate recommendations are typically reviewed by an attorney prior to being presented to a governing body.

Q. Or at least we hope so. Is that fair?

A. Well, I mean, that's the typical practice. It's usually an attorney has to sign on a resolution or ordinance that has been properly reviewed. Now again, you know, how much interpretation or vetting of the issues is done by the attorney is probably different by local government.

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Q. So let me -- you received some subpoenas in this case. I believe you received them from Rosen and Hagood, attorneys representing Mount Pleasant Waterworks. You received a subpoena from them back in 2019, I believe. And then you also received a subpoena from us -– from our firm, related to this deposition. Are you familiar with those subpoenas?

A. Yes.

MR. APPEL: Object to form.

Q. And, in fact, I'm going to share my screen view with you.

(Screen share)

COURT REPORTER: And this would be what number on the list?

MS. HILL: This is document 1 on the list.

COURT REPORTER: Thank you.

DEFENDANT'S EXHIBIT 45 MARKED FOR IDENTIFICATION PURPOSES (7 pages - Deposition Subpoena, 1/11/21)

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. And you reviewed this subpoena. Did you produce all the documents requested by this subpoena?

MR. APPEL: Object to form.

A. Well, first of all, I didn't realize that there was a subpoena included in this; it was kind of

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mixed in with everything else. But as soon as I became aware of the subpoena, I produced the documents.

Q. Sure, and I'm not complaining about when we received them. What I'm really trying to make sure is that we've gotten everything that we've requested. If you see here all the things we've asked for, I just want to make sure that we have received that.

A. Yeah, I mean, I reviewed -– Mount Pleasant provided gigabytes, and gigabytes, and gigabytes of data. And I mean, I think what you're trying to do is kind of wanting to have the relevant -– I mean, I could have easily just thrown all that back at you, but the stuff that you were provided is relevant to the formation of the opinions.

Q. Right, and then that's really what I'm looking –- I'm trying to figure out what did you review that helped you form your opinions?

A. And one of the things, that -– you know, I like to document stuff, and so the Draft Question and Answers has a lot of documentation because I don't like to say something and then not document it. So you know and again, I believe it's important for both parties to be fair with each

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other, and so that's certainly my intent too.

Q. So I'm certainly not asking you to give us back everything that we have provided in this case. However, is there –- I want to make sure I do have everything from your file outside of what Mount Pleasant Waterworks has provided.

A. Okay, yeah.

Q. I mean, are there other things?

A. No.

Q. Does that make sense?

A. No. Everything that -– you've been provided with the copies of emails and all the documents outside of what Mount Pleasant provided.

Q. Do I have copies of all of your notes?

A. Yes.

Q. And I have copies of all of your correspondence with the plaintiffs' attorney?

A. That is correct.

Q. Do you know if anyone provided your Questions and Answers document or any variation of that document to the Post and Courier?

A. I'm not aware of anything that happened with the document after it was transmitted to McCullough Khan. You know, and again, I have no knowledge of the Post Courier article, I mean, and how it

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was formed or written or anything. I have no background about what's going on up there.

Q. Do you have any knowledge of any communication with any media –-

A. No.

Q. –- related to this case?

A. No, I've been just focusing on what I was tasked to do, which was to -–

Q. I'm going to share my –-

A. Okay, go ahead.

Q. I'm going to share my screen again.

(Screen share)

Q. This is document document 4, Madamme Court Reporter.

DEFENDANT'S EXHIBIT 46 MARKED FOR IDENTIFICATION PURPOSES (8 pages - Subpoena, from Ross Appel to Bryan A. Mantz, 3/21/19)

Q. And this is the subpoena you received, and it's dated March 21st, 2019, and it's sent through Attorney Ross Appel to you. I just want to make sure that you have produced to us all of the information based on this request, as well.

MR. APPEL: Object to form.

A. Yes. In response to the subpoena, you know, when I said it would cost this much to produce all

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this information, and there was no approval of the costs, I mean, it didn't move forward. However, in response to the, you know, more recent subpoena, I did provide all of the documentation. You have all the relevant documentation that, you know, pertains to my opinions in the case.

Q. Okay, and I'm going to share my screen with you.

(Screen shared)

Q. This is document 8 that was provided in anticipation of this deposition, and this came from your file.

DEFENDANT'S EXHIBIT 47 MARKED FOR IDENTIFICATION PURPOSES (52 pages - Commentary/Summary/Bottom Line)

Q. Do you recognize this document?

A. I mean, I recognize the -– yeah, I mean, it looks familiar.

Q. Did you prepare this document?

A. Yes.

Q. What is this document?

A. That looks like it has 52 pages. What is –- oh, okay, so it's –-

Q. It looks like the first page is sort of a –- some type of summary, essentially. And then after that –-

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A. Okay. Right, and this relates to –- and we talked about these standards earlier. We talked about R.61-67 earlier in this part two of the deposition.
Q. It says, "Bottom line: The 300 gallons per day is based on average daily flow, not peak flow."
A. Yes.
Q. Is that your statement, or did somebody give you that statement –-
A. That's –-
Q. –- and you found support for it?
A. That was my statement, you know, based on what I read.
Q. And then this is that 61-67?
A. Yes, which is also in the relevant files, and I know we've talked about it multiple times during this deposition.
Q. Bear with me just a minute. Let me refer you –- I'm going to share the screen here.
(Screen share)
DEFENDANT'S EXHIBIT 48 MARKED FOR IDENTIFICATION
PURPOSES (1 page - Rate Table, City of Melbourne, Florida)
Q. And this is document 28 that was provided by you, but also provided by us then in turn for this

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deposition, and it looks like it's Melbourne, Florida. I think it's entitled, Melbourne, Florida's Rate Table. Do you recognize this?
A. Not really, but go ahead.
Q. I was just going to ask you -– it was in your file, so I was really just asking you what the relevance is.
A. Probably not very relevant.
Q. Okay. What is the monthly base rate? Is that the BFC?
A. Yes. A lot of utilities will call it a base charge, base rate, BF -– base facility charge. I mean, it goes by different names.
Q. All right, and so their rates change based on where you are in relation to the water utility. Is that fair?
MR. APPEL: Object to form.
A. Based on your ERU assignment.
Q. Okay.
A. I mean, the base rates are the same, but the rates are applied to the ERU assignment.
Q. Gotcha, okay. I'm going to share my screen with you.
(Screen share)
DEFENDANT'S EXHIBIT 49 MARKED FOR IDENTIFICATION

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PURPOSES (1 page - Rejected Wording from Review of Draft Document)
Q. This was a document you provided to us, and it's entitled, Rejected Wording. This is document 29 that we've provided for the deposition, but from your file, it's entitled, Rejected Wording. Do you know what this is?
A. You know, it was probably -– we decided, or I should say, I decided to not include it in some of the deliverables. But I don't think there's anything, you know, crazy or that doesn't support the case in this Rejected Wording.
Q. Okay, and now I'm going to –-
MS. HILL: Ross, can you tell -– well, you all tell me. Mr. Mantz, you tell me, as well. I now want to get into the class spreadsheet, and is that -– I don't know if this is a good time to take a break if people want to grab a quick lunch and then get back to this. You tell me sort of what works best for everybody.
MR. APPEL: You had me at lunch.
MS. HILL: I hear you.
MR. APPEL: I like it. What do you think, Bryan?
DEPONENT: I've got some marinated steaks to make later; that's going to be my meal, so if everyone's

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hungry, that's fine. I can do something else –- respond to emails and all that good stuff.
MS. HILL: Okay.
MR. APPEL: Very cool.
MS. HILL: Well, let's take a quick lunch. Is 1:30 sufficient for everybody?
DEPONENT: It's fine.
MR. APPEL: Perfect.
MS. HILL: Okay, let's get back on at –- let's try for 1:30.
COURT REPORTER: Okay.
MS. HILL: Thanks, guys.
COURT REPORTER: Okay, we are off the record.
(Off the record)
DIRECT EXAMINATION RESUMED BY MS. HILL:
Q. Okay, Mr. Mantz. I hope you had a nice little break. I told you before the break I wanted to go through with you, at this point, the spreadsheet that I believe you prepared to determine who are members of the class, so I have pulled that up. I'm going to try to share that screen, or you tell me; maybe it's easier for you to share your screen with that spreadsheet. You tell me what -– so that

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way, perhaps you can move it and scroll through it. I know there's a lot of –- it's big, let's put it that way.

A. Sure, I'd be happy to share it.

Q. Okay.

MS. HILL: And Madamme Court Reporter, this is the last document in that list that was produced, but it's a very big spreadsheet. In fact, I don't think it could be printed out. It can be printed out, but it's almost impossible.

COURT REPORTER: So when the exhibits are attached to the transcript, do you want all of that –- we can –- but do you want all of that printed out?

DEPONENT: I would not recommend it unless you want to just print out highlights.

MS. HILL: Okay, and maybe –- you know, I don't know if this has been done before, but I wonder if you couldn't put it on some sort of jump-drive or something with the deposition.

COURT REPORTER: Yes, that's certainly possible.

MS. HILL: Okay, okay.

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. All right. Well, with that in mind, Mr. Mantz, if you'll go ahead and share your screen.

(Screen shared)

DEFENDANT'S EXHIBIT 50 MARKED FOR IDENTIFICATION PURPOSES (546 pages - Excel Spreadsheet)

Q. I also want to say, if you could be careful to reference which page you're on in the spreadsheet, as well as which line of the spreadsheet that you're on. And what I'm going to ask you to do, Mr. Mantz, is really just walk us through this; just help us understand how you ran this calculation.

A. Okay, sure. And I should prefaced this by saying this was developed to be a discussion tool. I know that –- I'm sure that MPW and Raftelis have smart analysts, and certainly this was prepared as an outsider looking in. I don't have privy to the special considerations of each account, but it is a tool that actually could be adjusted to look at other analyses too. But it was developed, I guess, back in July as the final draft, which was over six months ago. But certainly, I'm sure that there are some special considerations, you know, that I wouldn't know that might need to be looked at in this analysis. But this spreadsheet is intended to be –- you

know, given the large amount of data here –- and unfortunately, I think MPW provided, you know, hundreds of megabytes of customer records, but through saving them in Excel and stuff, I was able to at least reduce the file size to probably 55 to 60 megabytes. But the first tab is just an organizational tab that allows the user to -– I mean, you can click on any of these hyperlinks and go to the tab in question. So the first half is just a summary of the billing analysis. And one thing to –- one important consideration of this spreadsheet is that anything that's red is a link to another tab; and so if you see something that's red, that means that –- as I mentioned, it links to another tab. So this is a summary of the analysis, and then it talks about –- it allows you to input a level of service of 300 gallons per day or whatever level of service the user selects. I have not tested it at other levels of service standards, but it's at least set up for 300 right now. The next tab shows the history of Mount Pleasant's rates by month that are –- the rates that were in effect in a certain month are considered in the analysis. The next tab -–

Q. Let me stop you. Let me stop you there. So on tab three which is the rate, that is literally the rates per REU, per month, for the base facility fee, for water and wastewater. Right? And that would be line 11 and line 20. Is that right?

A. Yes, and the analysis also considers the -– as we were talking about before, how the blocks for each class –- for each customer changed, based on the number of ERUs -– REUs assigned to the customer. And so this analysis considers the effect on how much usage would be billed at the first block versus the second block, et cetera. So it tries to fairly calculate what the rates would have been if different REUs had been assigned. So if you assigned a different amount of REUs, then it considers the effect on both your BFCs and your volumetric rates, so it's what I consider to be a fair analysis. The next analysis looks like it's just kind of summarizing the current REUs and the revised REUs for each month.

Q. This is tab four of the Water Billing Analysis?

A. Yeah, that's right. Yeah, I'm sorry. You had asked me to reference the different tabs or the

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different lines, and so -–

Q. Yeah, I'm just trying to keep us all -– when we read this transcript months from now, I just want us to be able to follow you.

A. And again, anything that's red is a link to another tab, and so it's possible for the user to see, okay, well, this is a link to the excess ERU account billing data and tab. And so this is kind of a summary of the Water Billing Analysis, and tab five is a summary of the Wastewater Billing Analysis. Looks like tab six is just a -– it's just the 2014 to 2019 raw billing data. Tab seven just kind of shows the REU analysis, and here, I think is, you know, where we're –- this assumption here, highest year average daily flow, this is what was used in the analysis to determine the revised REUs. And it's possible to, you know, click on any of these cells and see the logic of where it came from. And again, this analysis is done by an outsider looking in, and it was shared by MPW -– with MPW. And certainly, you know, as I mentioned, there are some smart analysts at both MPW and Raftelis that have the access to the inside information and can isolate areas where

you say, "Well, yeah, this is reasonable" or "this is not –- unreasonable," et cetera. But the highest average daily flow based –- and again, like for example, for this customer, it was not included in the analysis because for the period in question of 2014 to 2019, there was not a full –- you can see that the customer billing data stopped in September of 2014. So there was not a full year of billing data during the period in question, and so they were discounted from the analysis. So we only used data in which there were full years available. And again, we used the highest –-

Q. Let me just stop you right there. So the one you were just saying, this customer that's line seven, and it has the 2014, 244.66 balance, that's the one you were just referring to?

A. Yes, and it didn't have a full month for 2014, so they were not included in the -– you know, it was –- I mean, so the account was excluded from analysis at zero. So if there was no -– if they didn't have a full year of billing data, we did not include them in the class because we're looking at the usage over full years. Okay, and again, I apologize for doing such a poor job of

referencing these tabs. I will try to do better. And we'll call that row seven that you were referencing.

Q. Right.

A. Okay.

Q. So then let's looks at -– let's look at row eight. Let's just stop right there. So row eight for instance; if I look at 2015 for row eight, which is cell 8-AA, it has a value of 344.66. You just took the full -– all the bills for 2015 and then divided them by 365. Is that correct?

A. Yes, that's the logic. And then you can see the –-

Q. Let me ask this -– uh-huh (affirmative response). Go ahead.

A. And you can see that for this five year -– or six year billing history, that the maximum average daily flow was 665, and so that was what was used in the analysis.

COURT REPORTER: Ms. Hill, did you say -–

Q. Let me ask –-

COURT REPORTER: Did you say 365 or 355?

MS. HILL: The value is 344.66.

COURT REPORTER: Right, but you said it was

divided by –- and I didn't hear you.

MS. HILL: 365.

COURT REPORTER: Thank you, thank you.

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. So let me ask this. So Mount Pleasant Waterworks' bills are not always exactly January 1st through December 31st. Is that -– so they're not out there reading meters exactly on the first day of every month. Did you take that into consideration?

MR. APPEL: Object to form.

A. I simply used the amount that was represented as billing in that specific month.

Q. You didn't look deeper to find out what the billing period was for each of those bills?

MR. APPEL: Object to form.

A. The billing period? I don't know if that was provided or not, but no; all I'm using is the amount of usage that was billed in each month.

Q. Okay. Looking again, at line eight, did you look into why 2014 was at 96.71? That seems awfully low compared to their other years.

A. I agree. I mean, it could be that the -– well, let's see. Well, actually, here you can see the move-in year was 2014, so they had a lower usage

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in 2014, so that accounts for some of them. I mean, there are a lot of reasons why usage can differ by month, but again, we just use the highest year average daily flow. If I were to average the amounts, the average is 436. I could have used 436, in which case, the excess ERUs would have been even higher. But you know, for an average daily flow case, we just decided to use, you know, the highest average daily flow, but certainly we could have used an average. We could have used the most recent data. There's multiple possible courses of action that could be looked at for determining the number of ERUs that are not tied to use.

Q. So help me here, with -– again, looking at line eight, what did you say? You could have used something –- you said the average –-

A. Yeah, I mean, if I were to use the average of these amounts, it would be 436.73, which is quite a bit lower than 665, and so the excess REUs would be even higher.

Q. Okay, so again, looking at line eight, it looks like based on cell 8-R on sheet seven, that value –- their current REUs are six. Is that right?

A. Yes.

Q. And then their calculated REUs are three –-

A. Based on the –-

Q. –- for this –-

A. And yeah, and this makes sense. I mean, if you're using 665 gallons per day, and your standard is 300, I mean, you're a little bit over two REUs, and so we just round it up to three. I mean, we don't have fractional ERUs.

Q. Right. So for line eight, that customer –- your calculation in column U is that they have an excess of three REUs. Is that correct?

A. That's correct, and again, that's based on the highest year average daily flow, and of course, the convention is open to discussion. But you know, we're trying to be fair here.

Q. So why did you write down in column Q -– why did you write down the meter size?

A. That's just part of the information that was provided.

Q. Is that an inch? Is that like a .625 inch water meter?

A. That would be a 5/8ths inch water meter.

Q. Okay, and 1.5, what is that? Is it a 1.5 inch water meter?

A. Yeah, exactly, so I mean, with the industry, this would be a 5/8ths inch meter when you see a .625. If you saw a .75, that would be a 3/4ths inch meter.

Q. Okay. So if I compared isolated REUs, is there any correlation between those two?

A. No, the meter size, I don't -– let me see. Tools -– I mean, this is not going anywhere. It's in there just for informational purposes.

Q. Okay. If I look at –-

A. It has no bearing on the analysis.

Q. Okay. So for instance, if I look at line 28, that meter size is 1.5 inches, and the calculated REUs that you believe that customer should have, based on your analysis, would be 20 REUs. Correct?

A. Yes.

Q. Okay, but then if I look at the line above it, line 27, that customer also has the same meter size of 1.5 inches. Correct?

A. Uh-huh (affirmative response).

Q. And the REUs that you suggest that they should have would be three. Right?

A. Uh-huh (affirmative response).

Q. So in a water meter based BFC, which you -– I

believe you suggested Mount Pleasant Waterworks should use –-

A. No. No, that's -– I didn't say that they should use that. In fact, in our first deposition, we talked about how, if done properly, this rate structure could be a more fair alternative.

Q. Okay. Let me back up a second. So in a system that has a BFC based on water meter size, would you agree with me that customer on line 27 and customer on line 28, who both have a water meter size of 1.5, would pay the same in BFCs? Correct?

MR. APPEL: Object to form.

A. Yes, and –- yes, they would.

Q. Okay, but yet looking here, what you suggest is that those two customers who clearly use different amounts of water -– vastly different amounts of water –- you suggest that one have 20 REUs, and the other have three REUs. Correct?

MR. APPEL: Object to form.

A. And to the extent that their REUs are based on usage, yeah. I mean, and maybe this is an underutilized meter, and maybe this is something that –- I mean, I don't know. And again, the meter size information is not relevant to this

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analysis. It's just in here.
Q. Okay, but you included it in here. Correct?
A. Yeah, it was part of the –-
MR. APPEL: Object to form.
A. –- information. It was part of the information provided by Mount -– MPW.
Q. Okay. At your request. Correct?
A. Sure.
MR. APPEL: Object to form.
A. I mean, that's kind of standard –-
Q. Did you prepare --
A. When we're looking at customer statistics, that's just standard information that any rate consultant uses -– requests.
Q. Did you create this group of spreadsheets for this case, or is this something that you typically use?
A. I created it for this case.
Q. Okay.
A. And for the specific purposes of identifying the class and sizing the differences between the BFCs that were charged versus the BFCs with right-sized REU assignments.
Q. So let me look again at line 28, which I believe is customer, Saltwater Cowboys. Do you know

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what Saltwater Cowboys –- what that is?
A. No, I do not.
Q. But based on your recommendation here, you say their REUs should be increased. Correct?
A. Yeah, I mean, REU assignments are not just some –- don't go up and don't just go down. They go up and down based on a customer's specific usage characteristics, and our contention is that they should be periodically right-sized based on their specific use of the system.
Q. So based on what you have for them, you suggest that their REUs should be increased by 14 REUs. Correct?
MR. APPEL: Object to form.
A. Based on this specific analysis, yes. I mean, and again, this is not a recommendation; this is just a simple calculation, and the entire purpose of the spreadsheet is as a discussion document that is subject to review and revision. Because again, I don't have inside information about all these specific customers, and there may be some considerations that need to be looked at in the REU determination. But as far as REUs tied to use, yes, some should go up, some should go down.

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Q. So but they are not -– I mean, you're saying they don't have –- when I look at cell 28-U, you say they do not have any excess REUs, obviously, because you say they are –- they need to increase their REUs by 14. What do -– I mean, is that taken into consideration, at some point here, when you're saying what Mount Pleasant Waterworks owes the class?
MR. APPEL: Object to form.
A. I mean, the class is the customers with excess REUs.
Q. Okay. So but based on what –- and you have said to me, that based on your theories here that you set out in this spreadsheet, Saltwater Cowboys needs to pay much more in base facility charge going forward. Is that correct?
MR. APPEL: Object to form.
A. Any customers that –- you know, and I hate to single out specific customers, but if there's a customer that is not paying its' –- and actually Mount Pleasant –- MPW has gone after customers that have REU assignments that are lower than they should be. So MPW has a history of actually going after those customers. And so –- but MPW does not have a history of right-sizing

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the customers with excess REUs.
Q. So help me out here. What do you mean, "they've gone after customers"?
A. They've –-
Q. Have they forced customers to -– go ahead.
A. I don't know the specifics, but I have been informed or told that that has happened.
Q. Who told you that?
A. The legal team.
Q. Did Mr. Appel tell you that?
A. Yes.
Q. You haven't seen any documentation of that. Is that correct?
A. I may have. I do not remember. It's been a while.
Q. All right, okay. Keep helping me out with this spreadsheet. So you get this number in column U, which is the excess REUs according to your analysis here.
A. Yeah.
Q. And then what do you do with that?
A. So then the next is just a simple –- the next, tab eight, is simply accounts with excess REUs based on those calculations, and then that provides the fundamentals for the billing

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analysis at the top, based on the excess –- you can see excess RE –- so we identify the accounts with excess REUs based on the calculations, and then we take their monthly billing data, and then based on their monthly billing data for the five year period –- or six year period in question, we then recalculate the bills –- what the bills would have been based on their usage and their BFCs tied to their -– both the assigned REUs and the recalculated REUs based on their usage.

Q. So when you review -– so eight is the rest of accounts with excess REUs, tab eight?

A. Yes, yes.

Q. And then what is tab nine?

A. Oh, yeah, tab nine is –- okay, well, based on what the accounts that were identified as having excess REUs, this is the monthly billing data for those accounts based on -– for the period in question of 2014 to 2019.

Q. These customers who you claim have excess REUs, did you consider what having that reduced number of REUs would do to their volumetric bill?

A. Yes.

MR. APPEL: Object to form.

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A. Yes, yes. Yes, we did, and this analysis, up front where it shows the -– and it's got some pretty complicated logic, but it talks -– you can see that for each customer, their blocks are -–

Q. I'm going to interrupt you just for a second. What sheet are you on?

A. I'm sorry. This is on sheet four, tab four, Water Billing Analysis.

Q. So if I go here, this -– and I'm on tab four. If I go to 'consumption charge,' is that what the new charge would be based on, the new REU amount?

A. Yes, and you can see that the basic blocks for one REU is 9,200 gallons. So you can see that based on the number of REUs for each customer –- and I can split the cells here. For each of these customers, you know, based on the number of ERUs, we recognized the, you know, expanded –- one second. We recognized that with more or less REUs, that they have expanded, they'll get –- with more REUs, they get more consumption under the lowest priced rate block. So all that was considered, and that's why in that email that was referenced previously in part two of

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the deposition, when I talked about how the 5.5 million that's calculated here, why it's less than the 5.8 million –- just based on a straight BFC calculation –- we get a difference of 5.8 million dollars. But when we consider the effects, you know, that reduced REUs would have on the volumetric rate, that's why you get 5.5. So we did consider the effects of both the base and the volumetric rate in this analysis. And again, this analysis is -– you know, we provided this to MPW in July of 2020, and certainly, I know that I'm familiar –- at least with members of Raftelis that I've worked with in the past, and they're all very smart, and they could easily, you know, analyze this, and adjust it. Because again, this is a discussion document, and is a discussion tool that was developed specifically for this particular situation.

Q. Do you think it matters that some of these entities are multi-family residential properties?

MR. APPEL: Object to form.

Q. Did you take that into account in any way, shape, or form?

MR. APPEL: Object to form.

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A. Well, again, if Mount Pleasant did not provide the information for non-residential customers then, you know, our assumption is that the data that was provided by MPW was related to the "Commercial and Other" customers. And if other stuff is mixed in there, then you know, that's bad data that was provided by MPW. You know, we're only as good as the information we're provided.

Q. So do you think multi-family properties should be included?

MR. APPEL: Object to form.

A. Again, to the extent that they are in the, quote, "Commercial and Other" class and have their rates dependent upon the number of REUs, I mean, if they are included in the class, then they should be part of the analysis.

Q. Does it matter to you that some of the class members that you included actually have write-offs on their accounts?

MR. APPEL: Object to form.

A. I saw those, but again, I'm not –- you know, this is an analysis where I had to, you know, calculate a large amount of data, and I think that write-offs or all kinds of –- you know, and

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like I said, there may be other considerations that we need to consider here. This is just, again, a discussion document and not a, you know, 'this is the definitive answer.' It is a tool to help the parties to come up to some sort of agreement.

Q. Why do you think the parties need to come up to some sort of agreement?

MR. APPEL: Object to form.

A. Well, I mean, if the parties don't want to settle, then it's going to -– you know, then obviously it will go to trial and then, you know, obviously, it's for the parties to decide whether to settle or not.

Q. I mean, would you anticipate this spreadsheet looking differently if you were using it for trial versus for discussion?

MR. APPEL: Object to form.

A. I think –- again, I don't know what –- you know, I would anticipate that maybe for trial, the analysis would probably be placed into simplest terms as possible. So I don't know. That would be the call of the legal counsel.

Q. Let me refer you to sheet eight, which is the accounts of excess REUs.

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A. Okay.

Q. And if you can look at line 201.

A. Okay.

Q. Okay. So do you see that Montclair?

A. Yes.

Q. So if I go and look at their analysis, for instance, they have a –- is that a six inch water meter? It's on column Q.

A. Okay. Let me -- yeah, looks like it.

Q. Actually, you know what? I'm going to refer –- I'm on the wrong spreadsheet. So let's go to spreadsheet seven, which is the REU analysis.

A. Okay.

Q. And it's actually line –- Montclair is line 379.

A. Okay.

Q. So if I scroll over there, it looks like they have 200 REUs currently. Do you see that?

A. Let me split the screens -– current REU, yeah, okay.

Q. And you recommend that they have 100. Correct?

A. Again, it's –-

MR. APPEL: Object to form.

A. I'm not making recommendations. I am calculating their REUs based on how MPWs rate

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structure is set up, based on a 300 gallons per day tied to their actual use.

Q. Well, I mean look, you can call it what you want to call it, but to be clear, what you're saying is that we owe them money assuming that they should have 100 REUs versus 200 REUs. Correct?

MR. APPEL: Object to form.

A. To the extent that the 100 REUs was tied to their actual use, and to the extent that -– then yeah.

Q. Okay. So you're saying they should have 100 REUs. Right?

MR. APPEL: Object to form.

A. Yes, based on the specific -– based on their usage statistics.

Q. I mean, do you think it should be something else? I mean, you are the expert sitting here. I mean, do you think it should be something other than 100?

MR. APPEL: Object to form.

A. Well, the 100 is their -– and you can see it. They use 29,896 gallons per day. You divide it by 300, and you get the 100 REUs. So their REUs based on their usage -– based on their highest average daily flow over the past six years,

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supports an assignment of 100 REUs.

Q. Okay. So then I go over here -– so what would that be per day? That would be at most -– I mean, what would that be per month?

A. I mean divided by 30.0 –- highest year average daily flow –- so I mean, you multiply that by 30.42. This is their usage per day, and then you just multiply it by 30.42 average days in a month.

Q. Okay. So roughly -– so what's that number, a little bit over 900,000?

A. I know you have a degree in accounting, so yeah, whatever that is.

Q. Well, my degree in accounting is only good with adding and subtracting. It's not multiplication.

A. Okay, so yeah, a little bit less than 900,000.

Q. Okay. So if I go over here to the left, I mean, it looks like their first month they went over that. Right?

A. To the left. What do you mean?

Q. I mean, to the right. That's the other thing I'm not good in, but to the right. If you go to the right, I go to cell 379-AG on sheet seven.

A. Okay.

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Q. I mean, their first month they're over 900,000. Right?
MR. APPEL: Object to form.
A. Yeah, and then they had -– looks like they had zero, so it could be that they may have not been billed the -– maybe they were not billed the previous month, and so they had a catch-up bill the following month.
Q. Now if I go to cell 379-AN.
A. Okay.
Q. There they have over a million in a month. Do you see that?
A. Uh-huh (affirmative).
Q. So that would throw them into excess. Correct?
A. If we were -– I mean, again, it just depends upon the convention that's being used.
Q. Okay, but you're telling us this is the convention we should use. So I mean, I'm confused here. I mean, if you're telling us this is the convention we should use, and then I'm looking at this –-
A. Well, hang on –-
Q. –- as purely a customer –-
A. This is monthly data, so we have to divide by the number of days in a month.

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Q. But we're billing them on a monthly basis. Right?
A. Yeah.
Q. Most water utilities bill on a monthly basis. Right?
A. Right, and again, we're using the average daily flow –- the usage on a average daily flow basis; so their use for these months, you would divide it by the number of days in the month in order to get the average daily flow basis.
Q. But do we care what the average daily flow basis is when we're billing them on a monthly basis?
A. Well, yeah -–
MR. APPEL: Object to form.
A. You're basing your whole rate structure on an average daily flow basis.
Q. Are we?
A. You're -–
Q. I mean, we're billing them on a monthly basis.
A. Your REUs are determined by the estimated use of the customer, which is on an average daily flow basis, and which has been –- and the case has been established that it is an average daily flow basis.
Q. How do you the know the case has been established that it's an average daily flow basis?
A. The class –-
Q. What are you talking about?
A. The class has been established –- my understanding –- and again, I should say my understanding is that the case has been –- the class has been defined based on an average daily flow basis.
Q. Okay, but you agree with me that we bill them on a monthly basis. Right?
A. Sure.
Q. In fact, that's how the vast majority of water utilities bill their customers is on a monthly basis. Right?
A. Yes.
Q. On the amount of water they use per month. Right?
A. That's correct.
Q. So one day, I mean, I could use zero water, and the next day, I could turn all my taps on and all my hoses on –- you know, I could turn everything on, and my bill at the end of the month is not going to care that I turned off all my water on one day, is it?

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A. No.
MR. APPEL: Object to form.
A. No.
Q. Okay. So for this customer on line 379, Montclair, based on your analysis of 100 REUs that you tell me that they should have -- now this is what you're telling me. How many months –- and you can take a minute to look at this –- how many months would they have gone into excess use? And take a moment. I mean, look at that and count it up. I just want to know from 2014 to 2019, how many months would they have gone over in excess use?
A. Okay, so just for simplicity's sake, I do want to point out that the volumetric rates have these, quote, "excess use" tiers. So even if you are –- an REU, and you go over your allotment, you are charged at a higher volumetric rate, so it evens out. But this is such a big spreadsheet, it's having to calculate. But the idea would be –-
Q. You can just scroll through it and see. Just scroll to the right, and you can count all the months they go over 900,000.
A. Okay. Well, let me see here. All right. One,

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two, three, four, five, six –- make that seven, eight. It would be helpful to –- let's just highlight them. One, two, three, –-

Q. You can –-

MS. HILL: Madamme Court Reporter, we can go off the record for a minute. I'll let him count these up, and then we can go back on.

COURT REPORTER: Okay, we are off the record.

(Off the Record)

DIRECT EXAMINATION RESUMED BY MS. HILL:

Q. So Mr. Mantz, we went off the record. So I asked you to count up for the customer at line 379 on page seven, the REU analysis. Based on your analysis, you stated that Montclair Apartments –- or Montclair Association Limited, had excess REUs of 100. And in fact, their REU account should be, instead of 200, it should be 100. And so I asked you to count up for me how many months from 2014 to 2018 [sic] that Montclair Association Limited would have exceeded their REU allotment in those years. And how many months -– what is the answer to that?

MR. APPEL: Object to form.

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A. So 20 –- out of 72 months, there were 20 months in which over 900,000 –- they had a bill of over 900,000 gallons.

Q. So they would have exceeded that 100 REU allotment that you suggest, based on your analysis here –-

A. Right, and –-

Q. –- they would have exceeded that?

A. Right, and so some other usage form.

MR. APPEL: Object to form.

A. Exactly, and so some of their usage would have been billed under the second volumetric tier for excess usage.

Q. Is that fair that they are exceeding their REU allotment and not paying for it, essentially –-

MR. APPEL: Object to form.

Q. –- based on their BFC charge?

MR. APPEL: Object to form.

A. Again, we're not looking at peak month, or peak usage, or maximum usage. We're looking at average daily flow. That's the way Mount Pleasant has set up its' rate structure. And so if you're saying that your existing rate structure is –- if you're admitting that MPW's rate structure is unfair because it shouldn't be

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based on average daily flow, that it should be based on maximum month flow, well, I mean, then that should –- I mean, I would suggest revising your rate structure immediately.

Q. What if our rate structure says it's based on reservation capacity or capacity reservation?

MR. APPEL: Object to form.

A. The purpose of the base charge is to pay for a portion of the utility's fixed cost and not to reserve capacity. And this –-

Q. Okay.

A. No, I'm done.

Q. So let's take this Montclair Association Limited, and let's take it all through. So they would be listed on eight –- on tab eight, I believe, here at line 201 on tab eight. Correct?

A. Uh-huh (affirmative).

Q. Okay. So –-

A. Tab eight, 201.

Q. Go ahead.

A. Okay.

Q. So then how do you calculate how much you believe Montclair is owed as a result of this reduced REUs –- these reduced REUs?

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A. Those are calculated on tab –- I believe –- let's see. So you can see that the fundamental amount is derived –- you can see from the logic that it's derived from the tab four, Water Billing Analysis, and tab five, Wastewater Billing Analysis. And so these tabs take the usage by month, you know, for each of these customers, then they calculate it based on the –- and then re-calculates the BFCs based on the revised REU counts. And also, as we talked about, it adjusts for the difference in the expanded price blocks that would -– I guess, if you have lower REUs, you would have contracted price blocks; block one, block two, block three, block four. And then using a –- it calculates the difference in the bills.

Q. So can you find Montclair on tab four? For whatever reason, I can't search it, and it may be because your -– the link may –-

A. Oh, okay, yeah. All right, so probably the best way to do that would be to go to the excess REU account billing data, and then we'll do a search for Montclair. Okay, so that starts at line 11,014.

Q. Okay.

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A. So then I would look at -– you know, you can see that this links to cell 11,153, so we're probably going to be looking at around 11,000.
Q. How could you tell? This is just my lack of Excel expertise, but how could tell –- how could you go from line –- I mean, from tab nine to tab four?
A. Okay. You can see the -–
Q. I mean, is there something you hit?
A. Well, you can see that this linked to 9(dot) Excel REU billing data, so what you would do is you'd go to –-
Q. Okay.
A. You'd go to this 9(dot), and this is just raw billing data. I don't think it has any calculations associated with it. So you can see that this –- you know, they start at row 11,014, so we'd go to –- and you can see that here we're linking to cell -– to row 4,927. What we really need is something close to 11,000. Now we can scroll down. It is a massive spreadsheet, but it is smaller than the data that was provided by MPW. So at least I –-
Q. Sure.
A. All right. So we should -– okay, here we go.

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So it just looks at each bill, and it has the bill number, and then it -–
Q. What line are you on, on tab four?
A. Sorry. Again, I'm being terrible at referencing the tabs and the row numbers, but this is in tab four, Excel row 11,020.
Q. Okay.
A. And so what this does is it calculates based on the current RFCs [sic} what the amount charged should have been or was; and then it shows –- you know, based on the revised REU account, it shows what the revised bill should be. So you can see that for this one, the difference would have been –- for this specific bill, it would have been $333.00, and this is, I guess, in 2014. And there's a lot of complicated logic, you know, to the side, and I don't –- but it's –-
Q. So let me ask you this. So row N, is that the total of what the bill was, and then row X is what the revised bill would be? Is that right?
A. Yes. Yes, and then that shows the amount -- the difference between what was billed versus, you know, what the bill would have been under the revised number of REUs. And again, it's –-

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Q. Okay. So –-
A. I –- okay, go ahead.
Q. So for instance, if I'm at line 11,022, on tab four, row N –- so that's cell 11,022-N –- the amount of that cell is $5,706.29. Do you see that?
A. Yes, and then the revised bill, I think, was higher based on the consumption in that year –- in that month, and so there was no overcharged amount at that time based on this specific consumption.
Q. So –-
A. So it equalizes out. I mean, like I said, it considers both the -- this just shows that it considers both the difference in the BFCs and the differences in the volumetric charges.
Q. Okay. So I'm still at that cell 11,022-X. So with the revised REUs, instead of a bill of $5,706.29, you're telling me that their bill in that month should have been $6,659.18. Correct?
MR. APPEL: Object to form.
A. If they have that REU value for that specific month.
Q. Okay. So in the overcharge column, which is Z as in zebra –-

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A. Uh-huh (affirmative response).
Q. –- you have a zero for that month, so you say they're not overcharged that month. Correct?
A. That is correct.
Q. But I don't see any accounting for the fact that they technically paid less that month than what they should have paid. Am I missing something?
A. I mean, you know, again, the column is "amount overcharged." You know, and again, it's a discussion document, and the parties can determine what they consider to be a fair approach for all of this.
Q. Well, to be fair, it is not a discussion document. It is, in fact, the document that -- this is the document that the attorneys on your side are using to say, "this is the class, and this is how much money we're owed."
MR. APPEL: Object to form.
Q. So it's not a discussion document. So what I'm trying to understand from you is, did you in any way take into account that under your analysis, this customer paid almost $900 less that month –- I mean, almost $1,000 less that month than they would have if they'd had the REUs that you say they should have?

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MR. APPEL: Object to form.
Q. I mean, is that deducted anywhere from the amount they would receive if they win this lawsuit?
MR. APPEL: Object to form.
A. Right now, it's not, under this. And again, I mean, this column is labeled "amount overcharged." I'm not –- and again, as you mentioned, there are probably some other considerations, write-offs, et cetera, that might need to be considered in the analysis. This is just an analysis done by an outsider looking in. So it's ...
Q. Okay. So in row Z, every time I see a zero, that means that technically, not only were they not overcharged, but they may owe money. Is that fair?
MR. APPEL: Object to form.
A. The difference -- it means that the amount charged under revised REUs, based on the average daily use, would suggest that the difference between their -- the bill under the revised REU, and the bill under the current REUs is higher.
Q. Anywhere in this spreadsheet, did you calculate how much each customer would be entitled to?

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A. No, I did not. But the spreadsheet could be modified to do that. However, I think the parties would probably want to set the -- you know, before going through that effort, the parties would want to, you know, establish some conventions for, you know, determining that amount. If there is an inclination at some point to settle, I think the parties should determine what is the fair approach. Because again, this is -- you know, there may be some other considerations, and this is just, again, an outsider looking in analysis.
Q. Do you think there may be some problems with this analysis?
MR. APPEL: Object to form.
A. I think that I don't have the insider information that MPW or its' rate consultant may, you know, have as people that work with these statistics and have all the insider information. I've had no dialogue with MPW on any of this. And so it would be the –- you know, I don't know what special considerations, or write-offs, or whatever, would need to be performed for this analysis to, you know -- this analysis was done back in July, and we haven't

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received any feedback from MPW or its' rate consultant about, you know, what's fair, what's not, you know, what considerations we need to look at. So this was just presented, but we've never received any feedback on it.
Q. What additional information would you like to receive from Mount Pleasant Waterworks?
MR. APPEL: Object to form.
A. Well, what I would say that that's probably –- you know, Mount Pleasant Waterworks or its' rate consultants would, you know, provide a, you know, what they consider to be -- you know, knowing what they know about the customer information, you know, what would they consider to be the -- you know, if you put all the special considerations into this analysis –- the write-offs or whatever for the different customers, how would they –- you know, what would their right-sized amount be.
Q. What are some considerations that you might want to know about a particular customer?
MR. APPEL: Object to form.
A. Well, I mean, there may be some write-offs. Again, I know nothing about -- all I know about is the information provided in the data that MPW

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provided. And so, you know, this was provided by -- you know, we took the customer billing data provided by MPW, and did an analysis, and provided it to MPW, and we've not received any feedback on it.
Q. You said you haven't had the chance to sit down and talk with MPW or ask about particular customers. So if you were to sit down with MPW, then what are some -– and there's not a right or wrong answer. I'm just trying to understand what are some things you would want to know. What are some questions you would ask MPW?
A. I mean, if there are some write-offs or the amount that -– if some of the amounts that MPW had to charge were written off, then -– and so MPW never collected that money, then that would be a consideration. I mean –-
Q. Anything else?
A. Again, I can't think of anything off the top of my head, but certainly a write-off. If MPW didn't actually collect the money, then it wouldn't make sense for them to refund the customer some money that was never collected. So I certainly think that's a consideration that should be definitely made.

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Q. And additional information? Anything specific to customers that you would want to know?
A. Well, again, I think the standards for calculating the –- you know, the basic standards for the analysis, I think, would need to be established by your -- or agreed to by the parties, and then you can go through the minutia of saying, "Well, yeah, this particular bill was written off," and you know, you could look at different considerations. But you know, I don't have –-
Q. Sure.
A. –- for instance, all of the accounting records. All I have is an analysis that was done based on -- that was provided based on information -- analysis performed based on information provided by MPW.
Q. Right, but I'm hearing from you a few times that you would need additional information to get this right. And I'm just trying to understand –- and this is my chance to ask you –- but what additional information? I've heard write-off. Is there anything else that you need to know? I

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mean, is it important to you –-
A. The best -- the best –-
MR. APPEL: Object to form.
A. The best resource for determining the fairness of this would be MPW and its' rate consultants saying, "Okay, for this particular customer, we have some –- something." I mean, I only did this analysis based on MPWs –- you know, the customer data provided by MPW. And to the extent that -- you know, and again, it's MPW and its' rate consultants who would be best qualified to say that, you know, for each of these bills, this makes sense, this doesn't make sense. I mean, that should come from MPW and its' rate consultants, and then we, of course, can either agree or disagree.
Q. Do you know, in a civil case, who has the burden of proof? Or in this case, do you know who has the burden of proof?
MR. APPEL: Object to form.
A. I believe it would be the plaintiffs. And I believe it's –- and again, I don't -- preponderance of the evidence; is that the burden of proof here?
Q. Well, I mean, who has to prove the case, I

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guess, is the question.
MR. APPEL: Object to form.
A. Well, the plaintiff.
Q. Okay.
MS. HILL: Why don't we take a break right now, and let me –- I don't think I have too much more left. But let me just confirm that and look through some of my notes. So let's take about a 10 or 15 minute break. Okay?
DEPONENT: Okay.
(Off the record)
DIRECT EXAMINATION RESUMED BY MS. HILL:
DEPONENT: Okay, and I had wanted to just kind of amend something that I had said earlier about what -- you know, who has the burden of proof. I mean, I don't know what -- I don't claim to be an expert in South Carolina law, but we actually have a statute down here in Florida that says that at least for impact fees, it says that if –- in any action challenging an impact fee, the government has a burden of proving by a preponderance of the evidence that the impact fee meets all legal requirements. So we actually have a statute where the government has the burden of proof. So I just wanted to say that, you know, this is an example, and it may not be applicable to South Carolina, but it's just a -- you know,

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I just wanted to add that. Okay? So stopping -- stop the share.
Q. So let's look -- I'm almost finished with this, but if you can pull your spreadsheet back up again.
A. Okay.
Q. And look at Wastewater Billing Analysis which is tab five of the spreadsheet.
A. All right. Let me -- it's loading. Do you want me to share my screen again?
Q. Yes.
A. Okay, and -– all right.
(Screen share)
Q. Okay. Do you see column Y?
A. Yes.
Q. Is that the difference between the charge the customer was charged for wastewater versus the revised charge based on your REU analysis? Is that the difference of column Y?
A. No, the column Y would be the revised bill, and column O would be the amount charged. So the difference would be in AA and the amount overcharged.
Q. Gotcha. So AA is the difference between the two?

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A. Yes, and it's –-
Q. And again –-
A. And it follows the same -- it's set up the same as the water analysis.
Q. Okay. So like the water analysis, if there's a zero in column AA, that means the customer actually paid less than what you believe they should have paid with the revised REUs. Is that correct?
A. Or it could have been -–
MR. APPEL: Object to form.
A. It could have been the same amount. It just means that there was not a positive difference in the amount overcharged. And again, I did this back in July, and there may -- I don't think there were any special considerations, but I mean, all it's saying is there was no overcharge based on this specific calculation.
Q. Okay. So for instance, like line 38,047.
A. Thirty-eight thousand (38,000) -- 38 -- in this sheet?
Q. That's right; sheet five, Wastewater Billing Analysis.
A. Okay.
Q. Line 38,047.

A. Thirty-eight thousand (38,000) -- what is it –- 38,000 what?
Q. Forty-seven (47).
A. Thirty-eight thousand (38,000) -- is that the Excel row or the line number?
Q. That is the Excel row.
A. Okay, 38,000 –-
(Telephone rings)
MS. HILL: Can you all –- I'm going to let you find that. Can you hold one second? I just need to make sure that this is not something –- hold on one second.
COURT REPORTER: Okay, we'll go off the record briefly.
(Off the record)
DIRECT EXAMINATION RESUMED BY MS. HILL:
MR. APPEL: Do you have line 38,000 memorized?
DEPONENT: I've got it. It's 38,047. I found it.
Q. Okay. So if I go over to column AA, there's a zero there. Correct?
A. Uh-huh (affirmative response).
Q. But yet if I go to column O, that customer paid $2,886.67. Right?

A. Yes.
Q. That's what they paid, yet under your calculation, they should have paid $5,019.52. Do you see that?
A. Yes.
Q. But yet you wrote down a zero. You didn't put any negative amount in that overcharge column. Correct?
A. That's right. The column is called, "Amount Overcharged," not "Amount" -- not "Difference."
Q. Okay.
A. And then whether –-
Q. So let's –-
A. Okay go ahead.
Q. No, go ahead.
A. No, I'm done.
Q. So if you go to line 38,209, that total of column AA with the number $3,639,828.10 -- do you see that?
A. Uh-huh (affirmative response).
Q. So that total number does not reflect the undercharge amounts. Correct?
MR. APPEL: Object to form.
A. It does not reflect instances in which the recalculated bill is higher than the existing

bill.
Q. Okay. So when I go to sheet one, which is Summary of Billing Analysis –-
A. Uh-huh (affirmative response).
Q. –- if you want to go to that, sheet one.
A. Okay.
Q. That number, $3,639,828; I mean, that does not reflect amounts that the customers would have benefitted from by over -- by underpaying. Correct?
MR. APPEL: Object to form.
A. Right. Right, and again, the column says, "amount overcharged."
Q. Okay. Did anyone tell you that this case was going to settle?
A. No, I've certainly hoped it would settle by now, but apparently it has not.
Q. Why did you hope it would settle?
A. Because, I mean, it's just a lot of time and money, and you know, I'd hope that I wouldn't have to go to trial, because you know, obviously, there's risk in trials for both sides.
Q. Is there any other information that you plan on reviewing prior to trial?

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MR. APPEL: Object to form.
A. No.
Q. Let me ask you. What is your process when you're doing a rate study?
A. I collect data up front, perform analyses, meet with the client, you know, about what we think the overall revenue needs to be, and what kind of adjustments might be needed; and then based on the, you know, revenue that we agree that needs to be generated, we then design rates to recover that amount of revenue.
Q. Do you work with the water utilities to determine the REUs for utility customers?
MR. APPEL: Object to form.
A. I don't usually work with a lot of REU based systems.
Q. Okay, but don't –- and I may not have this right –- but don't most systems have some type of REU or REU equivalent that they assign to their customers? They may not use it for their BFCs, or they may not use it for their rates, but most utilities have some type of allocation of water for each customer. Correct?
A. Yes. A lot of utilities and their rate structures use a meter equivalent basis, based

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on the -–
Q. Okay, but -–
A. Okay, go ahead.
Q. Go ahead. Based on what?
A. I'm good. I'm good.
Q. No, based on what? What was the rest of your sentence?
A. Based on published meter capacity data or meter flow data published by the American Waterworks Association.
Q. How is it determined what size meter a customer should have?
A. Based on the customers' flow projections. And yeah, I mean based on -- obviously, you have to have a meter size that can handle the customers' flow.
Q. So how do you try to project a customer's flow?
A. Well, usually in a rate study, we'll look at the historical usage of customers in the same class.
Q. Do you look at particular customers?
A. In terms of -– I mean, sometimes. A lot of times, we look at the customers that are going to be most affected by the rate design, and that's something we look at as part of our reasonableness check.

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Q. Have you ever participated in determining the type of water meter or the number of REUs a customer should have?
A. Most utilities have some sort of standard that they employ, and I'm not typically involved in the development of those standards.
Q. But have you ever been involved in the development of those standards?
A. No.
Q. So you have never assisted a utility in determining the number of REUs a customer should have. Is that a fair statement?
A. The number of REUs that a customer should have? Again, most of the utilities that I work with for rate setting purposes, they're charged a base charge based on the meter size, applied to their number of accounts. As far as on the impact fee side, there are several different methodologies for determining the number of ERCs, whether it's historical flow, meter based, estimated flow, customer type, or plumbing fixtures.
Q. Okay, but you've never done that side of it. Right?
MR. APPEL: Object to form.

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A. I don't actively participate in developing a -- you know, based on -- I mean, again, I don't really get in -- I'm not an engineer, and so you know, based on the specific engineering specifications of the facility, I'm not involved in determining what meter size a customer needs given where that customer is located and the utility system's ability to serve that customer.
Q. All right, and likewise, you're not involved in determining the REUs for a customer. Correct?
MR. APPEL: Object to the form.
A. Again, most of the rates that I work with are meter based. There are not a lot of -- in my neck of the woods, there are not a lot of ERU based rates.
MS. HILL: I have no further questions.
COURT REPORTER: Anything further?
MR. APPEL: We're all good to go. Bryan, thank you for your time today and last week.
DEPONENT: All right, thank you.

(There being no further questions, this deposition concluded at 3:40 p.m.)

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CERTIFICATE OF REPORTER

I, JANICE L. STANTON, COURT REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, HEREBY CERTIFY THAT I REPORTED THE DEPOSITION OF BRYAN A. MANTZ, ON WEDNESDAY, THE 20TH DAY OF JANUARY, 2021, THAT THE WITNESS WAS FIRST DULY SWORN BY ME AND THAT THE FOREGOING 145 PAGES CONSTITUTE A TRUE AND CORRECT TRANSCRIPTION OF SAID DEPOSITION.

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE PARTIES CONNECTED WITH THIS ACTION, NOR AM I FINANCIALLY INTERESTED IN SAID CAUSE.

I FURTHER CERTIFY THAT THE ORIGINAL OF SAID TRANSCRIPT WAS THEREAFTER SEALED BY ME AND DELIVERED TO AMY L.B. HILL, GALLIVAN WHITE & BOYD, 1201 MAIN STREET, SUITE 1200, COLUMBIA, SOUTH CAROLINA, WHO WILL RETAIN THIS SEALED ORIGINAL TRANSCRIPT AND SHALL BE RESPONSIBLE FOR FILING SAME WITH THE COURT PRIOR TO TRIAL OR ANY HEARING WHICH MIGHT RESULT IN A FINAL ORDER ON ANY ISSUE.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS 23RD DAY OF JANUARY, 2021.

Janice L. Stanton

JANICE L. STANTON, COURT REPORTER
MY COMMISSION EXPIRES MARCH 28, 2029

VERIFICATION OF DEPONENT

I, BRYAN A. MANTZ, HAVE READ THE FOREGOING DEPOSITION CONSISTING OF 145 PAGES, WHICH WAS REPORTED BY JANICE L. STANTON, COURT REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA, ON JANUARY 20TH, 2021.

I FIND THE TRANSCRIPT OF THIS DEPOSITION TO BE A TRUE AND ACCURATE TRANSCRIPT ACCORDING TO MY TESTIMONY ON THAT DATE, WITH THE EXCEPTION OF _____ CHANGES AND/OR CORRECTIONS LISTED ON THE ATTACHED ERRATA SHEET WHICH WAS FILLED IN BY ME.

_____ _____

DATE BRYAN A. MANTZ

ERRATA PAGE

Page #	Line #	Change/Correction (& Explanation)

The above changes were noted by me on this errata page before signing the attached Verification of Deponent. I have retained a copy of this errata page for my records, and the court reporter is to attach this page and my verification to the original transcript.

Dated:_____ _____

BRYAN A. MANTZ

EXHIBIT B

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IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

DEPOSITION OF WILLIAM ZIEBURTZ

SNEE FARM LAKES HOMEOWNERS' ASSOCIATION, INC., individually and on behalf of those similarly situated,

Plaintiff,

vs.

Case No. 2018-CP-10-2764

THE COMMISSIONERS OF PUBLIC WORKS for the TOWN OF MOUNT PLEASANT d/b/a MOUNT PLEASANT WATERWORKS,

Defendant,

DEPONENT: WILLIAM ZIEBURTZ
DATE: April 1, 2021
TIME: 10:00 AM
LOCATION: VIA VIDEOCONFERENCE

REPORTED BY: PAULA WONDRA
CLARK & ASSOCIATES, INC.
P.O. Box 73129
Charleston, SC 29415
843-762-6294
WWW.CLARK-ASSOCIATES.COM

A P P E A R A N C E S

(All appearances via videoconference)

ON BEHALF OF PLAINTIFF:
McCULLOUGH KHAN, LLC
BY: ROSS APPEL
359 King Street, Suite 200
Charleston, SC 29401

AND

McGOWAN, HOOD & FELDER, LLC
BY: JAMES L. WARD, JR
321 Wingo Way, Suite 103
Mount Pleasant, SC 29464

ON BEHALF OF DEFENDANT:
GALLIVAN, WHITE & BOYD, P.A.
BY: GRAY CULBREATH and AMY HILL
PO Box 7368
Columbia, SC 29202

AND

ROSEN, ROSEN & HAGOOD, LLC
BY: DAVID JENNINGS
PO Box 893
Charleston, SC 29402

ALSO PRESENT: McKenna Joyce

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WILLIAM ZIEBURTZ,
having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. APPEL:

Q. Good morning, Mr. Zieburtz. First question, am I -- did I butcher your name?

A. Zieburtz. You said it the most common way, but we say Zieburtz.

Q. That is how I'm going to say it the rest of the day, Zieburtz. Is it okay if I call you Bill?

A. Yes.

Q. Okay. Great. Bill, have you ever had your deposition taken before?

A. Yes, I have.

Q. Okay. Approximately how many times have you had your deposition taken over the years?

A. About three or four times.

Q. Okay. Do you recall the last name your deposition was taken?

A. Yes.

Q. When was that?

A. Perhaps a decade ago, maybe a little bit less than that, and it was a case in New Jersey.

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Q. Understood, understood. Well, given the age on that, I'm going to go ahead and go through some of the ground rules here to just kind of refresh your recollection about the rules of the road here. The purpose of today's deposition is for me to get a clear understanding of your knowledge and information pertaining to this case and specifically the opinions that you intend to introduce at the trial in this case.

So I'm going to be asking you a series of questions today. Our court reporter is going to be writing down everything that I say, everything that you say, and everybody on the call, what they say. And in order to make her life easier, I would ask that you allow me to please complete my question fully before you start your answer; and likewise, I'll let you finish your answer before I begin the next question. Does that make sense?

A. Yes, it does.

Q. Okay. So you just did a perfect job of doing the next instruction that I'm going to provide, which is to provide verbal answers, yes, no. You know, our court reporter can't take down uh-huhs and uh-uhs and things of that nature or

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head shakes. So will you please answer verbally today?

A. Yes, I will.

Q. Okay, great. If you have any questions about the questions that I'm asking, please direct those questions to me. Your attorneys with Gallivan, White & Boyd are here today to defend the deposition. You may hear them object to certain questions that I ask. When they object to the form of the question, they are just noting that objection for the record. You still have to answer the question I ask if there's an objection to the form of the question. Do you understand?

A. Yes, I do.

Q. Okay, great. The only exception to that rule is if, you know, there's some attorney-client privilege or other privilege that's being invoked. I don't anticipate that happening, but if an objection is made on those grounds, your attorneys may instruct you not to answer. That's the only exception to the objection rule. I just lay that. Does that make sense?

A. Yes, it does.

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Q. Okay. So I'm going to try my best to get through all of the questions I have today. A deposition is not a stamina test. It's not an endurance test. If at any time you need to pop up, go grab a drink of water, use the restroom, do anything like that, just, you know, let me know, and we'll take a short break, and we'll let you do what you need to do, okay?

A. Thank you.

Q. All right. During breaks, you know, you're not supposed to speak with your attorneys. If you do speak with your attorneys, I'm allowed to get into that line of questioning. Does that make sense?

A. Yes, it does.

Q. All right. The other sort of ground rule I'm going to go over is documents and exhibits that I'm going to be using during today's deposition. I'm going to be referring to several documents. I'm going to be placing the document that I'm talking about on the screen. Are you able to see the document that I'm sharing with you right now?

A. Yes.

Q. Okay, great. If you need me to zoom in,

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scroll up, scroll down, I'm at your command. Let me know what we need to do, and I want to make sure you are able to see the document that we have on the screen, okay?

A. Okay.

Q. All right. Good deal. Do you have any questions about anything that I've sort of gone over thus far?

A. No.

Q. Okay. Are you on any kind of medication or any sort of other substances that will make it difficult or, you know, complicated for you to participate in today's deposition?

A. No. I am not.

Q. Okay, great. All right. So I'm going to begin with marking what I have up on the screen as Plaintiff's Exhibit 1.

(Exhibit No. 1 marked for identification.)

Q. This is our Notice of deposition for today. Have you seen this document?

A. Yes.

Q. Okay, great. All right. What did you do to prepare for today's deposition?

A. I reviewed some of the documents that

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had been provided to me since we started the -- this engagement and had conversations with Mr. Culbreath and Ms. Hill.

Q. Okay. Do you have any prepared notes in front of you today that you're going to be referring to?

A. No, I do not.

Q. Okay. All right. I'm bringing up onto the screen a document that I'm going to mark as Plaintiff's Exhibit 2.

(Exhibit No. 2 marked for identification.)

Q. This is the CV that was produced in this case, and you might notice some yellow highlights on the documents I have on the screen. This is just to kind of help guide you to some of the terms and things I'm going to be asking questions about today.

Tell me a little bit about your background. Where did you -- where were you born?

A. Miami, Florida.

Q. Oh, great. Where did you go to college?

A. The University of Georgia.

Q. Oh, great. What did you study in

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college?

A. Economics.

Q. Okay. Did you have any post bachelor degrees?

A. Yes. I stayed at the University of Georgia and got a master's degree also in economics with a concentration in utility economics.

Q. Okay, wonderful. Any education subsequent to the master's degree?

A. No. No.

Q. Okay. So currently you're with Stantec; is that correct?

A. Yes.

Q. Okay. How long have you been with Stantec?

A. I joined a small firm called Burton & Associates in 2014, which was subsequently acquired by Stantec. So we date my Stantec time back to that hiring the fall of 2014.

Q. Understood. And how long were you at Burton & Associates prior to that acquisition?

A. I think under the Burton name, only a couple of years. We had a time of co-branding, so it's a little unclear. And the Stantec

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acquisition was actually the second of two. But for all practical purposes, I will say two years with Burton & Associates; and after that, we were moving towards the Stantec brand.

Q. Understood, understood. And where were you before Burton & Associates?

A. At Black & Veatch.

Q. Okay. And how long were you at Black & Veatch?

A. I was there two separate times, and the time immediately preceding Burton, just two years.

Q. Okay. So where were you before your latest time with Black & Veatch?

A. I had joined a southeast regional JJ and G, which also went through an acquisition while I was there. And so my total time at JJ and G/Jacobs, Jacobs was the name of the firm that bought JJ and G, was about seven years.

Q. Got it. And where were you before that?

A. Immediately before JJ and G, that's when I had my first tour of duty with Black & Veatch, which was longer, approximately eight years.

Q. Got it. What is the reason for so many sort of changes with the employment? What's the

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basis of that?

A. I have always wanted to work where I was having fun and finding meaningful work. Sometimes acquisitions are relevant and create change.

Q. Got it. Were you -- were you terminated or asked to leave from any of these employment situations?

A. I've never been terminated or asked to leave.

Q. Okay. All right. So looking at page two of your CV, and under the heading, selected consulting experience, it says here that you focus on providing, quote, independent and objective analyses of fees and charges.

Do you see that?

A. Yes.

Q. Have you performed an independent and objective analysis of the fees and charges at issue in this case?

A. I would say I've performed an independent and objective analysis of the rate structure in this case, not necessarily the level of fees and charges themselves.

Q. Okay. Understood. So when you say rate

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structure, what do you mean?
A. The rate structure is a reference to the schedule of charges and how they are administered. So in the case of Mount Pleasant, the presence of the basic facility charge and the volumetric charges and the way they work.
Q. Understood, understood. All right. And the CV goes on to list a number of different clients. Are these all Stantec clients, or are some of these clients from your prior employment stops?
A. This is a list that relates to my work, and so it dates back through all of my different employers.
Q. Understood, understood. Did your work for any of these jurisdictions involve analyzing and reviewing base charges for water utilities?
A. Yes. For many of them. Probably most of them. Certainly most.
Q. Okay. All right. Let's take a look at some of these examples here. And is this visible on the screen for you?
A. Yes, it is.
Q. Okay, great. Let's look at the entry for Henrico County, Virginia. Do you see that?

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A. Yes.
Q. Okay. The highlighted portion I have on the screen says, quote, Mr. Zieburtz -- Zieburtz led the project team in the creation of upfront charges for mixed-use developments, reflecting both meter size for commercial uses and an ERU-based approach for residential uses.
Is this reference to upfront charges essentially impact fees or system capacity charges?
A. Yes, it is.
Q. Okay. Why was there a separate approach for commercial uses versus residential uses in this case?
A. Utilities select their rate structure to try to build a frame --
(Court reporter's audio cuts out and asks for clarification.)
(Answer read back by court reporter.)
A. -- a framework that will work in their specific circumstances, and because utilities exist in such varied circumstances, both as it relates to their technical environment, their physical environment, the customers, the billing

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programs they use, and the financial requirements they face, utilities select a rather diverse set of rate structures to meet their specific end.
And in the case of Nico, the mix -- the change in development patterns led the project team, which included both my coworkers and the utility professionals, to conclude that a mixture in this case of either size and equivalent unit approaches would be the best way for them to obtain their upfront charges in an equitable fashion.
Q. Okay. Understood. So what were some of the specific criteria or factors that led to that decision to use meters for commercial accounts and residential equivalent units for residential accounts? Like, what were some of those considerations?
A. I can't remember the project specifics very clearly, but I know that the discussion involved the issues associated with a mixed-use development where a commercial property frequently on the ground floor was served by the same meter as residential units that were being constructed on higher mixed-use, classic mixed-use development.

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And the concern was to attempt to recognize the demand of residential units and not let them essentially be overlooked by reliance only on the meter size for the commercial part of the development.
Q. Gotcha. So this approach, this bifurcation of meter size and REUs only apply to mixed-use developments, or did it apply county-wide? In other words, like if you were to just come in with a pure commercial development, would you be assessed according to a meter size approach in this particular county?
A. Yes.
Q. Got it.
A. The mixed-use development drove that thinking process. The result was equivalent units for residential and meters for commercial.
Q. Gotcha, gotcha. So would it be your opinion that in a jurisdiction with a fair amount of mixed-use development, it would suggest using a meter size approach for calculating impact fees or service development charges or upfront charges for commercial customers?
MR. CULBREATH: I object to the form of the question. You may answer.

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COURT REPORTER: I'm sorry, I can't really hear you.

MR. CULBREATH: I'll put the speaker here. I object to the form of the question.

A. Were you able to hear? Shall I proceed?

Q. So -- yes, sir.

A. I think my answer is not necessarily. Both meter-based fee structures and equivalent unit-based fee structures can appropriately be selected as most of them can be a mixture as in the case of the Nico. I wouldn't necessarily presume that commercial development absolutely should -- would lead a project toward using a meter-based approach.

Q. Understood. So the narrative on your CV continues and says, quote, The project also resulted in recommendations to simplify and refine the County's residential unit fee basis to reflect updated projections of demands.

Do you see that?

A. Yes.

Q. Okay. Why was it important for this analysis to incorporate updated projections of demands?

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A. In this case, they were using, I believe I recall, some rather outdated and perhaps generic demand statistics from published sources to build an equivalent unit-type system. And I think we, the project team, decided that the nature of the current demand profile, for example, for assisted living facilities, didn't fit well with the old profiles that they were using. And I forget what, but they may have, for example, used demand profile for hospitals or something like that. They're trying to do their best to pick an appropriate number from somewhere. But in this case, it seemed like their nature of their development led them to want to use system specific information for this kind of growth that was occurring at the County.

Q. Understood. So you would agree with me then that, to use your phrase, quote, outdated generic demand statistics, end quote, that's not an appropriate basis to calculate fees generally when it comes to water utilities, right?

MR. CULBREATH: Object to the form of the question.

A. Not necessarily. I would certainly say that updated information is interesting, but old

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information is not necessarily misleading nor inappropriate.

Q. What do you mean by interesting?

A. We observe in the water industry interesting patterns, to me, regarding the way that demand profiles change over time or are stable over time. Changes in conservation behaviors, changes in conservation-inducing fixtures have had a significant impact on typical demand profiles. And so anybody wanting to build a rate structure that reflects usage in some fashion is naturally interested in examining usage profiles to the extent useable data are available.

Q. Would you agree with me that actual use data where available is always superior to pre-use assumptions?

A. I missed the word right before assumptions.

Q. Pre-use. Or prior to service inception.

A. Oh, oh. Not necessarily. I hate to sound as if I'm not being collaborative here, but I think the question is to what end are you putting that information. If -- ideally, rates and charges reflect actual demand patterns, but

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of equal importance also are potential demands. And within the range of actual, the nature of peak and average statement demands are both relevant.

So for some purposes, a somewhat generic maybe out of the book or historic based on class profile numbers might actually be a better basis for some charges than a particular actual number that reflected a given installation, a given year, a given moment in time. There's value to both kinds of information, both the more stable more generic number and the observed data for whatever periods.

Q. Okay. I'm now looking at page, gosh, I guess it's seven of your CV, and there's a reference here to Macon Water Authority in Macon, Georgia. Do you see that?

A. Yes.

Q. And it talks about here your work in developing a simplified cost allocation model to streamline the process of annual updates. What kind of annual updates are we talking about with respect to this utility?

A. That refers to a contractual relationship for a large industrial firm with

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significant wastewater flows, and that firm had contributed capital to the authority for construction to -- contributed to the construction of wastewater treatment plant facilities.

And as part of that capital contribution, they together then negotiated many years ago a contract that attempted to set up a cost based -- a cost of service allocation to the firm, proffering costs. And there was a provision in there for updates to those costs on an annual basis. And there may have been some true-up provisions, I forget. During the project -- during the project, we were able to come up with a simpler routine that was less administratively burdensome on both parties.

Q. Okay. As part of this process, was the customer's actual use looked at on an annual basis?

A. Yes.

(Court reporter requests phone be moved closer to witness or witness to speak up.)

Q. Okay. Good deal. We're now on page 24 of your CV, and this is a reference to Bartow County, Georgia. Do you see that?

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A. Yes.

Q. And towards the bottom of the page, it says, quote, Additionally, Mr. Zieburtz recommended and assisted in the implementation of true base charges and the elimination of the past practice of using minimum bills to enhance revenue stability.

Do you see that?

A. Yes.

Q. What is a true base charge?

A. A true base charge is a reference to a fixed fee that captures some of the costs of utility operation typically including a portion of administrative costs and often including a portion of capital costs and sometimes other types of costs and charges that amount on a monthly basis regardless of use and including cases where there is no use at all.

Q. So this is essentially the same concept that Mount Pleasant Waterworks has with respect to its BFC, it's just a base charge?

A. Yes.

Q. Okay. Well, how is this different from minimum bills as referenced in this excerpt from the CV?

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A. A minimum bill provision was very common some generations back in our industry. It was an initial attempt by water utilities to introduce some revenue stability so as a way of improving the revenue profile versus a rate structure that was completely thought dependent on volumetric charges. And the concept was just that the utility would assume that all users should pay for a minimum amount of usage even if their usage was less than that. It often was a fairly low amount, but it was a very common sort of first step to get to a base charge that we typically do a little bit differently now.

Q. Understood. Now, with respect to Bartow County, Georgia, what were your recommendations regarding how the base charge ought to be calculated?

A. I don't recall any specifics about the allocations of costs or the structure. I'm confident that it's consistent with what I've been describing in general terms, but I don't recall any more specific data.

Q. Okay. So maybe more to the point, do you recall if it was based upon meter size or pipe size?

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A. At the moment, I do not. It could have been a meter size or an equivalent unit type approach. I just don't remember which.

Q. Okay. All right. And the next paragraph says that you assisted the County by calculating and supporting the adoption of significant increases in connection charges.

Do you see that?

A. Yes.

Q. Are connection charges essentially impact fees?

A. The term has a pretty wide variety of uses, but yes, exactly that in this case.

Q. Got it. Isn't there some unique feature of Georgia law where you're not allowed to use the phrase "impact fee" in Georgia? Is that correct?

A. No. But there is specific enabling legislation related to impact fees, and yet -- it's close to correct because while there's a specific enabling legislation, water and wastewater utilities are also able to charge upfront charges that have a capital component and not have them go through the full impact fee process, so...

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Q. I see. Okay. And then you go on to talk about the need for, quote, growth to pay for growth, end quote.

Do you see that?

A. Yes.

Q. What does that mean briefly?

A. It's a reference to the fundamental objective of these kinds of charges, which is to try to insulate an existing customer base from having to bear a disproportionately large share of the cost of investment to build capacity to serve new customers of the system.

Q. Understood. So how do connection charges or impact fees differ from what base charges are supposed to recover?

A. An impact fee, or more broadly, we often will say a system development charge, is rather narrowly focused on cost related to capacity, so there is no operating cost component to a system development charge. And while there are several different approaches to calculating these impact fee type charges, they are all focused on that, just that. The cost of capacity for new growth.

But fixed charges, base charges, often include allocations of capital costs. But in the

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case of a system with a well designed and fully allocated impact fee, the base charge and the volumetric charges don't have to pick up those costs. So base charge can pick up some similar costs and in the absence of insufficient proceeds, the base and volumetric rates may have to pick up significantly costs related to growth. But with an adequate impact fee, then they can focus more on the cost of maintaining and operating and dealing with the capital renewable replacement requirements of the existing system.

Q. So you would agree with me then that system development charges are designed to pay for capacity, right?

A. Yes.

Q. Was that a yes?

A. Yes.

Q. Okay. Is capacity a fixed charge?

A. In general, capacity costs do tend to be fixed in the sense of fixed versus variable costs. They -- in a utility's cost framework, meaning other costs beyond just capacity costs are also fixed.

Q. How is a capacity charge fixed cost? You know, because when I think of capacity, I

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think about infrastructure -- additional proportionate infrastructure that's necessary to serve new customers to come online into the system. Isn't it true that once the capacity is established that that asset is -- is purchased and then it just -- it's there?

A. The cost of creating and maintaining capacity goes on essentially forever. Investing in assets with long lives generally entails prefunding of a portion of those costs, current year funding from rates and charges for some of those costs, and debt financing, which then has obviously debt service payments following on for others of those costs.

So providing capacity is not a simple one-and-done phenomenon. It's actually a rather fundamental and never-ending commitment part on the utility. So, again, as it relates to this narrative, even with a good fully allocated impact fee type system, fixed charges and including fixed charges relating to capacity also represent an ongoing need that all customers wind up needing to help support.

Q. Okay. But -- okay. So to finish up here, this paragraph, you go on to say that this

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review of the connection charges is important to, quote, help keep necessary increases in user charges lower than they would otherwise have to be.

What do you mean by that?

A. In cases where utilities charge these impact fee type charges at levels substantially less than a cost of serving growth, there's no way for utility to meet those costs other than to meet them through the payment of regular rates and charges.

Q. I see. So this is what the concept of growth paying for growth is all about, right? We want to make sure that the new growth pays system development charges or impact fees or connection charges, whatever you want to call them, sufficient so that the additional capacity being brought onto the system is not having to be subsidized by the existing rate base; is that correct?

A. Yes.

Q. Okay. All right. And it goes on here to talk about the summer surcharge. What is that? Is that an example of a base charge?

A. No. Well, actually, I'm sorry. Let me

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read that carefully.
Q. Sure.
A. Okay. So no, in the case of Bartow County and in most cases where that phrase is used, it refers to a change in a volumetric. And in this case, the trigger for that different volumetric rate --
(Court reporter interrupts for clarification.)
A. So let me try again. In this case, the different volumetric rate in Bartow was triggered by reference to what was called, quote, base consumption, but it was simply a winter average metric. This was a volumetric charge adjustment for provision of water during summer periods where demands are typically highest and where the County was having some extraordinary costs during those periods.
Q. Okay. So this paragraph refers to, quote, an equitable base amount of consumption per period.
What does that equitable base amount refer to?
A. It refers to the idea that in this case, the surcharge, which is functioning a little bit

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like tiers, regular rate tiers consumption. The surcharge was triggered on a customer-by-customer basis, and I'm not remembering this particular aspect of the study very clearly, but I know I wrote this, and so I'm reacting to what I know I wrote.
So in this instance, the fact that the trigger was customer specific, that was an attempt by the County to implement surcharge in a way that they consider to be equitable.
Q. Got it.
A. Surcharge -- Bartow County's attempt to implement summer surcharge.
(Court reporter interrupts for clarification.)
A. Other systems use different approaches, but that was Bartow County's attempt to implement a summer surcharge.
Q. Okay. Sounds good. We are on page 26 of your CV, and this is going to be the last dive we're going to do into some of these past case studies, so bear with me for just one moment. This one has to do with the JEA out of Jacksonville, Florida. Down here at the bottom of the page, it says that you were brought on to,

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quote, Lead on a major analytical and strategic consulting project to develop and evaluate rate and fee structure modifications based upon current industry best practices and reflecting updated customer usage data.
Do you see that?
A. Yes.
Q. What do you mean by updated customer usage data in that sentence?
A. JEA had just begun to accumulate workable amounts of customer history in -- through the use of their advanced metering infrastructure program, AMI, and so they were interested in seeing whether or not they could make use of that information to improve their -- the assumptions that their rate schedule required regarding usage patterns by different groups of customers.
Q. Okay. Is -- it's an advanced?
A. It's a funny phrase in the business. We say AMI. I think it literally stands for advanced metering infrastructure. It has to do with more modern meters that are connected and are able to provide much more specific usage data than was traditionally available through monthly

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manual readings of water meters.
Q. Understood. So is an AMI synonymous what's commonly referred to as a smart meter?
A. Yes, at least for my purposes as an economist and nontechnician. Yes.
Q. Okay. So does this follow the principle generally that as better data collecting tools become available, that better data ought to be rolled into the various rate reviews and rate analyses a utility performs over time?
A. Yes, if by rolled in you mean considered. So it doesn't necessarily come in as a determinative set of statistics, but it comes in as relevant, and, like, I think I used the word interesting. It's interesting and ought to be, to the extent available, part of the process.
Q. Would you agree with me that it's reasonable for a utility to periodically re-evaluate its entire rate structure from top to bottom, just a full blown review periodically?
MR. CULBREATH: Object to the form of the question.
Q. You can answer.
A. I'm con- -- I think that there is definitely a benefit to a comprehensive review on

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occasion, and certainly there is tremendous benefit to frequent reviews of some aspect of rates, at least annual for the financial planning parts, and then less and less frequently as it relates to broader and deeper aspects related to rates and rate structures.

So not frequently, but in some -- some cycle -- mostly probably driven by observable significant changes in demand profiles or changes in regulatory drivers that lead to different kinds of cost implications or other factors like that that are creating some strain or stress that would lead you to believe that something significant had changed.

Q. Okay. What do you mean by the phrase "observable demand profiles"?

A. An example might be -- I'll answer by way of example, if I might -- a system that maybe served a small town with small lots suddenly found itself in the town growing significantly, and as larger subdivisions were going in with large lots with lots of landscaping, that can lead to a rather significant change in typical behaviors for a system. Something -- so not small changes, but a big change in typical

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behaviors, then could lead you to want to explore your demand assumptions and your customer classification procedures.

Q. Understood. So let's just say that a certain rate structure is put into place around the early 1990s, and then let's just assume that this particular utility in the geographical area it serves happens to be one of the fastest growing areas in the country and certainly the state of South Carolina. Would that be the sort of observable demand profile change that in your opinion would lead for the need for a comprehensive top to bottom rate review and analysis?

A. Not -- not necessarily. Not -- in the sense of -- of causing utility to rethink its structure, not necessarily. My thought is that in one of these kinds of factors, an environmental factor, and I'm using it broadly in this sense, an environmental factor such as wildly different kinds of growth or regulatory requirements and all those kinds of things that can disrupt an operation, when one of those pushes a utility to be in a position where things are no longer balanced, then that's the trigger

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condition.

Q. Are you familiar with the litigation between Mount Pleasant Waterworks and the South Carolina Department of Health and Environmental Control over its groundwater permitting requirements over the last, let's say, five years?

A. I am familiar generally with -- I am only familiar generally with the way that Mount Pleasant and some other utilities have ongoing discussions and work sessions related to those needs. I'm not specifically familiar with litigation.

Q. Okay. Final sentence here under JEA says, quote, A comprehensive evaluation of JEA's upfront capacity charges was also completed, including an examination of the implications of alternative measurement tools, including meter size, projected average daily demands, gross parcel size, and the square foot measurements of residential heated area.

Tell me a little bit about this process.

A. JEA wanted to consider in an unusually serious way the different opportunities that they had for defining -- or creating a basis for

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upfront charges. For most utilities and most -- once there is a basis for upfront charges, it doesn't get changed. It often will get updated in some sense, but it also doesn't get changed fundamentally. JEA was wanting to ask itself the question of whether they would do somehow better by shifting from to -- to any of the available options.

So the list of -- of these options, meter size, average daily demands, which is a reference to the kinds of equivalent units that we are talking about, also then was broadened by some other bases that are occasionally used for capacity type charges such as the size of the parcel, sometimes development factors, I don't think I wrote that in there, but the square foot measurements of structures, heated -- or, you know, in our case, it's been mostly cooled areas. Sometimes those factors are used for these kinds of charges.

They're more frequently used for nonutility upfront charges, say an impact fee for police station, fire stations, libraries, that kind of thing. But they are occasionally used for water and wastewater utilities, and JEA just

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wanted to take an opportunity to ask itself, among all of the things, what would be the best approach for them to use.

Q. Do you recall which approach they ended up selecting?

A. I actually do not.

Q. What time period did you do this work for JEA?

A. I think these questions were probably approximately five, maybe six years ago.

Q. Okay. So would this have been during the Stantec days or the prior employer?

A. Stantec as -- as -- probably as linked to the Burton & Associates firm, yes.

Q. I see. So is JEA a current Stantec client?

A. Yes.

Q. Got it.

A. I started working with JEA when I joined Burton & Associates, and then we've been able to continue to work with them since that time.

Q. Got it. All right. And then your CV here concludes with a very impressive list of publications, and I'm just going to ask you some general questions about these if you don't mind.

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Do any of these publications address base charge practices, specifically the residential equivalent approach?

A. I can't think of one.

Q. Do any of these publication address the concept of right-sizing REUs?

A. And I'm sorry, what did you say after right-sizing?

Q. REUs or ERUs or any other type of residential equivalency unit.

A. Right-sizing, no, I don't think so. I don't think I've ever included that concept in any of the training or papers I've done.

Q. All right. I've now got a document on our screen that I'm going to mark as Plaintiff's Exhibit No. 3.

(Exhibit No. 3 marked for identification.)

Q. And this is the Stantec professional services agreement we were produced in this case. Are you familiar with this document?

A. Yes.

MS. HILL: Ross, if you want to take just like maybe a one-minute break. I think we have those documents printed out, and I can go

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grab them.

MR. APPEL: Oh, perfect. Sounds good. Let's take our first break of the day. Thanks, you-all.

THE WITNESS: Perfect. Good timing.

(Recess.)

Q. Okay. Mr. Zieburtz, if you ever need to get up, stretch, do whatever you need to do, seriously, you can just raise your hand and call time. And this is like baseball where there's unlimited time-outs. This is not like other sports where you're on a pitch count.

A. Thank you.

Q. All right. So we've -- absolutely. So we've got the professional service agreement up on the screen. This is Plaintiff's Exhibit No. 3. When did MPW's attorneys first reach out to you regarding this case?

A. I think it was early in the fall of 2020 and -- perhaps late in the summer, but in that range.

Q. Okay. Now, who from MPW first reached out to you? Was it the -- was it Amy and Gray, or was it MPW's I guess other counsel from Rosen,

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Rosen & Hagood?

A. It was Gray Culbreath.

Q. Okay. And do you-all have a pre-existing relationship, have you-all worked together on other cases?

A. No, we have not.

Q. Okay. All right. And I'm looking at Attachment A to the professional services agreement, and this is where it talks about, I guess, the scope of the engagement. Do you see that?

A. Yes.

Q. All right. Tell me a little bit about each of these three components. Let's look at the first one. It says, quote, Evaluate methods used in evaluating overcharges.

What does this pertain to?

A. It pertains to the arguments regarding the structure of Mount Pleasant's basic facility charge and the structure and management of Mount Pleasant's basic facility charge.

Q. Okay. So when you say management of the basic facility charge, what does that pertain to?

A. The patterns through which customers can interact with the commission on their number of

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base charge units and the issue of the updating of the basis for the charge.

Q. Understood. So the second item under scope is, quote, Evaluate Mount Pleasant Waterworks' rate structure, end quote.

How does that differ from the first item we just talked about?

A. It's -- the second reference is I think to the fundamental question of the appropriateness of their user charge structure overall as it relates to industry standard practices and recommended practices.

Q. Okay. And the third item here, Respond to Plaintiff's expert's testimony, what does this entail?

A. I think we had contemplated possibly responding to arguments, statements, perhaps exhibits from the plaintiff's expert, which I -- then we wound up not concentrating on, but that's what we were contemplating.

Q. Okay. So is it accurate to say that task item number three on this scope of services document has not been performed?

A. We haven't produced a document that directly is intended to respond to that

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testimony. We've produced one draft technical memorandum that is really concentrating on the item number two here.

Q. Understood. So as you sit here today, do you anticipate offering any trial testimony regarding item number three on the scope of services document we're looking at?

A. I certainly wouldn't be surprised if it became appropriate for us to respond to things as is -- that testimony as is referenced in number three.

Q. Okay. But as we sit here today, you don't possess any opinions regarding item number three; is that correct?

A. We haven't produced any output on item number three, and I have not spent a tremendous amount of time in detailed review of that testimony. But I have done some review of that testimony, so I am familiar with it, but we haven't produced anything that is responsive to it directly.

Q. Okay. So when you say review of testimony, do you mean reading Mr. Mantz's deposition transcript?

A. Yes.

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Q. Okay. So have you read that deposition transcript?

A. Yes.

Q. Have you reviewed any of Mr. Mantz's work product that's been produced in this case?

A. The third of three reports, the third by date order, the most recent of the three.

Q. Okay. What about Mr. Mantz's spreadsheet that we've produced in this case where he analyzes the customer data that MPW provided to us? Have you reviewed that spreadsheet in depth?

A. Not in depth. We've been exposed to it and I think understand what was being done there, but did not do a detailed review of that spreadsheet.

Q. Okay. And since you haven't done a detailed review of that spreadsheet, am I correct to say that, as we sit here today, you are not in a position to offer any expert testimony on that specific spreadsheet? Is that correct?

MR. CULBREATH: Object to the form.

A. I think -- I certainly would -- I'm certain that there would be questions you might want to ask related to that that I could, in

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fact, be responsive to, but I haven't -- I've not come with any prepared thoughts or output related to the spreadsheet.

Q. Understood. By the way, do you know Bryan Mantz?

A. Yes, I do.

Q. When did you first meet Mr. Mantz?

A. I believe that he joined the rates and charges committee when I was chair. It might have been after my term as chair, but it was through a rates and charges committee meeting perhaps a decade ago. He was still with PRMG at the time.

Q. Understood. Do you-all cross paths in your travels as fellow, you know, rate professionals?

A. Well, we've never had a joint project. Sometimes it's work with competitors on projects. We've never had one of those. But I have had some dealings with him in our professional association roles, and I did once refer a client opportunity to him, a small issue that I thought he might be able to help the client with.

Q. Do you recall what that referral pertained to, specific jurisdiction?

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A. It was a Canadian property owner or developer, I forget which, in terms about the rate structure that they were paying, and I can't at the moment remember the name of the local government or the utility. That was a relatively small town. It may come to me, but I can't remember the name of it.

Q. Okay. And it looks like the budget here for this work is capped at $59,475. Do you see that?

A. Yes.

Q. Do you know how much you've billed on this contract to date as we sit here today?

A. No.

Q. Okay. Has anyone else at Stantec worked with you on this project for MPW?

A. I've gotten some support from Isalah Barnes and Katie Morrissey and a quick review of our short technical memorandum by James Bearman.

Q. Okay. And under this billing rate schedule, are you considered a director?

A. Yes.

Q. Okay. And how about the other folks you just mentioned, where are they in this hierarchy?

A. Bearman is the principal, and I'm not

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absolutely certain about where Isalah and Katie fall.

Q. Understood, understood. How much of your work consists of litigation-related services, whether it be a testifying expert witness or a consulting expert witness or otherwise as it pertains to litigation?

A. At the moment, I think perhaps on the order of ten percent. I think if I look back through the years, it's probably smaller than that, maybe more like five percent.

Q. Understood. All right. Okay. MPW has provided you with various documents for your review, correct?

A. Yes.

Q. All right. I am putting up on the screen now a document we're going to mark as Plaintiff's Exhibit No. 4.

(Exhibit No. 4 marked for identification.)

Q. This is a letter from Gallivan, White & Boyd dated March 12th, 2021, and this is a letter responding to our subpoena for all the documents that you have related to this matter, and it lists a variety of documents here that I've got

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up on the screen. Take a few minutes just to refresh yourself on this list here, and tell me when you're done, and I've got just a couple questions to ask you about this.

(A discussion was held off the record.)

A. So I've reviewed the list.

Q. Okay. Mr. Zieburtz, are there any documents that are not on this list that you've been provided by Mount Pleasant Waterworks as it relates to this case?

A. Documents not on the list, no.

Q. Okay. Okay. This item right here, do you see SC rate legislation?

A. Yes.

Q. What does this pertain to?

A. It is a -- just a reference to the legislation in South Carolina governing the charges of rate -- the institution and management or rates and charges by municipal utilities.

Q. Okay. And I've seen references elsewhere in the subpoena response where you've been provided Section 5-31-670 of the South Carolina Code of Laws. Does that square with your recollection?

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A. I don't remember the citation of it.

Q. Okay. All right. I'm going to put up on the screen an e-mail that was in the subpoena response. We'll mark this as Plaintiff's Exhibit No. 5.

(Exhibit No. 5 marked for identification.)

Q. This is an e-mail from November 10th, 2020, from Mr. Barnes. Is it a Mr. or Mrs. Barnes?

A. Ms. Barnes, yes.

Q. Ms. Barnes. I blew that one. And it's an e-mail to Mr. Culbreath and Ms. Hill, and you're copied on it. Do you recall this e-mail?

A. Yes.

Q. And Ms. Barnes is saying in here, are there -- she's asking, quote, are there any other sections in the South Carolina Code of Laws relevant to this case besides Section 5-31-670? Do you see that?

A. Yes.

Q. I'm sorry, I didn't catch that answer.

A. I said yes. I'm sorry.

Q. Okay. I'm sorry. Okay. So does this, you know, refresh your recollection regarding the

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statutes that were provided to you and that you reviewed in this case?
A. Yes.
Q. Okay. Do you know -- so clearly from this e-mail, Section 5-31-670 was provided to you, right?
A. Yes.
Q. Do you know if any other South Carolina code sections or other legal authorities were provided to you or anyone else at Stantec in response to Ms. Barnes's e-mail?
A. I don't recall any other code sections being provided.
Q. What about case law, did you review any South Carolina Court opinions in connection with your work thus far on this matter?
A. No.
Q. Okay. So putting aside what MPW's attorneys did or did not provide you, have you performed any independent legal research with respect to this case, whether it involves statutes or case law other than Section 5-31-670?
A. I think the only thing that might be relevant to your question would be that I did refresh my memory on the Georgia codes rate

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legislation, the corollary to the South Carolina Section 5-31-670.
Q. Did the Georgia rate legislation that you reviewed factor into any of your analysis or opinions that you've formulated to date?
A. No, no. It just -- I was remembering it as being similar to the South Carolina legislation, so it probably was more of a question of curiosity, but I didn't utilize it or turn to it in any way.
Q. Okay. So putting aside Mount Pleasant Waterworks's attorneys and what they provided you or what you uncovered on your own, has anybody else, any other third party or anybody internal to Stantec, provided you with any additional South Carolina statutes or case law other than Section 5-31-670 as it pertains to this project?
A. No, not that I recall. I don't recall anything else.
Q. Okay. All right, Mr. Zieburtz, as you sit here today, do you intend to provide expert witness testimony at the trial of this case in May?
A. Yes.
Q. Okay. Have you ever testified in court

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as an expert witness before?
A. Yes.
Q. And I think you mentioned a case out of Virginia about a decade ago; is that correct?
A. The one that was approximately a decade ago was I think in New Jersey.
Q. Oh, that's right.
A. I was not in a court setting there. I was just being deposed. I was involved in a trial in a case involving the City of Atlanta.
Q. When was that trial involving the City of Atlanta?
A. Oh, dear. I think the late '90s.
Q. Okay. Do you recall what that lawsuit was about in a very general manner?
A. Yes.
Q. What was that?
A. It involved the City's outside surcharge, the rates that were charged to water system customers not residing within the City of Atlanta.
Q. Got it. Is that the only time you've testified in court as an expert witness?
A. No. I can't remember the nature of the jurisdiction. But the town of Lexington,

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South Carolina, has -- had a protracted acquisition process with one of the Carolina water utilities, and I testified in a proceeding -- I'm not sure exactly the nature of it, but I -- I testified in person with -- it seemed like I was in court related to that.
Q. Do you think it was with the South Carolina Public Service Commission in Columbia?
A. No, it wasn't with the PSC. I think that maybe the hearing officer was an Administrative -- an Administrative Law Judge.
Q. Oh, I see.
A. And that may give the answer, but I don't -- I don't know how to tell.
Q. Yeah, that's our Administrative Law Courts, which is court. It's definitely court.
Okay. Well, other than the trial in the City of Atlanta and the Lexington, South Carolina, Administrative Law Court proceedings, have you testified in any other judicial formats, you know, let's say in the last 20 years?
A. No.
Q. Okay. All right. So just as a heads

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up, I'm going to plan on diving into this March 19th memo right now. This may be a good stopping point for a little water/bathroom break/stretch session. I'm happy to power through, but I just figured this is kind of a good little maybe stop in the road here for us.

MR. CULBREATH: That makes sense.

MR. APPEL: Okay, cool. Well, you-all want to say maybe we'll come back in 15 minutes?

MR. CULBREATH: Perfect.

MS. HILL: Sure.

(Recess.)

MR. APPEL: Back on the record.

Q. Mr. Zieburtz, let's back up a little bit before we get into your report. Over the last let's say ten years, have you testified before any state or local government commissions, panels, administrative bodies, committees, or hearing officers?

A. So I'm not sure if your list would include -- it sounded like it might include boards, councils, and commissions, the elected leaders of utilities. And so if it includes that, then yes, many, many times.

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Q. Okay. Tell me a little bit more about those instances of providing testimony to the local, I guess, utility commissions and various other bodies that essentially run these various water and sewer utilities we've been talking about today.

A. Okay. It is common and very usual for us in any kind of rate engagement to present results or preliminary results to a group of governing board, however it is constructed. Sometimes the communications with governing boards are many times involving strategic conversations, balancing of objectives.

Other times we have detailed work sessions where -- where we have done some elaborate financial modeling and the staff is seeking to inform the board and get input from the board, and then -- but then -- and then of course, they're often is a presentation of financial results, a presentation to help the board understand the nature of our recommendation to help them then be prepared to take additional action.

Q. Understood. So this type of work with the various utilities is more in your normal

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nonlitigation live work as a rate consultant; is that correct?

A. Yes, that's right.

Q. Okay. Have you testified in any sort of local or state body in more of an adversarial setting over the last ten years?

A. I think maybe only one since it actually could have -- it probably is within that window -- and actually, the literal -- actually, it didn't involve literal testimony. I was guiding a coworker in the presentation of written testimony probably within that time frame, but then it wound up being his statement, and he was involved in the in-person process, not me. So I can't think of a case in the last ten years.

Q. Okay. All right. So let's turn to this memorandum dated March 19th, 2021, and we're going to go ahead and mark this one as Plaintiff's Exhibit No. 6.

(Exhibit No. 6 marked for identification.)

Q. So this was a draft memorandum provided to us I think it was last week. You're familiar with this document, correct?

A. Yes. Are you going to share it on the

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screen?

Q. Oh, I forgot to reshare my screen. Thank you. Thank you for catching that.

Yeah, this is the document right here. Can you see it?

COURT REPORTER: I'm sorry, I didn't hear an answer if there was one.

A. So i did say yes. Is that -- was that not audible? Yes, I can see the document.

Q. Okay. And you're familiar with this document as well, right?

A. Yes.

Q. And you wrote this document; is that correct?

A. Yes.

Q. All right. Is this the most recent draft memorandum that you've prepared in this case?

A. Yes.

Q. Since March 19th, 2021, through today, has this document lost its draft designation?

A. No.

Q. Have there been any discussions between you and Mount Pleasant's counsel regarding further memoranda or finalizing this opinion?

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A. We briefly have discussed the possibility of issuing a final version once we have received final versions of the plaintiff's expert's reports.
Q. Okay.
A. We haven't had detailed discussions, just a general discussion as I described.
Q. Okay. Does this March 19th, 2021, draft memorandum encompass all of the expert opinions you intend to offer at trial as we sit here today?
A. I could imagine that it might be appropriate to say additional things about these points, but I think these points represent my conclusions about the case, so I don't have a separate point that I have yet to make.
Q. Understood. Understood. Now, explain to me the relationship between this document and that February 17, 2021, draft opinion or outline document that we were provided.
A. Let's see if I can find that one.
Q. Sure.
MR. CULBREATH: Ross, I'm going to help him. We copied what you sent and tabbed it. It's got different tabs, so let's see --

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MR. APPEL: Sure.
MR. CULBREATH: Yeah, it looks like 14. Yep.
A. Okay. So the February 17th document was -- in the preliminary -- it was a document in which preliminary concepts were being captured and a discussion about the questions at issue here. So it wasn't really a draft of this March 19th technical memorandum, but I guess I might call it a first step towards preparing the March 19th technical memorandum.
Q. Okay. So as we sit here today, does this March 19, 2021, memorandum essentially supersede that February 17, 2021, document?
A. Yes.
Q. Okay. All right. So I've flagged various language in this memorandum, and I'm going to just ask you some questions about these. In the first paragraph, you talk about, quote, Water and wastewater utilities sit in a unique position in their provision of these fundamental services.
Do you see that?
A. Yes.
Q. What is meant by fundamental services?

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A. Water and wastewater services.
Q. And -- oh, sorry.
A. I used fundamental to emphasize the importance, the truly fundamental importance to a community of having water and wastewater services.
Q. Right. In other words, this is not some sort of luxury or some sort of -- this is not high-speed cable Internet, this is something that's essential to life and public wellbeing, correct?
A. Exactly right.
Q. Although I guess maybe you can make an argument that high-speed Internet is getting up there, but maybe not quite as important as water and sewer yet.
Okay. So you talk about these utilities being in a unique position because they're providing this very valuable service. How does that dynamic factor into this analysis?
A. Water utilities are, in the language of economists, natural monopolies. And as a natural monopoly, the service is only incentively provided by a single seller, and therefore, questions of price become at issue and relevant

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for discussion and evaluation.
If water and wastewater utilities had competition in the normal sense that normal businesses do, the pricing -- these kind of pricing studies wouldn't be necessary because market transactions would tend to equilibrate pricing and lead to economically efficient outcomes.
Without that market mechanism happening, regulated utilities, whether regulated by a Public Service Commission or through a local governing board, have to attempt to set prices by balancing a long list of multiple objectives and in a public way, therefore, reveal the cost basis for their rates and charges. That's -- that's my reference to the relative unique position.
Q. Understood, understood. So by virtue of the monopolistic dynamic of a water and sewer utility, customers are susceptible by virtue of the monopoly dynamic here to having, you know, prices not shaped and formed by the market, and therefore, there's the need for, you know, perhaps additional scrutiny and review to make sure that pricing of this fundamental service is fair and equitable. Would you agree with me on

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that?
MR. CULBREATH: Object to the form.
A. I would agree that these monopoly conditions do warrant a public policy process and review and even scrutiny.
Q. When we're talking about concepts of review and scrutiny, is there a difference between private utilities that are regulated by the Public Service Commission and public utilities that essentially are regulated by elected people?
A. Can you elaborate on your question? Is there a difference?
Q. Yeah. So in the private utility context, there is a third party independent Public Service Commission that's not elected by anybody, they don't work for the utility, they are a third party almost quasi-judicial body that reviews rate applications, they review proposals for rate increases, things of that nature compared to public utilities that are not regulated by the Public Service Commission, their policies are set by elected commission members.
And do you sense a difference when it comes to the level of review and scrutiny in the

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private context versus the public context by virtue of those differentiated review procedures?
MR. CULBREATH: Object to the form. Go ahead.
A. I wouldn't think that I would say that there would be a difference in the level or intensity of review necessarily. It is -- the processes differ, but they are substantially similar and getting to the same points of analysis and process review. It's just a different process.
And certainly the level of intensity of review and involvement and all of those things vary widely from utility to utility and from state to state and even instance to a different instance. And the need for intense -- attention, again, differs according to circumstance, but that's true on both the investor-owned and overtly regulated rate environment on that side and of the publically owned rate regulation process on the local government side.
Q. Okay. And earlier we looked at your CV, and there were several South Carolina clients that you've had over the years. Are you familiar sort of with the private and public utility

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regulatory environment in South Carolina?
A. Somewhat, yes.
Q. Okay. So is it your opinion that private investor-owned utilities undergo the same level of review and scrutiny as public utilities that are not regulated by the Public Service Commission in South Carolina?
A. I'm not exactly sure, but I would say that because there's such a diversity of intensity in the processes on both sides, to take any one public sector and investor-owned utility rate situation and compared the two, I wouldn't know how to presume which one would be more intense just by virtue of the fact that one was investor-owned and one was public.
Q. Well, let's put aside intensity for a second, and let's just talk more in the realm of independence and lack of bias, okay? So -- and I'll -- I won't hide the ball. I mean, in my opinion, a private investor-owned utility that has to go up to Columbia and get its rates approved by a completely independent commission that's voted on and appointed by the legislature is a totally different deal than when you're dealing with something like Mount Pleasant

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Waterworks where a bunch of elected Mount Pleasant politicians get to set rates for themselves. I think it's a fundamentally different dynamic. Do you agree with that?
MR. CULBREATH: Object to the form.
A. It certainly is a different process, but I don't -- I don't think that I -- I think I'm hearing your characterization as the PSC review, investor-owned side as being sort of a more or higher bar in general relative to the public sector side, and I just -- I don't think I would necessarily agree with that.
And maybe I'll elaborate on that for just a minute. One of the reasons is that the rate regulatory process for investor-owned utilities is sort of inherently combative, and so the inputs into that combative process are sometimes constrained because the utility is operating a strategic fashion. And the rate regulatory process is certainly intended to be independent, but it too comes with an agenda. Public advocates participate in the process and all those sorts of things.
Q. Why do states like South Carolina have a Public Service Commission to regulate

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private-owned utilities?
A. To address the monopoly aspects of -- to address the pricing challenges inherent to monopolies.
Q. Understood. So is it your opinion that an elected body that runs a utility, publically owned utility, is a sufficient check in and of itself all in the monopolistic dynamics inherent in the provision of water and sewer utility service?
MR. CULBREATH: Object to the form.
A. I would say yes. Based on my experience over roughly 35 years, I've seen enough instances of public dialogue leading to rate or rate structure changes merely through the voice -- voices and the dialogue being heard by local government entities. I've certainly had infrequently election results being changed because of utility pricing issues, so I think that the process might not look at data driven as the rate regulatory process, but I think that it actually tends to work pretty well.
Q. All right. So at the bottom of the first page of this report, you go through the three fundamental steps in I guess -- well, you

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tell me. What do these three fundamental steps pertain to?
A. We frequently use these three steps as a way to characterize the breadth of activities in a comprehensive rate study. Many rate studies are focused on one or two of the sort of exclusion of the other, but they're all related and can be said to be essentially a rate study on their own or a -- or the parts of a broad rate study.
Q. Okay. When we talk about revenue requirements, do revenue requirements include a publically owned utility's unrestricted reserve accounts?
A. Revenue requirements should include the funding -- should include any revenues that need to be generated to meet funding requirements. The fund balances per se don't lead to -- are not a revenue requirement, but the need to have adequate fund balances is appropriately part of revenue requirements.
Q. And is -- what's the purpose of an unrestricted reserve account?
A. Utilities -- as with almost everything we were talking about today, utilities employ a

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wide variety of fund balance and reserve fund management, processes and procedures, and adopt pretty widely diverting sometimes goals and objectives related to fund balances and funding requirements.
Q. Okay. All right. So the second fundamental step is -- you say here is the cost of service, the from whom question. Do you see that?
A. Yes.
Q. And you go on to say that this step supports the objective of recovering costs from customers and customer classes fairly and equitably.
What is meant by fairly and equitably in the context of this fundamental step?
A. We use that phrase and other phrases like it primarily to refer to the effort to align costs with behaviors, actions, or needs that lead to those costs and to build rates that reflect those costs. If we can create rates that reflect the costs of providing service, then we have succeeded in our objective to help implement fair and equitable rates.
Q. But isn't that more about fundamental

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step one, which is the revenue requirement? Like, the utility needs X amount of dollars every year. That's the revenue requirement step. The cost of service step is more about how we go about recovering those costs through the rate basis; isn't that right?
A. The cost of service step gives you the information you need to build a rate structure that would recover the revenue requirements fairly.
Q. Got it. Okay. So when you're trying to evaluate the fairness and the equity of a particular rate structure, what are the criteria, what are the guideposts, what are the standards, if any, that enable a rate consultant or a public utility itself to determine whether or not what they're doing is fair and equitable?
A. Because the rate circumstances are so varied among utilities, it's -- it's hard I think to give -- for me to give a great -- a great narration of a response. But I think the key -- maybe the keyword to mention is proportionality. If we can observe that rate and rate structures are aligning things with some kind of proportionality in mind, then that's what we're

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seeing. That sort of validates the cost of service issues have been dealt with.
Q. Understood. Proportionate to what?
A. That's a great question because proportionality in a lot of different kinds of measurement of, you know, this versus that and that versus that if it's a -- or three-dimensional necessarily. We don't have a -- to give a negative example, something that was too one-dimensional would be to take all of your costs and divide all of your costs by the number of customers and then maybe by 12. Well, that would be proportionality in the sense of allocating an equivalent amount to each customer, but obviously that doesn't look very far down the path of trying to reflect the nature of different customer demand.
Q. Right. So specifically just talking about base charges and base facility charges, and we're now well into the point of talking about just Mount Pleasant Waterworks at this point. BFC has to be based on something, right?
A. Yes.
Q. So it's a choice between various competing alternatives to determine what the base

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charge ought to be based on; isn't that correct?
A. Yes.
Q. And it's your opinion that that decision-making, where to go when you're selecting through a menu of alternatives, has to be based on a concept of proportionality; isn't that correct?
MR. CULBREATH: Object to the form.
A. Yes.
Q. And so when you're talking about proportionality, inherent to that concept is different customers are going to be treated differently based upon certain characteristics and criteria in a rate structure inherently; isn't that right?
A. I think I might say it different. I might say that the cost of service study would apply the same kinds of analysis to customers in different circumstance -- at different circumstances, and then their different circumstances would potentially then manifest themselves in different average costs between customers or between customer classes.
Q. Understood, understood. So speaking of cost of service studies, have you reviewed any

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cost of service studies specifically pertaining to Mount Pleasant Waterworks in your formulation of this report and in formulating your opinions that we're talking about today?
A. I think the -- I think a cost of service study done for Mount Pleasant Waterworks may have been provided to me, but I did not review it if it -- you know what, I'm sorry. I forgot to mention there was an additional document that wasn't on the document reviewed list.
Q. And which additional document was that?
A. It was the Mark Coffin deposition transcript. That was provided to me in addition to the items we discussed earlier. I apologize for forgetting.
Q. Okay. That's okay. So I want to make sure I've got your testimony right. So as you sit here today, you've not reviewed any actual cost of service studies performed by Raftelis or any other MPW consultant in formulating the opinions that are in this report or that you're providing to us today?
A. That is correct.
Q. Is it possible to render an opinion about whether or not MPW's base facility charge

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structure is fair and equitable without reviewing the cost of service studies?
A. Yes.
Q. How is that possible?
A. Cost of service study results generally provide a basis for a rate setting that is quite stable over time, and they provide different kinds of output appropriately based on circumstances that the utility is facing at that time. So we don't typically expect to have cost of service studies done on a very frequent basis as contrasted with revenue requirement studies and rate design activities.
So the need to investigate a cost of service basis is relatively minor in the case of many utilities because the rate structure by itself is providing evidence of cost analysis, and it's establishing -- if it establishes a reasonable basis for charging a rate, it isn't -- it is not fundamentally required that the rate structure be linked to direct cost of service results. Cost of service results feed and inform a rate design or a rate setting process, but they usually are not controlling.
Q. What is controlling?

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A. The commission, its elected officials and its executive leadership need to balance in a -- in a genuine way, the multiple competing objectives. They're trying to achieve multiple objectives at the same time, and I think it is that balancing that -- that then is observable in the establishment of a rate and charged system that is within industry norms and successful and appropriate.

Q. Okay. So is it your testimony that a rate structure is fair and equitable if it's approved by elected commissioners? In other words, that's the -- that's the -- that is what adjudicates fairness and equity in this context?

A. Not necessarily. I would not say that.

Q. Okay. So you mentioned a minute ago that the cost of service studies feed and inform whether or not a rate structure is fair and equitable; is that correct?

A. Yes. When a cost of service study is done, then the use of it would be to support the next step of the rate structure process.

Q. Understood. And let's just say -- okay. So MPW has had essentially the same rate structure in place when it comes to base facility

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charges since the early '90s. Is it your testimony that cost of service studies are relevant to MPW's determination on an ongoing basis whether the structure that was set into place 30 years ago remains fair and equitable at various points in time?

A. I don't think Mount Pleasant would be required to do a cost of service study to validate its rate structure per se. I think that the cost of service study can be a tool for driving a change in rate structure if it was needed for something, and it could be a study to help the utility contemplate different alternatives if any kind of stressor were facing the utility.

But it's most important in cases of less homogeneous, more diverse, and more rapidly changing customer bases than most utilities have to cope with. So it's a great tool to help a utility get to a workable successful appropriate rate structure, but it's not a necessary step in the sense that a revenue requirements basis for rates truly is.

Q. Okay. So are there other things besides cost of service studies that, to use your phrase,

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feed and inform the evaluation of whether or not a rate structure is fair and equitable?

A. I think that short of a full blown cost of service study, it is still possible to investigate some aspects of a rate structure and come to a conclusion as to whether it is workable and equitable -- or workable, fair, and equitable.

Q. And what are some examples of those types of criteria and those kinds of considerations? Because here's where I'm coming from on this. So MPW sets up its current base charge regime in the early 1990s. How do we know in 2021 whether -- let's assume it was fair and equitable and perfect back when it started. How do we know whether it's fair and equitable today? What are the things we look at to determine that?

A. Utility rate structures are -- tend to be so stable that the focus -- the equity interest -- the focus of a review of a rate structure often will take that structure as a given and then be informed by observation of how different class rates, if they exist, compare to one another or how the structure would reflect conservation requirements, the cost of seasonal

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demands, peak demands, things like that. So the structure itself provides evidence of fundamental proportionality just by the way it is laid down.

Q. Right. But didn't we talk about earlier when we were going through your CV there were numerous situations where you came in as part of a team or individually, reviewed a utility's status quo rate structure and made recommendations that would substantially change the structure based upon your review?

A. I'm not sure it's necessarily a large number of structural changes that I recommended through the years. It's certainly some, and we contemplate the structure to some extent in every study. But, again, structures tend to be very stable, and a structure like Mount Pleasant, on the face of it, is well aligned with industry norms that result from the kind of studies we're talking about.

Q. Okay. So let's get down to the bottom of I guess it's page two of your latest draft report, and I'm under the heading, Key points relevant to MPW's rate structure.

Do you see that?

A. Yes.

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Q. All right. And the first point is, you say, There is no ideal rate structure in the water industry.

By that, do you essentially mean what we're talking about earlier, that there are so many criteria and factors that go into the decision-making process in designing a rate structure, that there's no one size fits all approach that will work for every utility in the United States and elsewhere for that matter? Is that a fair way of kind of summarizing what you're saying here?

A. Yes.

Q. All right. So in the first paragraph under this first bullet point here, you talk about various factors and criteria, the natural environment, technology, growth or contraction of the customer base and usage, and various other points.

As you sit here today, is it your opinion that these factors laid out in the first paragraph as applied to MPW's base facility charge rate structure and rate design that it's had in place since the early '90s, that these factors as applied to MPW's unique situation

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supports MPW's practices?

A. Yes, I believe Mount Pleasant's rate structure is workable, appropriate, and functioning well for them, and that does rest on my understanding of the unique factors that they manage through.

Q. Do you know which specific unique factors originally led MPW to say, you know what, we're not going to base our base charge on meter size, we're not going to base our base charge on pipe size, we're going to base our base charge on each commercial account's REU assigned? Do you know what that thought process was back in the early '90s?

A. Sorry, I apologize. I think I lost the first part of the question by the time you got to the end. Could you ask me again?

Q. Sure, no problem. Sometimes my questions can be a little drawn out. MPW's got a specific rate structure as it pertains to base charges. Are you familiar with the factors, the criteria, the decision-making, the unique nature of MPW's position that led to the decision to go with that base charge framework in lieu of some of the competing alternatives, the pipe size

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approach, the meter size approach, etcetera?

A. I was not involved in their decision process but was involved in some conversations they had prior, I think, to adopting this structure, and those were similar to conversations that many utilities have. So I'm not specifically aware of what it was that led Mount Pleasant to the structure they have, but it doesn't seem surprising to me that they've implemented the structure nor that it seems -- the fact -- and the fact that it seems to be working well is also not surprising to me.

Q. Understood. Is it possible for these various factors and criteria that go into determining what rate structure is appropriate for a specific utility, for those factors to change over 30 years?

A. Well, the range of the kinds of drivers that we've cited here tend to be remarkably stable, but certainly the specifics of many things would change. The question would be, would some of these changes tend to have a rate structure impact, and, you know, many of them wouldn't. Say, increasing costs doesn't necessarily have a rate structure impact. It may

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be a serious challenge, but it might not have a -- it might not lead you to think that you need to come up with a different rate structure.

Q. What would be an example of a rate structure impact that could take place over a 30-year period that would necessitate a fresh look at a rate structure, specifically MPW's BFC rate structure?

A. Some -- I think sometimes the best example of a driver for that kind of review would be an enormous change in costs and cost structure that resulted from a significant change in customer mix overall; with a specific example being the location of an unwilling industrial customer with enormous industrial -- a very water-intensive use for a system that might go from being largely residential and -- and by that including all of the kinds of residential uses plus all of the supporting commercial uses, that that together describes Mount Pleasant's customer situation pretty well, is they suddenly were, in addition to that, needing to build major facilities to serve a giant new, whatever, Amazon something, something, but a giant new water-intensive customer than that -- the trigger

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-- let's say if we were moving from being able to use well-built, well-maintained facilities that were built with dollars from 20 or 30 years ago to suddenly having to build entirely new dramatically different infrastructure because of the significant change, that level of change has distinct from just rapid growth of similar customers, that for discontinuity would be the kind of thing that would make you then want to consider. It still might not -- it might not suggest that you need to change your rate structure, but that might be -- that's an example of the kind of circumstance if you think about it.

Q. As part of your work on this file, have you looked at the composition of Mount Pleasant Waterworks' rate base in the early 1990s versus today in 2021?

A. Not in a detailed data sense. I'm aware of the area and its rapid growth and the changes in the community.

Q. Okay. All right. So you mentioned that the potential trigger that would have a rate structure impact that would necessitate the sort of fresh look at a rate structure would be, you

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know, some major water intensive user such as, like, Google, for example. This is a real example here in this area. Google has a server farm in Goose Creek, and they use water to cool their computers, and it's a major, major demand on their system.

Could it also be said that another trigger would be actual decrease in use? In other words, the opposite, not a substantial spike in use. But let's just say perhaps after a 30-year lookback, it turns out the people actually used a whole lot less water than it originally projected. Would that sort of decrease in use be cognizable as a rate structure impact in your view?

A. A large moment of a dramatic drop is analogous to the sort of dramatic new demand that I was describing. So if -- my example -- but it's got to be significant. So I would say an example would be when a utility has maybe a broad franchise area and it loses part of it for whatever reason. So not -- you know, not just the changes in typical demand profiles. Those tend not to have any rate structure implications. The fact that conservation behaviors and

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conservation pictures has led to declining average use is a data point. It's relevant. It's certainly something to consider in a study, but it doesn't necessarily lead me to think that you need to do an elaborate cost of service study.

Q. Okay. And by the way, I'll just represent to you that MPW has had numerous cost of service studies performed over the last ten years. Does that change your opinion or analysis on any of these points we've been talking about?

A. No.

Q. Okay. All right. So on this third page of your report under the discussion of there not being an ideal rate structure, you reference various bullet point considerations here, and one of them is equity in cost recovery.

Do you see that?

A. Yes.

Q. What does equity in cost recovery mean in your opinion?

A. It is a reference to the point in our conversation today of what we talked about, fair and equitable. From a cost of service standpoint, it reflects the basic alignment of

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revenue generation with behaviors that lead to costs that the utility must pay.

Q. Would you agree with me that the more a customer uses water over time, the more that customer should be paid and vice versa, the less water a customer uses, the less their bill should be?

A. I don't think I would say it that way. I would -- I would say that we in the industry use volumetric charges to recover a significant portion of our costs. A larger portion in every case then are variable costs, and that use of volumetric charges is appropriate and beneficial. And certainly when you're facing any kind of volumetric charge schedule, your bill goes up when you use more and down when you use less appropriately.

Q. Right. But the base charge by its very nature is different than a volumetric charge from the standpoint of, at least in the month that the base charge is being paid, it's not tied to that specific month's actual use consumption, correct?

A. Right.

Q. But the base charge still has to be based on something, right?

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A. Yes.
Q. All right. And MPW's practice is to base each commercial customer's base charge on the initial REU assignment that was made at the impact fee stage at service inception. Is that your understanding?
A. Yes.
Q. And furthermore, it's MPW's practice to never adjust those REUs on a particular customer's account unless and until a customer approaches MPW with a request to reduce their REUs on their account. Is that your understanding?
A. To a large extent. I believe that there are -- there have been some conversations within the utility that relate to paying attention to usage. But from a practical standpoint, I think for Mount Pleasant and every other utility I can think of with an equivalent unit system, the number per customer account, once established, is -- once established, is rarely changed.
Q. Okay. You just referenced some discussions involving Mount Pleasant Waterworks on the topic of use. What discussions are you referring to?

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A. Discussions might not have been the best word. I am remembering reading in some document that I reviewed, read, or skimmed a reference to the commission -- I don't know the conversation -- I don't know what it was. I just have a -- I believe that I've read something that suggested that there were conversations about whether the REU assignments were well aligned with current demand profiles.
Q. Okay. Are you aware of any internal discussions at MPW currently regarding changes to their base facility charge practices based upon usage, profile and demand, and all the things you just said?
A. I understand that those issues are being addressed as part of this lawsuit.
Q. Oh, yeah. So you're definitely right about that, but I'm asking you if you've been privy to any conversations with Mount Pleasant Waterworks' attorneys or commissioners or Clay Duffie or any of those folks about MPW actually looking at maybe doing things differently going forward based upon this lawsuit or the issues, you know, taken up in this lawsuit.
A. No.

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Q. Okay. So have you looked at the CDM study that talks about 4,400 REU being unused in the system? Does that ring a bell?
A. Yes. I didn't remember the number, and I did not review their study in any -- in detail, but I did review it briefly.
Q. Okay. So I'll just represent to you that -- you know, we can pull it up on the screen, but if you haven't looked at it, I'll just talk about it.
In 2014 -- you know what? Let's bring it up. Let's bring it up. All right. Here we go.
All right. So we'll go ahead and mark this is Plaintiff's Exhibit No. -- I guess we're on No. 7 now.
(Exhibit No. 7 marked for identification.)
Q. So have you ever seen this document right here, this July 21st, 2014, letter to Mark Coffin --
A. Yeah.
Q. -- from -- okay. So you have seen this?
And I'm going to highlight this sentence right here in the second paragraph. It says,

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quote, MPW has determined that certain commercial customers have been assigned an incorrect number of REUs, which is an equivalent measure of demand used to quantify utility customer loadings and identify future capacity necessary to accommodate new customer demands.
Do you see that?
A. Yes.
Q. Do you have any knowledge or understanding about which -- what are they talking about when they talk about commercial customers having been assigned incorrect number of REUs?
A. It refers to a comparison of updated customer consumption data and the number of REUs assigned to each customer. It's a rather normal way for analytical people, whether it's somebody that has more of an accounting or more of an engineering orientation. But in our business, that technical detail focused orientation is common, and it's extremely common for somebody to look at a rate structure or cost data and to say things like this, an incorrect number.
And I'm speaking to that because I think the -- in a fundamental way, the rate structure

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is not flawed, and I don't think that this use of the term "incorrect" implies anything negative about Mount Pleasant's rate structure at all.

Q. Okay. So the final sentence in this paragraph says, These inconsistencies present complexities and potential customer inequities in estimating user charge revenues and defining the current and future levels of service for calculating impact fees.

Isn't that exactly what's wrong with incorrect REU assignments to commercial accounts, customer inequities as stated in here by George Raftelis?

MR. CULBREATH: Object to the form.

A. Certainly these consistencies do present complexities and are suggestive of potential inequities any time that we are comparing things and they look different and we are -- we are naturally curious and it's appropriate to explore. But they -- the fact that a population has a diverse -- diverse demand profile and that whether you are setting a number for an individual customer or a group of customers, the fact that actual usage varies from the basis that you use for your base charge, it in no way

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suggests something deeply wrong. It's just something worth looking at. That's the sense in which I would agree with that sentence. It's just something worth looking at.

Q. Would you agree with me that the magnitude of the incorrect assignments is relevant to determining whether an inequity exists in the rate structure?

A. Yes.

Q. All right. I'm now on page five of this document, Exhibit 7. This is a memorandum from CDM Smith to Mount Pleasant Waterworks dated November 12, 2014. First of all, are you familiar with CDM Smith, that company?

A. Yes.

Q. What does that company do in your opinion?

A. They are a consulting firm similar to the firm I work for, Stantec. They are -- they were formed by a fairly recent merger between CDM and -- what is it? Was it Wilbur Smith? I forget. But they -- CDM in particular had a long -- has a long corporate history of water industry service, especially engineering, but including some rate work.

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Q. Okay. Have you reviewed this November 12, 2014, CDM Smith memorandum in formulating your opinions as you sit here today?

A. I did review it briefly last fall or towards the end of the year.

Q. All right. So here's a paragraph on page two of the CDM report, and I want to go through each of these sentences carefully.

A. Could you zoom in just a little bit?

Q. Sure. And, again, this memorandum flows from the letter we just talked about where we're talking about incorrect REU assignments and potential inequities, okay?

So here, it talks about, quote, MPW compiled data comparing the number of REUs allocated to commercial customers versus the billed water consumption of those customers in 2013. Assuming one REU is equivalent to 300 gallons per day average consumption, approximately 700 commercial customers used less than their allocated REUs in 2013, and approximately 90 customers used more than their allocated REUs in 2013, end quote.

Do you see that?

A. Yes.

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Q. How would you describe the magnitude of 700 commercial customers using less than their allocated REUs in 2013 relative to the total number of commercial customers in the system? Is that a high number, or is that a low number in your view?

A. It does not strike me as a number suggesting any particular import. I don't know the number of commercial customers that they have, but the fact that average usage diverges from base charge, the usage implicit in a base charge doesn't seem very alarming.

Q. Okay. So the number of customers may not be determinative because you want to know the exact amount of REUs that are actually going unused in the system to determine whether, you know, how inaccurate the assignments are; isn't that correct?

A. I would say yes with one exception. I'm not particularly comfortable with the idea of REUs going, quote, unused. The fact that an REU assignment reflects a -- some measure or projection of use that is above typical use does not, to me, suggest that the REUs are necessarily going, quote, unused.

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Q. Okay. But -- okay. So you disagree with CDM Smith's characteristic of the term "unused"? Because again, this is not my word. This is CDM's word. They're saying in this report from 2014 that 4,400 REUs that are allocated to commercial accounts are, quote, unused, end quote. Do you disagree with that statement?

A. From a -- from my perspective as a municipal rate analyst, yes, I'm not thinking that they necessarily are using the term at all wrong from their perspective as consulting engineers and demand analysts and forecasters.

Q. Okay. So explain that to me. Why is the concept of an unused REU different in the rate consulting context versus the engineering context or whatever CDM is doing here?

A. From a rate perspective, a base charge generally provides a recognition of the potential demand of a customer or class, and if it's usefulness in doing that because those capacity costs are so significant. So if a base charge can through whatever mechanism provide a relatively stable framework recovering from fixed costs, then that framework provides benefit even

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when usage is lower than the target number for a customer or a class.

It's very analogous to an insurance need. We have life insurance for our families when they are dependent on our income stream. The fact that we don't always pass on and generate a payout during a term of an insurance policy doesn't mean that the policy wasn't warrant for providing use, providing benefit.

So from my perspective as a rate analyst, unused has the implication of something going wrong as applied to the rate structure, and that, I would not agree with.

Q. Well, customers are being charged base charges based on these unused REU in MPW's system. Do you see anything wrong with that?

A. I'm sorry, could you ask that again?

Q. MPW -- so in this analysis, these 4,400 REUs that MPW's talking about, these were billed -- these unused REU were billed by MPW to its commercial customers. 700 commercial customers were billed according to these unused REU according to CDM Smith. You don't see any problem with that?

A. From a --

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Q. From a rate equity and fairness standpoint.

A. I do not. It is analogous to a base charge structure that might charge a specific dollar amount for a one-inch meter that would reflect in that structure the potential demand of, let's say, gallons X. And even if actual demand profiles never got above one-half X, I don't think that necessarily implies that there's anything wrong at all. So this is a calculation, but to me, it is not in any way suggesting that there's anything wrong with rate structure.

Q. So you're saying it's reasonable to charge customers based on unused REU because who's to say, maybe next year, all 4,400 of those REUs are going to be used, there's the potential for those 4,400 REUs to be used. Is that the testimony?

A. I'm struggling to respond only because to me, the functionality of the base charge system isn't so much about charging for REUs, it's -- the implication -- the normal reaction to a base structure like this is to think you're getting billed for something you're consuming. And really, the fixed charge in its best

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functionality is more about you're being billed for certain aspects of your relationship with the utility, whether it be the account charges that aren't capacity driven, just the cost of having an account, or the other kinds of cost that are more -- more appropriately associated with capacity needs.

So in this case, they've got a charge system that uses these REUs to recover those costs, but I don't -- from my perspective, I don't see that as being analogous to somebody who is paying, for example, for free bottles of water when they never buy more than one. Instead, what you're paying for in your base charge is more akin to access.

Q. So is it your testimony that you pay a base charge to reserve certain capacity assets that you have in the system?

A. To a large extent. And that phrase gets used in multiple and different ways. But to a large extent, yes, I think a well structured base charge should probably pick up a portion of administrative expense and should probably pick up a portion of cost associated with capacity, whether it's R&R driven, spending to maintain

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capacity, or something else.
MR. CULBREATH: Ross.
MR. APPEL: Yeah. You-all want to have lunch?
MR. CULBREATH: I wanted to see -- when you're at a stop, that's fine.
MR. APPEL: Cool. Okay. Maybe I'll just get through the table on the next page, and then we can put our pencils down and go have lunch, okay?
MR. CULBREATH: Okay. Sounds good.
MR. APPEL: All right. I appreciate it.
Q. All right. Mr. Zieburtz, we've talked about demand potential a minute ago, and you said that -- you objected to the concept of unused REU because these REU assignments correspond to some sort of potentiality of demand. Is that accurate?
A. Yes.
Q. Okay. Well, the next sentence says in the CDM Smith report, It is assumed that the number of unused REUs is consistent over the past seven years.
Do you see that?

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A. Yes.
Q. So going back to 2007, in 2007, there were 4,400 unused REUs all the way up through 2014 when this report was drafted. Isn't that evidence of the fact that there really is no potentiality of demand or some peaking concern that's relevant here because the actual data and records bear out the fact that a substantial number of REUs are going unused indefinitely?
A. No.
Q. Why do you say no? Is it because it's theoretically possible that everybody can turn on their water and completely just blow water out everywhere? I guess logically it's possible for that to happen. Is that what you're saying?
A. Well, it's not just a theoretical possibility to acknowledge that even if something only happens once in 100 years, if you have to be prepared as a water utility does for that occurrence, then that is a cost on you as a utility.
(Court reporter interrupts for clarification.)
A. So the utility is compelled to make investment and, to a large extent, capacity

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providing access to deal with things that are much less frequent than once every seven or ten or even 20 years. The distribution system -- the integrity of the distribution system requires that in the most unusual circumstance, that the system be robust and able to meet that because a failure of a distribution system due to inadequate capacity to meet demand leads to negative implication for water quality, which is a serious concern of consumers, whether commercial or residential, and it's driven in a very public way by the water utility's obligation to issue boil water notices so that everyone can keep their families safe and so the businesses know that the water may have become contaminated due to an outage.
So that rare, rare peak condition leads to extremely dire circumstances which over time, if repeated, materially erodes public confidence in the water utility, which is not in any community's best interest. So there's a concrete significant cost driver because the utility must be prepared. And, again, as a subordinate point but relevant, even if you bear an item of risk that doesn't lead you to have to bear a

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particular cost, risk is still a cost to be borne.
Q. Okay. So you talked a lot about capacity in that answer. Is it the base charge's job in a well structured water utility to ensure against that sort of black swan event that you're talking about? Because I thought the purpose of a base charge is to make sure that the secretaries get paid at a utility, that the light bill gets paid, that the fridge is stocked with Diet Cokes, that the fixed charges that a utility incurs monthly, not generationally, not under some extraordinary event, right? That's not the purpose of a base charge. That's the purpose of a capacity planning that MPW has to do with its impact fees, with its volumetric charges, with its bonding, with its insurance, with state and federal aid.
Isn't MPW asking way too much out of its base charge structure here when you start talking about having to insure against such extreme events as you're describing?
A. The burden of extreme events is not placed solely on the base charge. I am merely saying that to the extent that a base charge can

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in part reflect those kinds of costs, it is contributing to equity and cost recovery. A base charge that is only reflective of average use is too one-dimensional, and it's not -- it's not a better base charge. It's not a better rate structure. If the base charge just becomes a derivative of the average usage profile, the base charge ceases to be -- to provide a different function.

And furthermore -- and pardon me for adding, but I want to be sure I'm clear, and I don't know that I said this. This idea -- I don't in any way mean to suggest that the -- that the utility that is varying for peak demands, whether it be the result of fire suppression and irrigation of the sun ton [ph], whatever it is, I don't think that we -- I don't in any way want to suggest that Mount Pleasant's structure is recovering costs that don't need to be recovered because nothing happens.

Mount Pleasant's structure is only recovering the agreed upon and officially adopted revenue requirements. The rate structure -- the difference here is a difference between customers or among customer groups or customers, not a

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generation of access revenues that weren't needed that are somehow piling up and waiting for a black swan event. That's not happening at all. The rate -- the revenue requirements first happen and the structure meets those needs, which do include significant investment. An investment has to be made well in advance of an emergency to be useful. So that investment requirement is in the revenue requirements that have to be met, but that's money that is being spent.

Q. All right. So on the next page, there's this table, and if you look at the row corresponding to 2013, the year 2013, and under the commercial heading here, it talks about 11,111 allocated REUs across the entire commercial rate base.

Do you see that?

A. Yes.

Q. That has a separate column on the next line that talks about adjusted REUs down to 6,711. Do you see that?

A. Yes.

Q. I'll represent to you that these 4,400 unused REU were subtracted for the purposes of this CDM study. Do you see that?

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A. Yes.

Q. Do you have an understanding of why that subtraction took place?

A. My -- my sense of it is that driven partly by a need to coordinate and deal with DHEC regulatory processes, the utility wound up perceiving that its assigned -- its list of assigned REUs was disproportionate to average use patterns and wanted to pursue this kind of analysis to be sure that the utility wasn't going to be constrained from growing due to the way that the DHEC paperwork worked thereby potentially leaving Mount Pleasant to not having capacity to sell -- to do -- to -- for future growth.

Q. Understood. Can we put it another way and just simply say that DHEC wants to know and MPW wanted to tell DHEC what MPW's actual demand looked like on a consumer-wide, commercial-wide basis and to include these 4,400 REU that were unused would overstate the demand that MPW needed?

MR. CULBREATH: Object to the form. You may answer.

A. From a demand management, system

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management, capacity management standpoint, yes, to attribute these -- the sum of all of the allocated REUs and represent them as a measure of current demand would be misleading. And so it is logical for the utility to have done this investigation to be able to better inform that conversation to DHEC.

Q. But what about the meteor hitting right across the Ashley -- the Ravenel Bridge and we have this black swan event that's just crazy and all of a sudden we need those 4,400 REU? Why wouldn't Mount Pleasant just stick to their guns and say, look, these are 4,400 unused REU, but we need them, we need to account for this potential demand, so DHEC, we want 11,111 REU? Why are they telling DHEC they don't need capacity and billing customers off that capacity they're saying that they don't need? How is that equitable?

A. They're not billing customers for capacity that doesn't exist. It is not correct to infer from this that -- whatever the percentage difference between 6,711 and then 11,111 --

Q. 40 percent.

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A. So it's not correct to take that percentage and then to conclude that these customers are being overcharged by 40 percent. It's -- it doesn't follow.

Q. Why is that? I don't understand that.

A. Because the -- the rate process is recovering that defined revenue requirement that reflects the budget and probably with some test year adjustment so that it's normalized and it's the -- it's the -- it's the guiding tool that helps Mount Pleasant to function, and it drives and doesn't exactly control, but it sort of controls the (inaudible).

As we distribute these different kinds of costs amongst different customers to the extent we're doing cost of service work or anything else and we're using some kind of assigned capacity, whether it be REU-based or some meter-based system, we're merely apportioning costs among customers, we're not over-recovering as a utility.

Q. But that apportionment is including 4,400 unused REU in the BFC charging practices, right?

A. I just don't agree with the use of term

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"unused."

Q. Well, let's put it this way. Let's look at this table right here. There's a column for allocated REUs, 11,111. Do you see that?

A. Yes.

Q. If we looked back at the billing records for 2013 across all commercial customers at MPW and we added up all of the REU that went into the base charge assessments and payments from the commercial class, it was calculated based on that 11,111 number, right?

A. That number, as I understand it, does indeed represent the number of commercial REUs in the billing system being paid for. I just --

Q. Okay. So -- sorry. No, no, no. I interrupted you. Go ahead.

A. I just am -- from my perspective as a rate analyst, I don't then look at the adjusted number that reflects updated actual usage patterns. I don't look at that and see a deficiency in the use of the 11,111. I understand the importance of this map and this conversation for Mount Pleasant's demand planning purposes and dealing with regulatory process completely. I just don't see that it suggests

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something woefully different in the basic facility charge structure that Mount Pleasant is using.

Q. So you don't believe that MPW charging 40 percent of its entire REU, which are unused and have been unused for the past seven years, as being problematic in any way based on any of the equity or fairness concepts we've talked about in the past? It's your testimony that MPW is fine to take those 4,400 unused REU out when they're talking to DHEC or they're making their own internal capital investment or planning purposes, but those unused REU need to be charged and need to continue to be part of the rate base?

A. Well, they're not part of the rate base. That's a different thing. But -- and I wouldn't say that it would be wrong for Mount Pleasant to take these results and consider changes to the REU assignments or to the rate structure. I am making two points, I think. One is that the 11,111 doesn't represent an increased generation of revenues from customers above what was needed. There is no overcharge in that sense.

Q. All right. So I'm not talking about the entire commercial rate base being overcharged.

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I'm talking about specific commercial accounts that have 4,400 unused REU assigned to their accounts being overcharged. I'm talking about how we allocate fairly and equitably these REU across the rate structure if we're going to decide to charge base charges according to REU. So I want to be very clear about that.

I'm not suggesting that MPW is making like a windfall here necessarily, although MPW has an enormous unrestricted reserve account that we can talk about later. What I'm saying is there's certain customers in the rate base, and I'm not using the word rate base, the rate profile or the list of customers that are substantially subsidizing others. 700 commercial customers have excess REU assigned to their account. 90 have insufficient REU. These are not my words. This is MPW's own data that they provided to their rate consultant back in 2014, and these numbers were the same since 2007.

So what I'm saying -- I just want to be very clear here. I'm saying that certain customers are being overcharged BFC, specifically the customers that correspond to these 4,400 unused REU. Do you not see that -- that subclass

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of customers being overcharged according to this analysis?

MR. CULBREATH: Object to the form.

A. I would agree that it is appropriate to consider the distributional effects of this phenomenon and to do some inquiries to see if we find evidence of cross subsidization of some sort. But I don't find the difference in the observed average usage profile and the assigned REUs necessarily to be anything that would make me significantly concerned about the fundamental equity of the system.

Every base charge system is an attempt to recover a subset of costs in some workable, functional way. And because it's not -- because the focus of a base charge is not on measured volumetric usage from month to month, it always involves setting up a framework that is not going to be perfectly reflective of average usage patterns. It's definitely worth looking into, and the potential equity implications are worth studying.

Q. I agree with you that it's worth looking into, and MPW looked into it back in 2014. They got this report back in 2014 that says 40 percent

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of the commercial REU in the system are unused. The whole basis of this report was due to incorrect REU assignments, customer inequities, etcetera. MPW did nothing to change their base charge practices in response to this report in 2014. Do you believe that was reasonable and appropriate?

MR. CULBREATH: Object to the form.

A. I do not see anything here that would make me think that what they did was unreasonable or inappropriate in any way.

Q. Is 40 percent of the total commercial REU not being used, is that a large percentage in your opinion relative to the considerations we've been talking about today?

A. I have a hard time reacting to the 40 percent because I disagree with the interpretation that this capacity is not being used.

Q. So is it your testimony that you think MPW should have told DHEC that they needed 11,111 REU in 2013?

A. No. I don't have -- I don't reach that conclusion at all. A conversation with DHEC about usage patterns is appropriate for technical

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people to have with technical people, and ancient and up to date and projected usage profiles, all of that information should be part of that conversation, and it seems entirely logical to me that they would be having a conversation with DHEC about this commercial REU phenomenon in the use of the roughly 6,700 versus the 11,000. I just don't see that that implies anything negative about the base charge -- basic facility charge as employed by Mount Pleasant.

Q. As you sit here today, do you know how many REU are unused in MPW's system according to this approach analysis that CDM has employed?

A. No.

Q. Do you think that information has any relevance whatsoever to whether or not MPW's BFC rate structure and practices are just and reasonable and compliant with South Carolina law?

A. I think this kind of investigation is relevant to a review of Mount Pleasant's rate structure.

MR. APPEL: All right. Why don't we put a pin in it right now, and you-all go have lunch, and maybe we'll come back at, what, maybe quarter to or 2:00? How does that sound?

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MR. CULBREATH: Why don't we say 2:00, Ross.

(Lunch recess.)

MR. APPEL: Let's get back to it.

Q. All right. Mr. Zieburtz, during the break, I did something very dangerous, which is I performed some math. And what I did was I took 4,400, and I multiplied that by 300 gallons per day times 30 days in a month times 12 months, and I got to 475,200,000 gallons of water. Do you follow that rough math?

A. I'm not independently confirming it, but yes, I follow.

Q. Okay. All right. So I'm trying to get some context into that figure, 475 million gallons of water. What could be an example of that magnitude of water demand on a daily basis and what would that look like in the real world?

A. It -- in common water thinking, that's maybe, what, 1.2 NGD, right? So that's a substantial amount of water. I don't know. I wouldn't attempt to translate that into a number of customers or a particular industrial application.

Q. But you would agree with me that that is

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an enormous amount of water, correct?
A. Relative to what? I don't know.
Q. Okay. So here's where I'm going with this, okay? So that's the -- that's what 4,400 REUs are when you break it out over a year. So let's just say hypothetical future rate year. I'm just trying to understand -- and we talked a lot of about potential demand, black swan events, and things like that. What could put that sort of unanticipated demand strain on the utility? Do any types of examples come to mind? I mean, I'm just trying to frame this in relative terms.
A. Different customer classes have different kinds of peaking patterns. So if we were to observe a certain kind of use that had a peak ratio of -- just to pick something out of the air -- 2.0, that would be high. That might be, say, an irrigation customer class.
Implication of that is that the peak is twice as high as the average day. So to me, the number of gallons isn't -- doesn't -- is not necessarily a useful calculation. But if you compare that number to the entire utility's average day sales, then you could see what portion of the sales it would be.

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But it still doesn't -- from my perspective in attempting to apply that to Mount Pleasant's rate structure, I don't think it tells us anything because, again, the customers of Mount Pleasant are not being charged for those REUs in the sense of being charged for volumetric consumption. It's not a (inaudible) water that wasn't consumed.
Q. Okay. We talked before the break about the difference between capacity in the system versus actual use. Do you recall that?
A. Yes.
Q. All right. And based on the analysis in the CDM report, they concluded there was 4,400 unused REU which accounts for approximately 40 percent of the total allocated REU in the system. Do you follow?
A. Yes.
Q. All right. Now, I was trying to get at a line of questioning to try to put that 40 percent into perspective. Is that a lot? Is it not that much? It seems like a lot to me.
But my question is this: Is there any industry standard out there, in the M1 manual or any document or any sort of authoritative

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industry publication, that speaks to an acceptable delta between capacity and use expressed in percentages?
A. I don't -- I don't think there is any standard like that in this context with a great focus. Water demand professionals certainly work with a wide variety of circumstances and plan for peaks and emergencies and all different kinds of ways and growth in all different kinds of ways.
So from a system planning standpoint, which is the substantial role of CDM in assisting Mount Pleasant, they might have expectations for the system to be able to peak at different kind of ratios overall -- or maybe as an extremity [ph] of the system, they would want to be able to handle some kind of a peak versus at the core and different kind of peak.
But from a rate planning perspective, the divergence between average commercial usage profiles and a number of REUs used to allocate base charges, I don't think there's any standard because I don't think it's something that is -- it's not representing a deficiency of the system. It's merely from the rate standpoint -- again, not that this isn't a legitimate conversation in

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the other sense, but from a rate standpoint, it's just a statistical result. It's just a result of a calculation.
Q. So when MPW is performing this analysis with CDM with an eye towards making its reports to DHEC or whatnot, is peaking capacity reflected in this analysis in any way?
A. I am not familiar with the actual reports and metric that is used to have the conversation with DHEC. I'm certain that peaking is addressed. I just -- I don't know how it's addressed.
Q. Do you think it's reasonable -- and we can follow up with CDM about this. But do you think it's reasonable to think that CDM is probably factoring in peaking on some well because when they're making their reports to DHEC, they don't want to understate what their actual demand is, right?
A. I think that Mount Pleasant's objective and is supported by CDM would be, in this context, to attempt to communicate to DHEC that there was room for growth on the system beyond that which would be implied if you took these REU numbers and added them up and subtracted that

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amount from the system capacity. So to do that in a meaningful way, the parties are certainly talking about peak.

Q. Okay. So in other words, is what MPW is doing here, isn't it essentially just telling DHEC, hey, you know, we may be permitted here, we want to make sure we have a very clear understanding of where we fall within the band of permitted water use? Is that essentially what's going on here?

MR. CULBREATH: Object to the form.

A. I would say that I think I'm in substantial agreement. Mount Pleasant's point would be, according to our paperwork review, we are shown as being here, let's call that ten, but according to the way our customers are using the system, we see ourselves at something else, eight, I don't know. And therefore, because of that, we want to share with you this -- this -- the fact story that leads us to this eight so that then in your process, you don't cap out growth. You don't show us in your regulatory system as being unable to add customers.

Q. Understood, understood. That's -- that was very helpful. Okay. So let's put aside the

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DHEC stuff and the future planning capacity and all that kind of stuff. From a rate perspective, from a rate review perspective -- and I think you spoke earlier about these various rate structure impacts that can necessitate a fresh look at some of the rate structure assumptions in a system. Is it your opinion that this CDM report and its findings, does it represent a rate structure impact that would necessitate a review and a fresh look at the BFC rate charging practices that MPW has?

MR. CULBREATH: Object to the form.

A. I think it would be reasonable for Mount Pleasant to react to this information by wanting to have some thought about the structure and about the REU assignments. I don't -- I wouldn't see the reaction to this as being so clear as to suggest that it was going to push Mount Pleasant to attempt to take any kind of action to necessarily change anything, but I definitely think that it's obviously relevant to the rate structure and for the commission to consider whether they would want to do updates, which I think may be appropriate.

Q. Do you know what MPW actually ended up

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doing over the year or so after this report came out as it relates to customer notifications and base facility charge rates?

A. I understand that eventually there was communication generated to some commercial customers to inform them about these kinds of differences in numbers and invite, I guess, a communication about REU assignments.

Q. Right.

A. That may not have been in your window, but that was my understanding.

Q. Yeah, so I'll represent to you that in 2015, MPW notified a group of customers about their REU assignments, but it was the customers that had insufficient REUs assigned to their account in about the 2015 time period. Are you familiar with that notification effort?

A. I'm familiar with the idea that the commission notified some customers. I'm not -- I guess if there were two separate notifications, I don't think I realized that.

Q. Yeah, so in 2015, the customers with insufficient REUs were notified, and it wasn't until 2018 that the customers with excessive REU were notified. Do you have any opinion on -- on

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that?

A. I think that represents a very typical focus among utility managers to try to respond to evidence of a customer going substantially beyond the norm on the upside. I think the thinking being that whether it's base charges or management of impact fees, that the -- the range of different demand profiles is pretty significant, including lots of ups and downs.

The downs don't seem, I think, to represent as much of a threat of creating an inequity as the ups, and so it's the -- it's a focus on the ups because the ups might represent a place that had a small REU assignment and suddenly went from, you know, one house on two acres to some huge multifamily development. And that would be the kind of thing that a lot of utilities would focus on catching, so for them to go first in that direction seems typical and logical to me.

Q. So you're saying that it's a priority -- it's a reasonable priority for utility to prioritize notifying the customers that are being arguably undercharged versus the customers that are being overcharged?

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MR. CULBREATH: Object to the form.
A. I'm slow to consider to use very easily undercharge and overcharge, but yes, the -- the situation of a customer using beyond its allocated capacity does seem typically and probably, in my opinion, to be reasonable to focus on first relative to the other -- to the flip side.
Q. All right. Let's go back to your report here, and we didn't -- well, I guess we're making pretty good progress. We're at the top of page 3 of 4, and we just had a long digression on the equity in cost recovery component.
The next one on the list is customer understanding. What do you mean by this factor?
A. Literally the ability of the customers on the system to understand how the rate structure works sufficient to grasp the primary drivers behind their bill. It's an important objective in rate planning because -- for several reasons.
One being that for a price structure to work and send the right price signal to a consumer, the consumer has to understand. And that be the -- in most normal good, that it's to

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work things a lot for the price. It's a simple transaction. It's more complex for services, and it certainly seems kind of complex for people to contemplate these services, that utility services are sort of abstract and confusing. So we do pay some significant attention to this idea of being able to have people understand so then they can react.
But it also relates to operational efficiency for the utility in a surprisingly significant way. The investment and well-run utilities and customer service professionals and training and staffing up to deal with customer communications is surprisingly large, and certainly an unclear rate structure raises that overall cost that everybody has to bear.
And the third thing to mention, and I think this is sort of a secondary or even a tertiary effect, but really important. When the rate structure is understandable, it's easier for people to grasp that it is basically fair, and that's a really important step in the direction of having a productive and mutually beneficial relationship between the utility and the customers. Customers who don't feel comfortable

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with the utility do things that then wind up working against the objectives of the utility and ultimately against the objectives of the community at large.
So this idea of trying to communicate in such a way that the customer grasps that the utility's functions are prudent and fair really winds up benefitting everybody because that -- that positive relationship leads to efficiency. It leads to operational efficiency. It leads to public support of, say, conservation initiatives or drought management and all kinds of things like that.
Q. Okay. So a little further down on this page, you talk about common structures for base or fixed charges. One option being the meter size, and I think the pipe size as well is another example, and then you've got the equivalent unit approach, which MPW has, of course.
In your opinion, which of those two options is easier to understand for a customer?
A. I don't believe that either of them is necessarily easier to understand. They both have multiple advantages, one to the other and all of

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the different kinds of things that we would consider. But I think either approach can be communicated effectively.
Q. In your experience as a rate consultant, is it your -- has it been your experience that the average commercial customer has an understanding of what a residential equivalent unit is?
A. I would say yes to the extent that it matters to them. I think most of them understand it well enough for that purpose, and I'll explain. In the case of many enterprises, the magnitude of the water and sewer bill is such that it simply doesn't deserve much attention to be super careful about those -- a charge of very small magnitude just isn't economically logical. So there are a lot of people who don't really have any background or concept. But for many of those, it's just a de minimis burden.
But to the extent that these charges are more significant, especially in the case of a water-intensive manufacturing enterprise or something like that and to the extent that the upfront charges are more significant, so even for a, you know, relatively small office building or

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a multifamily structure, when that -- when those projects are being developed and going around, there are then typically fully informed conversations on both sides between development process, planning folks, engineers, and such, and the water utilities. Yes, I do think the commercial customers are typically well enough informed to react appropriately.

Q. Would you agree with me that utilities like Mount Pleasant Waterworks have more resources and expertise when it comes to understanding rate structures and practices than the average commercial customer?

A. Yes.

Q. Would you agree with me that one of the goals a rate structure ought to have is to minimize the amount of technical understanding a commercial customer must have in order for it to make decisions about its relationship with the utility?

A. Yes, one of the objectives is -- would be as I was alluding to in the -- inciting customer understanding.

Q. Okay. All right. So we're down here to the middle of page three where you talk about the

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two common approaches. Meter size -- let me back up. I would imagine that there's pros and cons associated with each approach in general; is that correct?

A. Yes.

Q. All right. What are some of the pros with respect to the meter size approach?

A. One of the most significant advantages of meter size is that a meter is structured to have an ability to process or deliver water, and it's inherent in the concept of piping that there's a limit on the capacity that a pipe or a device can provide. And because that limit is objective and known, then once you know the type and size of meter -- it's not just the internal diameter, but it's also the type of meter as well. Once you know those two things, then you do know something that is important to know about that customer's future potential demand. You have a number above which they cannot consume water. So that's a nice thing to be able to lean on because it is objectively true.

Q. Well, that's interesting. So would it be your position then that if a meter-sized approach was applied to a utility that it could

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somehow address some of those future peaking concerns? Because by the very nature of the equipment, there's just only so much water that can be pulled in any given time.

A. I think either kind of base charge structure can lead to an equitable recovery of cost whether associated with peaking or not. It certainly is true that meters, wherever they exist, do impose those -- well, that's whether it's used in the rate structure or not. But every type has a maximum theoretical capacity, and every element of a water system has a maximum theoretical capacity.

Q. And that's true regardless of which choice a utility decides to make when it comes to how to calculate the base charge because, of course, MPW has water meters and pipes in its system, right?

A. Yes.

Q. So the equipment is the same, it's just a choice of how to go about calculating the base charge, right?

A. Yes.

Q. Okay. So am I correct to say that one of the pros of the equivalent unit approach is

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the potential to more accurately bring into line a customer's actual use or use profile for billing purposes as compared to meters and pipes? Because an equivalent unit is a number in a spreadsheet somewhere, right? It could be much more easily adjusted than putting in a new meter digging out an old pipe, right?

A. Yes, certainly much easier to change. But I think the -- I would -- I would respond I think to the word accurately. I would say -- so I'm going to just --

(Court reporter interrupts for clarification.)

A. One of the key advantages of an equivalent unit system is that it is a good way to reflect typical usage patterns in a base charge more easily -- a little bit more easily than you could do with a meter-sized base charge system. So it's not so much a matter of accuracy, it's just a matter of whether you want to be more representative of typical usage patterns or not.

Q. Right. But in order to actualize that pro in the ERU or REU approach, you have to actually manipulate the numbers, right? I mean,

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that's the whole value of the approach, right, is the means to more feasibly make those adjustments to customer accounts and even utility wide over time as compared to meters and pipes, right?

A. Well, I think that if you want to -- if you want to push your user charge system to where it more significantly leans on average usage profiles, then an equivalent unit system is a way to do that. I just don't know -- I would not characterize that as being more accurate or necessarily any better.

Q. Does the M1 manual discuss the equivalent unit approach for calculating a base charge?

A. Very scarce mention of equivalent units in M1, which I did recently check in scanning documents as part of this process. It is a pretty common system, and so I was surprised to find that. I didn't remember that we hadn't treated it hardly at all.

Q. All right. That's a lot of -- oh, I'm sorry. I thought you were finished.

A. Sorry. I was just -- it is very common use but doesn't really much appear anymore.

Q. Right. And also, it doesn't appear in

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this book, Water and Wastewater Finance and Pricing by one George Raftelis. You know, our expert's testimony is going to be this equivalent unit approach is in none of the authoritative resources in this industry. It's not in the M1 manual, it's not in the IWWA publications, it's not in George Raftelis's book.

How do you square that with this statement and this opinion that this is a common rate structure? I mean, one would think that if it was as common as you're suggesting, it would be discussed in the authoritative literature.

MR. CULBREATH: Object to the form of the question.

A. M1 is a product of the American Water Works Association, which is a, quote, dominated by technically focused analytical water professionals similarly to the entire water industry. And there is an attraction for technically focused analytical professionals to the idea of measurement and to the idea of using data, and that certainly is true of rate consultants as well.

So I think it's an actual bias to look towards something that offers an objective --

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that's my thought as to why we focus on it so much in the professional literature.

But in practice in many utilities, utility managers not infrequently -- and rate consultants in real world, in real irrigation, it's not infrequently decided that an existing equivalent unit system is working well and -- or in some cases might even be better than a meter-based system.

So I don't know -- I don't know what the proportion -- among all of the utility -- water utilities in the United States, I don't know the proportion that would use equivalent units, but it could be a third perhaps. I don't know. But it's certainly not some unheard of -- like, it's got -- one of its virtues is I think maybe there is a nice simplicity to be able to say, well, based on all -- we wind up everybody's average state demand, and, you know, your kind of customer is two houses worth, two equivalent units, and this other use is eight equivalent units, it's easy to talk about. And so I think that's why it continues to be used in a lot of places.

Q. Okay. So now we're down at the bottom

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of page three. This is under the heading you have under number two, quote, There is no perfectly equitable rate structure, end quote.

You say here in the second paragraph, Specific to MPW's rate structure, if MPW were to update its REU assignments annually or even more frequently, it would not necessarily result in increased equity in cost recovery versus a pattern of infrequent updates.

Do you see that?

A. Yes.

Q. MPW never updates its commercial customers' REU assignments; isn't that correct --

MS. HILL: Object to the form.

Q. -- unless a customer requests it and forfeits assets that it purchased? We'll get to that later. Let me rephrase the question.

Isn't it true that MPW never on its own updates its commercial customers' REU assignments?

A. That is what I understand.

Q. Okay. So we're not talking about the question of annual versus infrequent, we're talking about annual versus never from the stand point of the utility doing the adjustment. As

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you sit here today, do you believe that it's fair and equitable for MPW to never -- never periodically update its commercial REU assignments on its own?

A. Yes.

Q. Should it -- so you don't think they should do it every decade?

A. I don't think that the calendar is necessarily very helpful in addressing the equity issues here.

Q. So you don't think that -- oh, I'm sorry. Go ahead.

A. Because, again, it is -- it is not fundamental to the effectiveness of a base charge system that is to be perfectly aligned with average usage patterns.

Q. I'm not talking about perfect alignment. Is it fair and equitable for MPW to not once in 30 years update its commercial REU assignments to its customers on its own?

A. I wouldn't -- I would not necessarily think that a utility that never updated its REU assignments was necessarily doing anything unfair or inequitable. In fact, I think it is extremely common for utilities to set capacity assignments

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of whatever sort at the beginning of a customer relationship and then ought to consider them unless, as in Mount Pleasant's case, somebody comes to the utility with a change of some sort.

Q. But what is the significance about a customer coming to the utility? Why would there ever be a scenario where someone would want more REU assigned to their account than they're using for base charge purposes?

A. Let me see if I can respond this way and if it's responsive. In a utility management environment, it is important to focus on the things that need the most attention. And this updating and trying to monitor closely usage profile patterns and compare them to base charge structures, I can't think of a utility where that issue rises high enough on the level of concern to trigger the willingness of the utility to be willing to invest in that tracking.

The base charges, again, they're not filling in for a number of gallons as are, you know -- so once those initial numbers are set, whether REUs or some use of an equivalent meter system, in most user charge systems, those assignments stay as they are unless there's a

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redevelopment of fire or rebuilding or some customer comes in and says, here's my new plan, here's what I want to do.

Q. We represent a class of approximately 700 commercial customers. They've been overcharged approximately $6 million in excessive BFC over the past four years in our opinion during the class period. Why would any of those customers not want to have had their REU reduced during that time period so they would have had to have avoided paying that substantial amount of aggregate funds to the utility? I'm not talking about the whole rate base. I'm talking about our class.

MR. CULBREATH: Object to the form.

A. When a base charge and volumetric charge system interact in the way that Mount Pleasant does and many have this attribute of having the volumetric rate be linked to the base charge, it is common for the -- the linkage to lead to higher volumetric charges as in Mount Pleasant when consumption goes above a certain level.

And so those kinds of circumstances are pretty common, and they are a good example of why quite a few customers are comfortable and maybe

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even desirous of a regular base charge level that would minimize the number of times that surcharges would appear or that disproportionate average unit charges would be applicable.

So there's a pretty significant desire for stability in utility costs among commercial customers. So I would -- I would suspect that in -- certainly in some cases in that group, there would be customers who would have been happy to pay a stable number rather than a lower number except for really high bills on unpredictable occasions.

Q. Do you agree with MPW's policy that says, customer, you can come to us and request an REU reduction so you pay less BFC every month, but in exchange for that, you are going to give up REU assets that were purchased through impact fees? Do you see any problem with connecting REU for base charge purposes to REU capacity assets purchased at the impact fee stage?

A. I don't see anything about that that seems to suggest that that's wrong in any way. There's an impact and symmetry that in doing that, Mount Pleasant is, I think, maybe achieving a little bit higher level of product of equity

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overall and trying in this way to keep base charges and impact fees and the overall rate schedule and little bit more aligned to where the capacity of customers' relationship is a little bit more consistent amongst these different kinds of charges.

Q. How can it ever be fair and equitable to force a customer to give up an asset they paid for? How is that ever fair and equitable?

MR. CULBREATH: Object to the form.

A. The payment of an impact fee or any, again, of the other names for this kind of capacity driven upfront charge, isn't optimally thrived as purchasing capacity. It's one of the unfortunate typical phrases that we use in our industry because it implies ownership on the part of a customer, and that is -- isn't really what's happening.

The purchase of the -- the purchase of capacity is really a payment for access to capacity, and it almost never -- in fact, it must -- it is necessarily never the complete cost of maintaining that capacity. The payment of rates and charges on top of the buy in amount, even when the buy in amount is carefully and

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thoughtfully calculated to be as full cost as it can, it still must be then matched by the payment of rates and charges over time so that the utility is fully able to continue to provide that capacity into the distant future.

The buy in --

Q. I'm sorry. I'll let you finish.

A. I apologize. The buy in is a good start, but utility costs are diverse and ongoing. It is not as simple as the purchase of a thing that isn't even owned. Capacity isn't a thing. It requires a lot of things, but they have to be managed, they have to be maintained, they have to be rehabilitated to provide that capacity forever. But Mount Pleasant's approach is actually very sensible in that regard.

Q. Bill, Mount Pleasant Waterworks doesn't miss an opportunity in this case to refer to capacity as an asset. An asset is an entitlement that people own and that people make investment decisions based on, that people transfer. It's an asset in Mount Pleasant Waterworks's system.

Are you telling me that essentially that is not an asset that people own, but it's really more like something that people just have to rent

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indefinitely?

MR. CULBREATH: Object to the form.

A. I think that it is both reasonable for a customer to consider their payment of capital charges in their own integral calculus, whether commercial or residential, as an asset because it is providing them access to this capacity that they must have to use their land productively.

But at the same time, I do think it's important for utilities to be careful about using words like asset because they imply ownership in the sense that is not literally true.

Q. So is it fair to say then that in your opinion, every time MPW uses the word "asset" in connection with impact fees or base charges, that they're using that word figuratively rather than literally?

A. Well, I think that it is -- they're using it literally in the sense that they, the utility, have accepted the obligation. As long as the customer continues to comply with the rates and charges as adopted, they've accepted the obligation of providing that capacity. So for Mount Pleasant, it is as if they're now on the risk. They're doing this work, provide that

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capacity, and so that is a very substantial way in which capacity -- access to that capacity is an asset. It's something that customers can rely on.

I am just merely wanting to be careful with the further step that sometimes people do go to to think of the access to capacity as an owned asset, which implies control -- which implies control, and I think that's the distinction.

Q. I'll represent -- I'm sorry. I keep thinking you're finished, but I'll let you finish.

A. And I apologize. I keep pausing and picking back up. In the Mount Pleasant context, if you pay this upfront number and then you pay the rates and charges as applied, you've got access. So for you, it behaves like an asset in that sense, but I do think that's still notably different from a thing that you buy and take title to and can and do with what you want.

Q. Isn't an impact by its very nature a one time charge for capacity?

A. Yes.

Q. Right. That one time charge concept is something that you see all the time, not just in

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the water and wastewater context, but in the transportation impact fee context, the school impact fee context, impact fee practice generally. An impact fee is a one time charge for your proportionate infrastructure demands on an existing utility structure in order to maintain an established level of service, correct?

A. I wouldn't probably use the word "maintain" in that context because that gets to my point that the capital assets, the stuff that must be used to provide that capacity long-term, whether it's utility infrastructure, transportation, or whatever, must be maintained, managed, rehabilitated, and all of that.

Those upfront charges can't by state law, whatever this -- I think in every case where there's legislation and then by, you know, court decision where there isn't any legislation, these upfront fees can't include operating costs or stuff like that. So it is -- it's like a buy in number. It is a one time charge, but it isn't sufficient. It's not in the real world. It's not sufficient for everybody -- a hypothetical will help.

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A brand new utility system gets formed. It has no customers. To calculate the full cost impact fee and everybody connects and pays that impact fee but never uses a drop of water, that is a utility that is doomed in short trip. That's a utility that cannot survive. That's a utility that its assets will ultimately fail and where ultimately no capacity will be available because that upfront cost is just the upfront cost. There is ongoing cost in maintaining capacity, and it must be recovered through rates and charges.

Q. Right. But why then pay that buy in capacity, which I can just tell you, MPW has been saying nonstop in this case is an asset and that this -- this is the reason they say they don't right size. They don't right-size because they don't want to take away people's capacity assets unilaterally. That is Clay's testimony in this case multiple times.

Why does it have to be like that? Why do you have to peg this initial buy in capacity based on a pre-use assumption with no benefit of any actual data whatsoever? Why does that have to be indefinitely tied to the way the base

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charge is calculated? Why not just lower the REU for base charge purposes and leave the impact fee buy in REU capacities set? Don't move it?

MR. CULBREATH: Object to the form.

Q. Would there be anything that stops MPW from just having two separate columns for every commercial account, your buy in capacity expressed in REUs that you paid for via impact fees, and then your base charge REUs, if they want to continue charging based on base charges that just get adjusted periodically, whether it be a year, two years, whatever? Is there anything stopping MPW from having that kind of system?

A. I don't think there would be any financial accounting or rate setting reason not to do that. I would add that I don't necessarily, again, think that that -- those updated base charge numbers based on average use, I don't think that that necessarily would increase equity in cost recovery, but I don't think that there would be any statutory or management prohibition on doing that if they chose to.

Q. I can represent to you it would have

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prevented this lawsuit, and it would prevent future lawsuits if they were to do that. If MPW were to periodically right-size its REUs based upon actual use data, incorporate a peaking function if you want, based on average use, there's multiple ways you can skin the cat, if they were to do that and periodically adjust its REUs for each commercial customer without touching the impact fee buy in capacity asset, there would be no dispute in this case. Don't you see that as being a value potentially with moving to an alternative methodology?

MR. CULBREATH: Object to the form.

Q. Bill, the problem in this case is that MPW's policy is that a BFC is a capacity reservation fee. George Raftelis has attacked that concept. MPW's own attorneys have said on multiple e-mails that that concept is inequitable because you purchased capacity with impact fees, and to hold a customer hostage, to say that in order for you to be given the benefit of being charged a base charge according to your actual use records and an REU brought more in line with your actual use profiles, you have to give up an asset. That's why we're here. We don't want to

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give up our assets. We want to be charged a fair and reasonable use charge based on our actual use data. Not every month. We're not talking about a base charge becoming a volumetric charge. We're saying you can't set Snee Farm Lakes's REU in 1982, before I was born, and never change it ever until the HOA comes to Mount Pleasant Waterworks and decides to forfeit tens of thousands if not hundreds of thousands of dollars in assets that they own. Do you see any problem with that?

MR. CULBREATH: Object to the form.

A. Sorry, that was a rather long --

Q. Yeah, that was kind of ridiculous. Let me just scratch that question.

Is it proper to refer to a base charge as a capacity reservation fee?

A. I don't find it to be particularly troubling. I think that base charges are often referenced as in some way to allude to this idea of -- of providing access to the system. I -- sometimes base charges are called readiness to serve fee. I can't think -- half a dozen similar kinds of phrases. And they do refer to this idea of keeping the system going essentially while

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you're not using any water, while your volumes are down.

So capacity reservation is -- are just words reflecting the idea that this charge is associated in part, not in full, in part with the provision of capacity. And given the way that I understand Mount Pleasant's impact fees and rates to be calculated, there's not any general recovery. So I don't think that there's anything terribly wrong about that phrase or the concept that capacity is related to base charges.

Q. So you disagree with George Raftelis on this point?

MR. CULBREATH: Object to the form.

A. I'm not unwilling to disagree with George or agree with George, but if you show me specifically some words, then I can react to him -- his words specifically.

Q. Yeah, I'll pull this up. I didn't plan on using this, but let's see. Hang on. Okay. All right. Before I get to the deposition transcript, I'm going to mark Plaintiff's Exhibit -- I think we're on to 8 right now.

(Exhibit No. 8 marked for identification.)

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Q. I've got this on the screen. This is the most recent cost recovery policy dated June 24, 2019. Have you seen this document, reviewed it?

A. Yes.

Q. All right. And I'm assuming you've looked at Policy 7.2 which talks about the base facility charge; is that correct?

A. Yes.

Q. All right. The final two sentences in this policy says, quote, The BFC is a charge for the reservation of capacity based on the total active REUs assigned to a property. To ensure the purchased capacity remains available, all BFCs must be paid, end quote.

Do you see that?

A. I do.

(Exhibit No. 9 marked for identification.)

Q. Okay. So I'm now going to pull up an excerpt from Mr. Raftelis's deposition, and it's page 103 starting at line eight. And I say, As you sit here today, George, do you believe it would be a good idea to remove the language, quote, capacity reservation fee from Policy 7.2?

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Do you see that question right here?

A. Yes.

Q. Gray objected, and George said, Yes. Do you see that right here?

A. Yes, I do.

Q. George Raftelis, the guy who wrote this book, said that the term capacity reservation fee should be struck from this policy. Do you agree or disagree with that statement?

MS. HILL: Object to the form.

A. I just don't see anything deeply wrong with that phrase. I -- I think that it refers in a general sense to something that is real and sensible and included in Mount Pleasant's basic facility charge system, which is an acknowledgment that rates and charges have to be continually paid to keep that capacity actually available.

Q. But Bill -- oh, sorry.

A. I don't know that I specifically would have used that language, but I'm not against -- I just don't see it as being particularly alarming or troubling.

Q. But Bill, there's a difference between a readiness to serve charge and a capacity

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reservation fee. And do you want to know why? Because with a capacity reservation fee, if you go to change your REU, you are giving up the REU that you purchased under MPW's system. That's Policy 5.3.3. Do you see anything wrong with that?

MS. HILL: Object to the form.

A. I don't see anything wrong with Mount Pleasant's policy or practices --

Q. All right.

A. -- in this regard.

Q. Are there any -- are there other regards we ought to talk about?

MS. HILL: Object to the form.

Q. All right. I mean, I think taking away people's REU assets they purchased from impact fees is a whole other story, but we can deal with that another time.

Let's see. All right. Here's a document I'm putting on the screen. We'll mark this as exhibit --

MR. APPEL: And I'm sorry, Madam Court Reporter, I should have marked George Raftelis's depo transcript as Exhibit 9. I'm going to mark as Exhibit 10, this set of

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documents, these e-mails as part of the Raftelis subpoena response.

(Exhibit No. 10 marked for identification.)

MR. APPEL: And I'll make sure to get you-all these documents at the end of the deposition.

Q. All right. Bill, so let's go back to 2017. MPW and Raftelis are working together on reviewing and analyzing Policy 7.2, Policy 5.2.3 [sic] and Policy 5.3.3 because they were threatened with a lawsuit over the same issue we're dealing with today. In the course of that discussion, Mount Pleasant Waterworks' lawyer says, quote, and I've got this in the bolded language on the screen, quote, I recall that we decided not to put in a capacity reservation fee since the customer would have already paid impact fees for the REUs.

Do you see that?

A. Yes.

Q. Do you agree with that?

MS. HILL: Object to the form.

A. I perceive that in those conversations, they decided that capacity reservation fee

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created the feeling of a redundant charge or a charge on top of something that was already charged and therefore inappropriate. So I have no reason to feel that them getting rid of that language is bad. I would just say that I also don't necessarily believe that those words are so clear or so demonstrably represents something that suggests a problem. So as an objective leader of those words, I don't see a problem in their use. But as a person reacting to what they've done, I also don't see any problem and then pulling those words out of their policy framework.

Q. Okay. Here's another e-mail from Chip in the same line of communications here. Quote, did he not conclude that because the customer would have already paid impact fees on the original number of REUs that a capacity reservation fee or back payment for REUs was not equitable, end quote.

Do you see that?

A. Yes.

Q. So forget about whether certain words ought to be in a certain policy. Is MPW's practice of referring to the base charge as a

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capacity reservation fee equitable in your mind? MPW's attorney doesn't think it's equitable. I'm asking you what you think.

MS. HILL: Object to the form. And also, I would ask that he be allowed to read that whole document.

MR. APPEL: Sure. He can spend all the time he needs.

MS. HILL: Is it -- I'm sorry, Ross. Is it one that was included in the notebook that we've printed out for him?

MR. APPEL: No. But it was part of the Raftelis subpoena response that he said he reviewed as part of the deposition.

MS. HILL: So this is not something you provided this morning?

MR. APPEL: It's something I provided probably a year ago.

MS. HILL: Yeah, yeah. I'm not suggesting that you didn't provide it. I'm honestly just trying to find it because I can't read it from here.

MR. APPEL: Sure. It's Bates labeled Raftelis 2179.

MS. HILL: So what is the whole

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string of Bates for that whole entire e-mail discussion?

MR. APPEL: Sure. It's Raftelis 2173 to Raftelis 2183, and Raftelis 2173 is when George Raftelis refers to winners and losers and says, often you hear from the losers in this world.

MS. HILL: So you're scrolling really fast. So can we -- it might be easier honestly if we take a break and print those ten pages so he can look at them and see them and consider them if you're going to ask him questions about it.

MR. APPEL: Sure. That's fair. I'll tell you what, we can come back to that, and maybe I can kind of keep going here. Or are you getting that ready right now?

MS. HILL: It's going to take me a little bit, so yeah, if you want to go ahead and keep going and come back, that'd be great.

MR. APPEL: Cool. All right.

Q. All right. So this sentence here, the final sentence in Policy 7.2, where MPW says, to ensure the purchased capacity remains available, all BFCs must be paid.

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Let's just assume that Snee Farm Lakes HOA reduced their REU and forfeited there asset or whatever you want to call it to do so. Would that just paperwork and change of a number on a spreadsheet mean that, like, less capacity was actually available to serve the customer?

MS. HILL: Object to the form.

A. No.

Q. Right. Because all we're talking about is paperwork and spreadsheets in this whole thing. Nothing any customer does or doesn't do what their REU assignment changes the built condition of all of MPW's, you know, assets in the ground, the pipes, the stations, the trucks, the buildings. None of that changes. We're just talking about making clerical adjustments on an account, right?

MS. HILL: Object to the form.

A. Logistically, yes, the adjustments -- adjustment process as you're describing it is sort of clerical. It does certainly, though, also have implications for the rate structure.

Q. All right. So let's go back to your report here where you talk about right-sizing of capacity allocation for base charges is not

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standard practice.

How do you know that?

A. Could you say that last sentence again?

Q. Sure. You say in here -- this is bullet number four in your report. You say, Right-sizing of the capacity allocation for base charges is not standard practice.

How do you know that? Is that just from your personal experience over the years?

A. Yes. This kind of conversation does come up in the nature of many of my consulting engagements, and so it's -- it's not something that never gets mentioned, and it is -- I think it's been universal in my experience for utility managers or utility financial managers who are focused on such things to be very cautious about taking on obligations of managing customer data and the relationships because of the cost burden and the disruption associated with that.

Q. Okay.

MS. HILL: Ross, do you mind if we just take a second right here and I can try to get those pages?

MR. APPEL: Sure. That sounds good.

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MS. HILL: Okay. All right. Let's go off for just a minute.

(Recess.)

Q. All right. Thank you, Bill. And we're looking at Exhibit 10, a series of e-mails, and I'm on page Raftelis 2179. Let me know when you're there.

A. Got it.

Q. Okay. And Mr. Bruorton says to Clay Duffie, quote, did we not conclude that because the customer would have already paid impact fees on the original number of REUs, that a capacity reservation fee or back payment for REUs was not equitable, question mark, end quote.

Do you agree or disagree with the statement that a capacity reservation fee in this context is not equitable?

A. I don't know what they were contemplating in this context what they mean -- what they meant by capacity reservation fee. When I saw it before, I'll add this, I think that I saw it in maybe one of the policy documents, and I perceived it as a general reference to the base facility charge. But if it means something different from that, then this could be

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100 percent correct.
Q. And I will say that I believe Chip Bruorton is correct here, and he's referring to Policy 5.3.2 and Policy 5.3.3, which is the subject line of this e-mail. And while 7.2 defines what a base charge is, these policies referenced in the e-mail actually are what install the mechanism for adjusting REUs. And what 5.3.3 says is, is customers can come, ask for an REU reduction, but if one's given, their REU assignment from the impact fee stage will be reduced. Do you believe that practice, that specific mechanism is equitable?
A. I think it falls within the range of normal practices to me as it relates to equity. I don't find it to be inequitable.
Q. Okay. So you have a different opinion on this point than MPW's attorney; is that correct?
A. Apparently so. If what we're talking about is the surrendering. As I understood your question, it was about essentially the surrendering of capacity. If that's the question, whether that's inequitable, I don't -- I don't -- I don't find that to be an inequitable

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policy.
Q. Would you agree with me that it would be more equitable if MPW allowed adjustments of a customer's REU for BFC purposes without touching the REU for capacity asset acquisition purposes like we talked about earlier?
A. I don't know. That's an abstract question without a specific instance and tons of math. I'm not sure that I could say either way. I think that it -- it might depend on the circumstances.
Q. All right. I'm going to put a document on the screen. We'll mark it as Exhibit 11.
(Exhibit No. 11 marked for identification.)
Q. This is an affidavit that's been produced in this case, and it's only two pages, so please take all the time you need to look at this.
MR. CULBREATH: It's the first tab in the binder of the documents that were sent.
A. Okay. I have read through it.
Q. In your opinion, is Mr. Ward in this affidavit referring to capacity as an asset?
MR. CULBREATH: Object to the form.

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You may answer.
A. I think that he is, and I think that that's consistent with my idea that it is appropriate to treat it like an asset in this sense, something that provides value and should be thoughtfully addressed by this -- by the kind of analysis that he did.
Q. This gets to what Chip Bruorton was talking about in his e-mail. Policy 5.3.3 as it stands today says that if you want to reduce your REU for BFC purposes, you have to give up your REU for impact fee or capacity purposes. And obviously this is the thought process that Mr. Ward is contemplating here.
Is there any reason why -- and I think you testified to this earlier. Is there any reason why we can't just separate the concepts of capacity REU from BFC REU?
A. I don't know of any constraint that would prohibit the separation of the two.
Q. From an administrative or, like, resource standpoint, if MPW were to wake up tomorrow and say, you know what, we're going to keep capacity REU separate from BFC REU, what would that entail in terms of a change to their

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rate structure? Would that be a difficult thing to do, or would that be a pretty easy thing to do based on MPW's resources and expertise?
A. I would think that the conceptual implication of it would be pretty limited and contained, and the only caution I would have about such a change would be that every time you change something about the way you're dealing with customer data and billing systems, there are surprisingly heavy lists associated with any of -- any changes that would seem to be otherwise very simple.
Q. Okay. All right. So I'm back on your report, and we're getting to the bottom of page 4 of 4 here, where you say that -- you acknowledge in here that, right-sizing is employed in some situations. Do you agree with that as you sit here today?
A. Yes.
Q. And then you go on to say that, you know, unless service conditions change or customer query -- you know, so is it correct to say that service condition changes are what may necessitate a utility to consider right-sizing?
A. Yes. I think that's probably the most

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common trigger that would cause a re-assessment of a particular connection.

Q. Understood. And we talked a lot earlier about the CDM report and the 4,400 unused REU for commercial customers. And as you sit here today, you don't view that as a service condition change sufficient to justify MPW right-sizing its commercial accounts or taking other steps consistent with that approach?

A. That is correct. I don't see that observation or calculation to -- to represent a service condition, a change in service condition.

Q. All right. I'm going to put on the screen Mount Pleasant's budget from 2020 to 2021.

(Exhibit No. 12 marked for identification.)

Q. And it's a very large document.

MR. CULBREATH: Ross, is this in the material that was sent this morning?

MR. APPEL: I thought it was. I'm just trying to get to the historic BFC rates overtime. This may have -- this may have eluded the Dropbox here. Sorry about that. But fortunately, I think I'm going to restrict my questions to just one page of this document here

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for everybody's benefit.

Q. Bill, during your work on this file, have you looked at MPW's historic BFC rates and BFC rate increases over the last ten years or so?

A. I remember reading a reference to the fact that the BFCs were increased at a faster rate than the volumetric charges, but I don't think I've looked at this table before.

Q. Okay. So I'm at the bottom of page -- section five, page two of the 2020-2021 budget, and it's stating a historic rate table here that breaks down the BFC for water and BFC for wastewater from fiscal year '12 to fiscal year '20. And I want you to focus in on fiscal year '15 and fiscal year '16.

So in fiscal year '15, the BFC rate for water increased by 80 percent. The next fiscal year, '16, it increased by 33 percent. And then on the wastewater side, we have a 33.8 percent jump in fiscal year '15 and a 16.7 percent increase in fiscal year '16.

So going back to your report and this discussion of service conditions changing, would you agree with me that BFC rate increases of this magnitude coupled with the CDM Smith report that

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talks about 4,400 unused REU, in that totality, does that consist of a sufficient change to merit a re-evaluation of the reasonableness of MPW's right-sizing policy?

A. I don't -- I don't see the -- I don't see these two things as adding up to a compelling case to me to do something. I would react to these numbers by reference to maybe dozens and dozens of other utilities that have done a similar thing in trying to bolster their fixed charge in one way or another. I don't think that's necessarily pushing it -- any of it in my memory to do a re-assessment of their fixed charge systems.

Q. Okay. But let's just talk about Mount Pleasant Waterworks for right now. So in 2014, MPW is provided a document that says there's 4,400 unused REUs in the system, and its 700 commercial customers are oversized while only 90 are undersized. Then at the same time, the rates for water BFC almost double. Actually, they more than double. And then the wastewater rates increase by about 50 percent.

Would you agree with me that the oversized accounts are disproportionately

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impacted by these rate increases compared to those accounts that are either properly sized or undersized?

A. Disproportionately impacted, I would say yes. I would -- I wouldn't embrace the use of the word "properly," but certainly in the different conditions that you're describing, the list of customers for whom their average use is low relative to their BFC REUs would be -- would experience more of a cost increase. So they would be disproportionately impacted versus the others.

Q. Does that reality of disproportionate impact to oversized accounts constitute a service condition change relevant to the decision whether MPW ought to right-size its commercial REU accounts?

A. No.

Q. But you go on to say here, a customer query is sufficient to lead to a reassessment of demand characteristics. Do you agree with that?

A. Yes.

Q. So MPW being told that there's 40 percent of its commercial REU are unused coupled with what I will refer to and what our

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expert will refer to as a dramatic rate increase in base charges, those two factors put together aren't a sufficient basis for MPW to revisit its practices but a customer e-mailing Clay Duffie is? Is that your testimony?

A. Well, noting again that I don't accept the idea of unused REUs in the way that it is characterized in my context as related to rates here, I would say yes. I don't -- I don't see that statistical observation plus this change in cost allocation to fixed charges to necessarily imply that the utility should have sprung into an elaborate study to re-assess all of the REU assignments.

Q. There's a reference here to increase in administrative costs to both customers and utilities. Do you see that?

A. Yes.

Q. Is it your opinion that a utility periodically right-sizing on its own initiative is administrative costly for the utility?

A. Yes.

Q. Are you familiar with Brunswick-Glynn County Joint Water & Sewer Commission's REU auditing practices?

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A. I am familiar with the utility, but not really with their audit -- REU auditing practices.

Q. Did you know that this utility right-sizes each commercial customer's REU every single year?

A. I did not know that.

Q. Do you know how many employees that utility assigns to this function to right-size every commercial account in its rate base?

A. No.

Q. Okay. Let me just pull up something here real quick because I want to make sure I'm speaking truth here. This utility, Brunswick-Glynn County, has 30,000 accounts and 80,000 citizens in it. Would it surprise you if I told you that this utility has one woman that handles this whole process every year for that utility by herself?

A. No, it would not.

Q. Would it surprise you that this particular individual doesn't have any advanced training or expertise? She was a -- someone in the accounts receivable department they just pulled out and assigned to this task. Does that

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surprise you?

MR. CULBREATH: Object to the form.

A. No, it would not. But it does suggest to me the comments that their process likely involved substantially more people than just the one person now continuing, but that's on an ongoing basis.

Q. MPW has performed numerous audits of its REUs in its commercial customers over the last several years, right? There was the CDM audit, there was the 2015 audit where they notified customers that were undersized that needed to pay more impact fees, and then of course, in 2018, they audited everybody that was oversized according to their definition of it. So MPW has the mechanism to annually audit its commercial accounts, correct?

A. Auditing commercial accounts would be only a part of the cost involved in adopting a frequent base charge revision and re-assignment process.

Q. And so your testimony today is still that it is administratively burdensome and costly for utilities to audit and right-size commercial customers' accounts?

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A. I would say that the cost should not be minimized and that they are significant enough in my opinion to be relevant. Not that they are so high that no system should ever do this, but just that they are high enough to be one of the reasons to be cautious about doing so. And I think they're high enough to be the main reason why most utilities don't do this as standard practice.

Q. All right. I'm going to name several jurisdictions and utilities, and I want you to tell me if you're familiar with the right-sizing practices of any of these utilities, okay?

City of Melbourne, Florida?

A. I've heard reference to them as it relates to this case, but I don't have specific knowledge of their practices.

Q. Hillsborough County, Florida?

A. Same exact reaction to that.

Q. City of Arcadia, Wisconsin?

A. Never even heard of Arcadia. I bet it's a beautiful place.

Q. Village of Belmont, Wisconsin?

A. I don't know that.

Q. Village of Camp Douglas, Wisconsin?

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A. Same response.
Q. Town of Algoma, Wisconsin?
A. Same response.
Q. Northport/Leelanau Township Utility Authority, Michigan?
A. Same response.
Q. The city of Mountain Home, Idaho?
A. Same response.
Q. Loyalist Township, Ontario, Canada?
A. Ah, that's the utility that I referenced earlier that I gave them Bryan's number and Bryan their number.
Q. Got it.
A. I know of them. I know the utility, I don't know much about the utility, but I know them.
Q. Got it, got it. I'll represent to you that every one of those utilities I just mentioned annually audits its REU and right-sizes REU for customers.
Here's my next question. Are you aware as you sit here today of any jurisdictions that right-size and don't put the burden on customers to do so?
A. I think other than the ones you just

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informed me of, no.
Q. So you're not aware of any in the country that right-size?
A. I'm not saying that there aren't more, but I don't know of any.
Q. So have you ever worked for any or consulted with any?
A. Not that I can recall, but it's not inconceivable that that was a policy for a utility that I supported in some regard.
Q. Got it. Do you recall ever making an expressed recommendation to a utility that you've consulted, hey, utility, I want to right-size your commercial REU assignments?
A. I wouldn't claim not to have ever made that recommendation because I think it could be the right recommendation in some circumstances, but I don't recall ever having made that recommendation.
Q. Have you spent any time since being retained last fall refreshing yourself on any of your prior clients to sort of ascertain whether, you know, you have commented one way or the other over the, you know, specific issue in this case?
A. No.

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Q. Was that a no?
A. Yes, that was a no.
Q. Okay. All right. We talked earlier about smart meters. Do you recall that?
A. Yes.
Q. Are you aware that MPW has smart meters?
A. Yes.
Q. Does that constitute a service condition change that's relevant to the determination whether right-sizing is appropriate in MPW's case?
A. No. It might definitely provide useful data, and certainly as the database grows from those meters over multiple years, that information becomes -- is going to become increasingly powerful and useful and might certainly enable a utility to do more -- multiple different kinds of -- to consider multiple kinds of changes. So it's certainly not an irrelevant thing, but I like to be cautionary about -- to my peers in my part of our -- the business without hesitancy to move too quickly knowing the nature of customer databases.
Q. During your work for MPW and their attorneys in this case, have you actually looked

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at and analyzed MPW's systems and resources for performing periodic REU audits?
A. No.
Q. As you sit here today, do you know what it would entail for MPW to review its commercial customers' usage and periodically right-size?
A. Not in detail, no. No.
Q. Okay. So how are you then in a position to opine that right-sizing for MPW would be administratively costly and burdensome?
A. I don't think that I claim that it necessarily would be so costly and burdensome that it would be inadvisable for that reason alone. I -- I just am, I think, reacting -- reacting to the idea that standard of -- standard right-sizing should be standard practice and trying to be sure to call out the different kind of costs, which, again, are not just the costs to the utility but the costs formed by customers as well and the costs -- potential costs of clarity and relationship that should be thoughtfully considered before a utility would decide to right-size or not.
Q. Do you think MPW, had it decided to right-size back in 2014, it would have cost more

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or less money to the utility than, say, $6 million?

A. I'm pausing as I contemplate responding to the juxtaposition of their cost and the $6 million figure. I will say that I don't have any particular reason to believe that it would cost Mount Pleasant in direct expense anywhere near that amount, period.

Q. Okay. I've read your March 19th, 2021, report from top to bottom, and I've noticed that the phrase "capacity reservation fee" does not appear in your report. Is that intentional?

A. No.

Q. Just so I'm clear on this, do you have any opinion as you sit here today on whether or not it is valid for MPW to refer to the base charge as a capacity reservation fee coupled with the policy expressed in Policy 5.3.3 which deals with the administrative process we were talking about earlier?

A. I'm surrendering your capacity.

Q. Yes. Is that fair and equitable?

A. I do not find that policy to be unfair or inequitable. I do not find that phrase to be necessarily alarming in any sense related to

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fairness and equity, but I also don't find it to be a phrase that is important to include. So that wording change seems to be a small (inaudible) about your policies and procedures. And as I think I mentioned before, if somehow I misunderstood what they meant and that they had a different idea and that that phrase was more than just a reference to the base facility charge, that would be a different discussion.

Q. Well, it is. It is more than the base facility charge because MPW has decided to conceptually intertwine capacities and asset with the base facility charge because if you reduce your REU for BFC purposes, you are, to use your word, and I like it, surrendering capacity, which MPW refers to as an asset. Is the phrase "capacity reservation fee" in that context fair and equitable?

COURT REPORTER: I can't hear you.

(A discussion was held off the record.)

(Recess.)

MR. APPEL: So before we had a little snafu, I had asked a question, and we were waiting on you to answer, so I'm going to ask our

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Madam Court Reporter to please restate the question I asked.

(Question read back.)

A. I just don't see how a phrase is necessarily fair and equitable.

Q. Can I stop you right there real quick? It's not a phrase. It's a practice. MPW has a capacity reservation practice that's in effect. It's not just words. Policy 5.3.3 is real. Policy 7.2 is real. The statements that Jason Ward said in his affidavit are real. People are not utilizing the process MPW put forward because they don't want to give up capacity. It's not just a word, sir. Sorry. Please continue.

A. I have said that I don't find the practice to be unfair or inequitable as I review it, and so if those words are the name of that practice, then I don't find those words to be unfair or inequitable.

Q. What if we got CDM Smith back out and they took another fresh look at MPW's billing records and they determined this time that 75 percent of the commercial REU assigned to the commercial rate base was unused? Would that be a sufficient service condition change that would be

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a basis for reexamining MPW's policy whether to unilaterally right-size or not?

A. If you're asking if it would be a sufficient condition for a utility to feel compelled to do that in order to achieve sufficient fairness and equity, I would say no. But like the reaction to the data that has been reviewed already, I find it to be potentially interesting and deserving of some attention so that the utility can't consider whether it wanted to make any kind of change in its process.

But it definitely does not get to the heart of the service condition change which is more -- which is really represented by a change in the size of a connection or a meter or a massive change in the use that is being put behind a connection.

Q. But why isn't -- why isn't it a sufficient service condition change to say, look, our commercial REU assignments are just off by 40 percent, they're off, they're inaccurate, we should adjust them to be more accurate? Isn't that compelling in and of itself?

A. Again, I'm not necessarily opposed to adjustments, but I -- I don't see the fact that

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average use is less in many cases than a stated number to be a troubling outcome. The average use of people with a three-quarter-inch meter charged according to that meter capacity is always going to be less than that particular metric. The average use -- there's always variability inside any class if the class is defined by a use type or inside any meter group or inside any REU system. There's always variability inside any group that we assemble. We assemble a group to be somewhat similar characteristic, but we don't expect them to all be uniform. We don't expect them all to necessarily fall on a nice normal distribution. They might be on average, high or low or some other things. We acknowledge there's some variation.

And it is -- it is -- it is certainly potentially interesting to a utility to explore these kinds of things and consider whether something should be done, but as always, just recognizing the fact that equity is not the only objective. A change that might seem to be pro equity might be a lot more complex than that, and all the other objectives that the utility must

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maximize are also relevant and should consider together.

Q. So you said in there you're not opposed to right-sizing. What would be the thing that I could tell you or you could learn or you could be presented with that would make you say, okay, now MPW should right-size its commercial accounts? Because we've looked at the CDM report, we've looked at the rate increases, we've looked at the administrative burden piece. That's not enough clearly based upon your testimony. What else is needed? What would be the thing that says, okay, now MPW needs to right-size commercial REU assignments?

MR. CULBREATH: Object to the form.

A. I don't know how to say what it would take. When questions like that come up, they are in effect feasibility studies of how a particular potential policy changed, and a feasibility study is very focused on specific conditions, specific cost paradigms and operational issues and all of that.

I'm not sure how to say more than that. So I think it would -- we would have to do a study or, you know, participate in an evaluation,

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consider what Mount Pleasant -- the objectives they are trying to maximize, try to quantify the potential cost subsidization issues, consider -- at that time, if somebody -- if a utility was to consider changing its base -- basic facility fee structure in that way, then it also should consider other aspects of its rate structure at that time. So --

Q. So your -- oh, I'm sorry.

A. Just -- I'm not sure how to say exactly what else would be needed.

Q. So do you think MPW's rate structure based on everything you know, everything you've reviewed, everything we've talked about today could use a feasibility study, just a fresh topdown look on all of these practices, the base charge, right-sizing, all the way down?

A. I think that on an infrequent basis, that kind of study can -- could be very beneficial for any utility. I don't think that it would be a bad thing if Mount Pleasant wanted to pursue that kind of a study. I think that it might be extremely useful. I don't --

Q. If it turns out that MPW has not performed that specific type of study in, say,

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the last 30 years, would you think that was unreasonable?

A. No. I think that probably would be fairly typical. Most utilities don't.

Q. All right. I'm going to try to push through some of these things pretty quickly. I'm going to put on the screen what I've marked as Plaintiff's Exhibit 13.

(Exhibit No. 13 marked for identification.)

Q. These are some slides that were produced to us from you. Bill, do you recognize these documents?

A. Yeah, I recognize this slide, yes.

Q. What was the purpose of these slides? Why were they generated?

A. This was just a way for us to capture some of our initial thoughts about the case in general, and we often as a work team, as we get together and talk about a project, we might use a slide as capturing thoughts or getting ready to have a conversation, which was our purpose here.

Q. But you prepared these slides?

A. Yes. Or Isalah, it may be, in this case, more fair to say that she prepared them at

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my direction.
Q. Got it. Okay, got it. So on slide three, there's potential questions. Are these your questions, or are these the questions that MPW has posed to you?
A. I think these are more along the lines of questions that I might ask in this kind of conversation or maybe questions to -- that Gray maybe could ask of the plaintiff's expert. That's actually --
Q. All right.
A. -- what I was thinking about right there.
Q. What is this question about, 1A, do utilities frequently have delays in considering rate structure changes? What does that mean?
A. It's a reference to a very common pattern in our practice, which is to encounter all matter of interesting things, potential opportunities, potential problems, you know, perceived or real shortcomings in a rate structure or user charged system, and it -- it is intended to bring out the answer that these kinds of questions are usually not the kinds of questions that are quickly resolved.

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Because there's substantial benefit to stability in the rate structure and maybe for other reasons as well, a change in rate structure often comes up repeatedly before it really is seriously considered or there's any implementation of a change.
Q. Oh, I'm sorry. I was on mute. My bad. I asked, do you know if -- gosh, that's so stupid. My bad. I was asking, do you know if MPW is actually considering any rate structure changes at this time?
A. I do not know what they're considering at this time.
Q. And the next question, this talks about phasing in consultant rate structure related recommendations. What was this discussion about?
A. Very similar to the previous question. Just trying to bring out the reality that when structural changes might be beneficial, we often wind up implementing them step wise and very incrementally. The conservative nature of utilities, especially as it relates to customer billing, often leads a manager or finance manager to say, okay, let's just do this part of that this year, and then we'll wait until next year

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when we're not raising some other fee, change this one, and then later we'll deal with whatever, the apartment issue, the mobile home issue, the industry issue. So frequently, changes are piecemeal.
Q. Understood. Are you aware of any consultant rate structure related recommendations that MPW is sitting on that they are waiting to kind of blend into the process moving forward?
A. No.
Q. All right. I'm on slide six now, and the question says, Is it unreasonable that the onus be placed on the customer to dispute the REU assignment, meter size, or other capacity measurements?
Why is the word "onus" being used in this question?
A. Yeah, I can't -- I don't know if the word choice is meaningful. It's just -- I think it's just referring to responsibility.
Q. Okay. Because when I read the word "onus," that has a connotation of there being a burden, it's an onus, it's an obligation, it's something that's not simple. Would you agree with me in that use of the word?

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A. That does sound familiar to my ears.
Q. So you would agree --
A. It would be appropriate to say responsibility, but I wouldn't say that this is not -- for a customer to have that responsibility, it is a form of burden. To have a customer be responsible to understand its rate structure and consider a change, it is a burden on them. I don't think onus is the wrong word there.
Q. All right. And it looks like here in slide eight, it looks like you did a survey of about two, four, six, eight jurisdictions in South Carolina; is that correct?
A. Yes.
Q. All right. And it says here on the next slide, slide nine, six of these eight utilities charge based on meter size, and only two charge based upon REUs, one of which being MPW. Do you see that?
A. Yes.
Q. Do you know which of the other -- what's the other utility other than MPW that charges base charges according to REU?
A. Grand Strand.

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Q. Grand Strand, okay. Do you know if Grand Strand is a Raftelis client?
A. I know he is from that area. I think they definitely used to be. I don't know specifically that they are now.
Q. Okay. Now, you said in your report that we looked at earlier, Exhibit 6, that, you know, residential equivalent unit approaches were common in the industry. I mean, here in South Carolina based on this sample size, you know, two of six seems to be the minority. Would you agree with me that the ERU approach, the base charges at least in South Carolina, is the minority approach?
A. Yes, and I would -- I would say that it's definitely -- in my experience, I would expect that it was quite a bit less frequent than meter-sized systems all over the country.
Q. Okay. So how does that square with the fact that you're saying that both of these approaches are common in the report?
A. There are thousands of utilities, so even if it's only 20 percent of the water utilities in the country, that's -- I think we might say -- I think it's probably the second

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most common pattern is some kind of an REU pattern. It's a definite minority relative to meter size, but it's a pretty large minority.
And then the third most common structure after that is, you know, just because there's a handful of oddball things, there are some water budget rate systems in California that are very different. But meter size being the dominant majority, REU or ERU systems being the next largest component, between the two of those, those cover most rate structures in the country.
Q. Would you agree with me that an REU by its very definition is an average daily flow concept?
MR. CULBREATH: Object to the form.
A. By the way that it is handled in general, it is largely an average daily flow concept, but it in no way precludes -- REU systems in no way precludes the recognition of peak sort of -- the use of peaking factors or other information like that.
Q. Let me ask you this. Let's talk about the impact fee stage. Your restaurant is about to open up in Mount Pleasant and you go to a table or the manual that MPW has, and it says ten

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REU per every 10,000 square feet. Isn't the peaking component of that analysis built into the decision to say ten?
In other words, the unit, the REU is an average daily flow measure. Of course it is. It's X amount of gallons per day. By definition, it it's an average daily flow concept. But doesn't the peaking get captured in the actual determination of how many REU go with a particular use or a particular size of a particular use?
A. I don't think that there's any reason that an REU system couldn't recognize differential peaking across customer classes, so you might use average daily flows in the entire conversation except when you might -- if you had your REU system differential between, say, residential, commercial, and irrigation. Irrigation -- a separate irrigation meter might then be applied a significant peaking factor on its average use different from the residential equivalent or commercial equivalent.
It's very much -- I'll agree that it tends to be very much an average daily flow conversation. It's just not exclusively so.

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There's no inherent reason to prevent you from giving thought to the max day or max hour or max month demand that might -- you might want to recognize in your rate system.
Q. Right. So for example, Mount Pleasant Waterworks itself in its 2018 audit identified about 300 accounts that they believed had excessive REU, and in order to get to that result, MPW looked at three years' worth of actual use records, monthly bills, and determined that they were going to take the highest quarter of consumption and then average out those three months to arrive at an REU, that that account should be assigned. I mean, is that an example of a way you can utilize an REU concept to get at a peaking concept?
A. Yes.
Q. But would you agree with me that that's not the only concept, that as an REU, which is an actual daily flow measurement, that there's alternatives for determining what an appropriate sized REU assignment is for a particular account, right?
A. Yes.
Q. All right. Okay. We are -- and I just

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want to be clear about something real quick just for the record. There's a February 17, 2021, memorandum. It was a draft memorandum that we were produced. We're going to mark this as Exhibit 14, I believe.

(Exhibit No. 14 marked for identification.)

Q. Do you intend to rely on any of the opinions expressed in this document, or can we just say that the March memo totally supersedes and sort of moots this document?

A. Yes, the March memo is -- it is our output. This was an initial step in that direction, not a draft and not a separate output.

Q. Got it. All right. So there's one big difference that I've noticed from this draft report from February to the draft report in March. You use the phrase "capacity reservation" twice in this document, one here at the beginning and then one here at the end and -- where you say, quote, it is common that fixed charges are based on capacity reservation or estimation of demand, not actual usage.

Is there any reason why that phrase, "capacity reservation," is in the February report

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but didn't make it to the March report?

A. No.

Q. All right. Do you know George Raftelis?

A. Yes.

Q. How long have you-all known each other?

A. Probably at least 25 years.

Q. Okay. Have you spoken to George about this case?

A. No.

Q. Are you aware that George Raftelis was MPW's designated testifying witness in this case for about two years?

MR. CULBREATH: Object to the form.

A. I saw a reference to that in his deposition.

Q. Okay. Do you have any knowledge based upon your conversations with anybody as to why the decision was made to hire you as the testifying expert witness and forego Mr. Raftelis from being the designated expert witness, testifying expert witness?

A. I believe that I understand that there was a thought that since Raftelis was MPW's rate consultant, that it might be advantageous to have an independent perspective that wasn't so vested

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in the work as the Raftelis firm was.

Q. Were there any other considerations beyond that that you were aware of?

A. No.

Q. All right. I'm going to now mark this document Plaintiff's Exhibit 15.

(Exhibit No. 15 marked for identification.)

Q. This is an e-mail from Bryan Mantz to you on September 8th, 2020. Do you see this?

A. Yes.

Q. All right. And take all the time you need to refresh yourself. This is just a one-page document.

A. I remember, yep. I've read it.

Q. Okay. So this is what we were talking about earlier, right, that time that you referred Bryan Mantz, our expert, a case, correct?

A. Yes.

Q. Okay. Do you believe that Mr. Mantz is an experience rate consultant?

A. He does rate consulting for a living, so yes.

Q. Okay. Because you wouldn't refer a potential client to somebody that you didn't have

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a good opinion of from a professional standpoint, correct?

A. I thought he could help them.

Q. Okay. Now, who is Jay Patry?

A. He may have been an attorney involved with this corporation's challenge, or he may be the -- somebody from inside that property manager or developer. I can't even remember the nature of the firm. So he was potentially -- he was a potential client for Bryan.

Q. Gotcha. So Patry was the one that you referred to Bryan?

A. Yes.

Q. Okay. And, you know, in your response, you talk about a willingness to share the very small increment of work we did with you if it would help. Do you recall what work you did for Patry as it relates to this particular utility?

A. Yes, it was I think very small. I put a description of it. We simply tried to express comparable rates -- I'm sorry, rates from other systems in a way that would be comparable to the rates that this firm was paying to the utility serving them. A rate comparison can be very simple. Sometimes it's clumsy. In this case, it

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was a little bit clumsy to compare these different rate structures, but that was all we did for this firm.

Q. Gotcha. So put another way, is it accurate to say that this company wanted to know whether there would be an overcharge and whether they had any arguments to lob at the utility?

A. Yes.

Q. Okay. And what specific utility in Canada are we talking about here, do you recall?

A. We just saw a reference to the name of it a moment ago. You said it. It was one of the ones you cited.

Q. Loyalist, right?

A. Yes, Loyalist Township.

Q. Okay. All right. So I'm going to put another e-mail up on the screen. We'll mark this as Exhibit 16.

(Exhibit No. 16 marked for identification.)

Q. And on November 2nd, 2020, Bryan e-mails you and says, quote, Based on high level review of the information that Patry, Inc., provided, I considered that Loyalist's ERU-based rate structure was probably more equitable than that

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of surrounding communities. Loyalist right-sizes ERU counts every year based on a customer's three-year actual usage compared with that of a single-family residential home.

Do you see that?

A. I do.

Q. Then Bryan goes on to say, I advised Patry that given how many smart utility rate consultants there are, challenging the fairness of Loyalist's rate structure would probably not be successful.

Do you see that?

A. I do.

Q. And then you respond, quote, holy smokes, man. That's excellent.

What was excellent about what Bryan was communicating to you last November?

A. I was complimenting him on his ability to communicate with this client and help them to understand the point that he just made in his e-mail.

Q. You go on to say, quote, it sounds like you talked them into coming down off the ledge, which I was unable to do.

Did you provide Patry with any advice or

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analysis or thoughts regarding the ERU base structure in Loyalist Township up in Ontario, Canada?

A. I did not find the update of their ERU base structure to be interesting or relevant to Patry's concerns. I'm not even sure that I knew that they did updates of their ERU base structure at the time. I don't think it's relevant to Patry's concerns.

Q. Okay. Do you have a file at Stantec for the work you did with Patry?

A. I'm sure we have the spreadsheet that we produced in an attempt to compare, like I said, in a balanced way that rate structure with other rate structures.

Q. Well, it sounds like here from your e-mail, it sounds like you had tried talking Patry, to use your phrase, quote, off a ledge, end quote. What were those communications like from you to Patry, Inc.?

A. They perceived that they were being overcharged I think in large part because they misunderstood how the billing systems from other -- billing structures of other systems actually operate. I also think another contributing

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reason may be that that particular utility happened to be more expensive than the other utilities where they had other property. So our conversation was -- or his request of us was to figure out if something was wrong and then help him take action to get it fixed, and our conclusion was that things -- there was no evidence of anything being wrong. And I think --

Q. Do you have any -- I'm sorry.

A. I think at the end of that conversation, he still was wanting to do more, and that's when I thought, well, maybe it would not be bad to have someone else from a different firm to try to engage the same point, see if they would come to the same conclusion, and if they did, then see if they could help him to understand.

Q. And Bryan Mantz and you both came to the same conclusion as it relates to this particular client; is that correct?

A. Yes.

Q. But it's your testimony as you sit here today that you did not look at Loyalist's REU right-sizing as part of your analysis for them; is that correct?

A. That is correct.

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Q. So what was your reaction when you read Bryan's second sentence in his e-mail where he says, quote, Loyalist right-sizes ERU counts every year based on a customer's three-year actual usage compared with that of a single-family residential home, end quote?

A. It doesn't inspire any reaction in me now, and I can't remember, I'm sorry, the reaction in me then.

Q. Right. So the statement, holy smokes, man, that's excellent, it's your testimony that that has nothing to do with that part of Mr. Mantz's analysis as it relates to this claim?

A. Exactly right. It is my statement that -- my uplifting remark was merely that, a pleasant acknowledgment of his ability to communicate effectively with a client.

Q. But is there any other basis from a rate analysis standpoint expressed in Bryan's e-mail other than the right-sizing point? The right-sizing point is the only point he makes in this e-mail, right?

A. I had no uncertainty in my conclusions about this rate structure and no particular interest in learning more about it once I

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concluded that this firm had no particular reason to oppose the rate structure. A reaction was purely a personal one to Bryan from me. It had nothing to do with right-sizing or ERUs for that matter.

Q. Okay. So you didn't think to yourself or pick up the phone and call Bryan and say, wait a minute, Bryan, you mean to tell me that there's a utility out there that right-sizes REU? I mean, were you shocked by that fact that there's a utility out there that does this?

A. No.

Q. Now let me ask you this, Bill. You were retained by Amy and Gray back in September of 2020. Did you find that it would be relevant to your opinion that March memo that we looked at earlier to say, you know what, there's this utility up in Canada, it's called Loyalist Township, they periodically right-size?

A. I did not remember that they periodically right-sized. I did not care that they periodically right-sized. I wished I had remembered it. Obviously now it's relative to this case, but I had no awareness of that aspect of their operation. It was not interesting to me

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or nor to the question that the client was attempting to ask of me.

It was obviously interesting to Bryan, and that's okay. But I did not register it enough to -- I probably didn't even actually forget it because I probably gave it -- that point, I probably gave so little attention in this e-mail exchange that I probably finished responding to him without thinking about what that meant. It was not relevant to my communication with him.

I have a practice of relating to people in my industry in a way that is similar to this. As chair of the rates and charges committee, I work hard -- I worked hard to develop talent and to encourage professionals who are younger than me, and I deal with my young coworkers in my firm in a similar way. That's what this e-mail was about.

Q. Do you recall any other instances since September of last year where you had heard about, from any source, utilities that periodically right-size their REUs on their own for purposes of base charge calculations?

A. No.

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Q. All right. I think I may have asked you this earlier, but do you have any knowledge whatsoever regarding MPW litigation involving DHEC over their ground withdrawal permit capacity over the last three or four years?

A. No.

MR. CULBREATH: Ross, if we go a little while longer, I might want to take a break here.

MR. APPEL: Oh, sure. I think we've probably got maybe ten minutes at the most.

MR. CULBREATH: Okay.

MR. APPEL: Why don't we take a little break, and I'll get myself halfway organized, and we'll finish strong, okay?

MR. CULBREATH: Sounds good.

MR. APPEL: Thanks, you-all.

(Recess.)

Q. All right. I'm really going to try to get through two more exhibits, and then we can all head into what I hope is an enjoyable long weekend for everybody.

All right. The document on the screen was produced to us pursuant to our subpoena to Stantec. It's the Thursday, December 3rd, 2020,

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meeting minutes, and we'll go ahead and mark this as Plaintiff's Exhibit 17.

(Exhibit No. 17 marked for identification.)

Q. It says here, Bill, that there was a meeting in Stantec's Atlanta office. Did everybody meet in person in Atlanta?

A. We did.

Q. Okay. How many meetings have you-all had with MPW's lawyers since you were hired in this case, in-person meetings?

A. Two.

Q. Okay.

A. I think two.

Q. Do you know when the other one was held other than December 3rd, 2020?

A. It was when I came to Columbia and we captured those words that we already looked at on the screen, the thing that looked like -- I guess looked like a draft of the tech memo, the one that --

Q. Gotcha. Understood, understood. Were there meeting minutes prepared from that meeting in Columbia?

A. No.

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Q. Okay. There's a reference here to Butler County, Ohio. Does that jurisdiction have any relevance to this case as you sit here today?

A. No.

Q. Who is Becky in bullet point 3A?

A. Becky Thomson was a former coworker of mine at CH2M Hill, and then I went and worked for her after she left and formed her own firm. I worked for her briefly and then left, and she worked for Mount Pleasant extensively as a rate consultant and then followed up by the Raftelis firm.

Q. Okay. So is it your understanding as you sit here today that Becky is the one who set up the BFC rate structure that we've been talking about all day today that MPW has?

A. I believe that is correct, yes.

Q. Okay. Who's -- one more question about Becky. Where is she currently?

A. She's retired from the business. I don't think they've moved. I kept in touch with Ray, her spouse, for quite a while, but I haven't talked to him in a while either.

Q. Okay. Do you know where she's located, where she lives?

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A. If they haven't moved, they're in Roswell, Georgia.

Q. Okay. Do you have her e-mail?

A. I bet that I do. But if I'm remembering correctly, the one she used for a very long while, long after many people stopped using it, was an AOL e-mail.

Q. Oh, wow.

A. So it's moved on since then, but I -- I'm sure that I have something that might reach her.

Q. Got it. Okay. Who is Stephanie Passarelli?

A. Stephanie is the -- she works for the American Water Works Association on staff, and her job -- her primary job, I think, is to help the volunteer committees -- a handful of volunteer committees to function, and one of her committees is my committee, our committee, the rates and charges committee.

Q. Got it. One more question about Becky. Have you spoken to Becky about this case at all?

A. No.

Q. Have you spoken with Stephanie Passarelli about this case at all?

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A. No.

Q. Have you spoken with Graham Rich about this case at all?

A. No.

Q. Who is Graham Rich?

A. Graham is the manager of REWA, Renewable Water something, something. He's a long-time utility manager in South Carolina. He briefly was the utility manager in Arkansas, and he's a -- not a close -- we're not close friends, but we're friends.

Q. Got it. Now, do you recall from this meeting back in December why Stephanie Passarelli and Graham Rich were discussed? Like, why are they reflected in these minutes?

A. Well, so these -- I probably -- I think the word "minutes" is probably way too serious and fancy for particularly the actual nature of these notes. This is sort of me thinking on paper and hearing things, some of which I might have heard incorrectly even, but just hearing Gray and Amy talk about the case and the issues and just capturing fragments in a way that was, you know, just for my own mental stimulation purposes.

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Q. Understood. What do you believe you heard incorrectly?
A. I think I heard incorrectly that Stephanie was deposed. I think I later then heard that she was on a list of people deemed to be potentially relevant or something like that.
Q. Okay. But were there any other things that you had heard incorrectly regarding, you know, anything else having to do with the opinions in this case or, better yet, your understanding of our position in this case on the various issues?
A. Not that I can think of at the moment. I guess I didn't -- in my mind, I haven't given this particular document a whole lot of emphasis now. I didn't see it as a product or anything that was -- it was just my notes.
Q. Now, bullet point item 3G says, They've used the term "capacity reservation fee."
Why is the word "they" in this? Who's using the term capacity reservation fee?
A. I bet that I heard that the plaintiffs were using the term, but I don't know. I really literally don't know who I was referring to --
Q. But based on our conversation --

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(Simultaneous talking.)
A. -- (inaudible) Mount Pleasant.
Q. I'm sorry. Right. But based upon our conversation today, clearly capacity reservation fee is an MPW concept that's ensconced in its policies, correct?
A. Yes.
Q. Okay. Does that change -- does that understanding of where that phrase comes from, does that change any of your opinions or your thought process in rendering your opinions in this case?
A. No.
Q. Okay. All right. Down here at the bottom of the first page, bullet point 7, it says, Mount Pleasant's structure is uncommon.
Do you see that?
A. Yes.
Q. What is uncommon about MPW's structure?
A. I think the care that they've taken to attempt to link the base charge REU concept and practices to the impact fee capacity charges, concepts, and practices and the way that they've structured their tiers to reflect the number of equivalent units, that's a little unusual as

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well.
Q. As you sit here today, would you recommend to Mount Pleasant Waterworks that they decouple the BFC REU from the impact fee REU?
MR. CULBREATH: Object to the form.
A. No.
Q. So your testimony is that even though that's an uncommon approach, those are your words, an uncommon approach, you don't see anything wrong with it?
A. That is correct.
Q. All right. So now on bullet point 10, it says, George said utilities don't have the detailed meter data to do these updates. And then you go on to write, But he didn't know about the smart meters, and plaintiffs could reference better data now.
Do you see that?
A. Yes.
Q. What significance does that have?
A. If somebody thought that the mere presence of the AMI systems and the availability of that increased information was transformational, they could make that argument, but that could be part of the argument that you

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would make to say that the -- that Mount Pleasant Waterworks should be doing this re-upping.
As I think we've talked about, I think the three or four doses of caution are very appropriate with the use of that detailed data, but it was just something that had come up in Georgia's deposition, and it was additional information we'd be able to take -- they do have some smart meters out there. So it's, again, a capturing of some thoughts.
Q. Right. But Mount Pleasant Waterworks has had monthly consumption data for each of its commercial customers for at least a decade, right?
A. Right, right, right. Probably much longer than that, yes.
Q. So you don't need the ability to measure water on a daily, hourly, minute, second basis to audit a customer's REU needs, you can just use the monthly approach, right? Isn't that what, in fact, MPW did with the CDM Smith report, the 2015 audit, the 2018 audit, etcetera? Right? Monthly data is sufficient?
A. Yes.
Q. But would you agree with me then that

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the monthly data, which is sufficient for running these audits, MPW has used to run audits, at least three in the past, you added smart meters on top of that, are you now at a point where it's like, okay, we're really now in a position to have the data and the technology necessary to do these periodic audits and right-sizing decisions?

A. I think that in the -- in the fullness of time as data systems mature and the databases are -- become balanced and known and understood and bigger and are known to be robust, that they -- they will absolutely make it easier for all kinds of analytics regarding customer usage, and they may even transform right-sizing for municipal utilities. I expect that that's more than a decade away, but I -- it will -- it will be a richer date set than was available, and it will help utilities to do more things than was previously possible.

Q. Okay. Bullet point number 12 talks about class action analysis. Do you see that?

A. Yes.

Q. All right. I noticed in your March 16th, 2021, report there was no discussion in there about what is the proper methodology for

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ascertaining excessive REU assignment, there was no critique of the approach used in our class definition. As you sit here today, do you have any opinion or any testimony regarding the methodology that was used to ascertain the class in this case?

A. My review of that material was fairly limited, so I only have one fairly general thought, which I did not spend a lot of time considering the formation of the class and those issues.

Q. So just to put a finer point on it, you don't have any expert opinion that you're going to offer at trial on issues of class composition or the definition of an excessive REU; is that correct?

A. No, I would not agree with that. I think that the excessive -- the definition of an excessive REU is something that I could speak to. I'm not certain that I could speak usefully to the formation of the class, however.

Q. Okay. So what is your opinion on the proper definition of an excessive REU assignment?

A. That it is not as simple or mechanical as implied by the statistics that I'm seeing in

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this case.

Q. Okay. So would you side with MPW's methodology for ascertaining the excessive issue, namely the one that was employed in MPW's own 2018 audit?

A. As it relates to my field, which pertains to the development of rate structures and rates, I think excessive has -- should be treated in a different way than it is treated in that internal planning demand-focused analysis that Mount Pleasant appropriately conducts.

Q. Okay. So we're defining excessive on the same basis as the REU unit of measurement is constructed, an average daily flow basis. MPW in their 2018 audit went with a highest quarterly average approach. Between those two competing definitions of what constitutes an excessive REU in this case, do you have an opinion on which of those two or perhaps some other methodology is the most appropriate in this case?

A. For rate setting purposes, I think that I would want to understand a rather thorough cost of service study before I would be able to conclude that any REU assignment was excessive because I am focused on excessive as it relates

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to the rate, and the implication to me is that it is charging -- that word suggests a subsidy overcharge. So recognizing that that is a different narrower subset than Mount Pleasant appropriately has to consider, I would be reluctant to use that word based on anything that we could easily define today.

Q. Okay. So since you have not performed that level of analysis as we sit here today, you have no opinion on the proper analytical methodology for ascertaining whether a particular commercial customer has an appropriate or an excessive REU assignment on their account?

A. I wouldn't agree with that because I do have the opinion that a mere comparison of existing REUs on an account against annual average usage patterns or other typical things is not sufficient to justify the use of the term "excessive" in the term -- in the way that I am focused on it here.

Q. Okay. Let's look at bullet point 15 on these meeting notes. It says here, Plaintiff's claim 5.5 million in overcharges - note that MPW has to recover the full amount, we didn't make profit and send it away. The 5.5 million would

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have to come from somewhere. BZ: And what about the undercharged customers - would it come from them? How?

What are you referring to in this bullet point?

A. The idea that we've already spoken about today that I think is an argument you are not making according to what you've said, but that frequently is made against utilities, the idea that a component of a rate structure that a customer doesn't like is leading to the generation of excessive revenues and -- as if it was a profit in the private sector firm that made money and sent it, quote, out of state.

So this is just -- at the point that Mount Pleasant's revenue requirements are what they are and while it's appropriate to be interested in the equity implications of things like this, it doesn't in any way imply that they're generating excess revenues.

Q. Okay. So just to be clear, MPW is sitting on a mountain of unrestricted cash reserves that we do believe is superfluous and excessive and, you know, it's not profit in the private context but there is plent y of excess

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funds that MPW does not need tomorrow any kind of bond rating or any other type of contingency that does constitute excessive charges. I just want to be clear about that.

But then the other comment you say in here in this bullet point is you're talking about what about the undercharged customers. That is what we're -- that is another big point we're getting at here, is we believe our class is subsidizing not only the accounts that have undersized REUs but the rest of the rate base.

But I mean, your testimony today has been consistent, that you don't see any inequity or unfair aspect to MPW's system; is that correct?

MR. CULBREATH: Object to the form.

A. Sorry, can you re-ask the question?

Q. It's okay. Let me ask -- well, strike that question. I'll ask you a new one.

Is there a specific amount expressed in a percentage or otherwise that dictates what a utility should have in their unrestricted general fund?

A. There are some policies -- some fund balance policy guidance documents that we in the

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industry refer to. Some of those come from the financial markets, the bond rating agencies, or other players in the field. One of them comes from AWWA, which was recently developed just a few years ago and adopted. I think they all tend to be appropriately or -- and necessarily rather general because of the diversity of conditions as we've been talking about so much today.

The different utilities have such dramatically different risk profiles, all kinds of risk that are not just relevant but relevant in different ways and in different magnitudes. And they also face different kinds of difficulties in raising rates in the future.

So there's just a whole host of reasons that make that landscape from a diverse -- but there are some resources, and it is an appropriate topic of discussion during a utility's budgeting process and as part of its rate setting process, absolutely. And I think that's all I've got to say about that.

Q. Okay. Are you familiar with MPW's specific unrestricted general reserve thresholds and goals and policies?

A. I -- generally not specifically. I'm

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familiar with it, but -- the fact they have multiple kinds of reserves and they try to articulate the reasons for them, but I don't offhand know any of their targets or metrics.

Q. If it turned out to be the case that MPW had funds in excess of those stated policy goals, would you consider that money excess?

MR. CULBREATH: Object to the form.

A. If their goals are as -- if they continue to be as formalized and thoughtful and effective as I think they have been in the past, and I think they are. I think that this is a utility that has given an usually high degree of attention to that issue and meaningful attention. Then balances in excess of the -- the cumulative totals of all of their funding targets and objectives would be appropriately considered to be available for use.

I would not see any such balance as evidence of anything being out of whack because of the recognition of the dynamic planning process, the enormous needs facing the utilities in the future for which balances are going to be needed and through which financing costs can be reduced overall.

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Q. Right. Okay. So bullet point 16 says, quote, This group of attorneys was successful with an impact fee conflict of some sort, perhaps education. It was a very specific claimed use.

Do you see that?

A. Yes.

Q. What was this discussion all about?

A. I don't think it was much of a discussion. I remember hearing something about that, but all I can remember is what I'm reading, and I know I typed it.

Q. Gotcha. But did this information come from you, or did Gray or Amy tell you about us?

A. This was just I think a mention in that conversation that made -- made not much of an impression on me. Just something I typed up.

Q. Okay. So number 17 here, you talk about at least one landowner is, quote, happy to be paying for their REUs because they want to retain their capacity for when they sell the land. You go on to say, These REUs are like an asset to them.

As you sit here today, do you believe an REU is an asset from a capacity standpoint when they're purchased at the impact fee stage?

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MR. CULBREATH: Object to the form.

A. I think we've covered that.

Q. So I just want to make sure I'm clear on your testimony. So you testified earlier that it's not a true asset in every sense, but the customers can view it as an asset for their purposes. But for MPW's purposes, it's not really an asset, and they actually have to keep paying base charges based upon this number or they have to lose their asset under Policy 5.3.3. Is that essentially your understanding?

A. Yes.

Q. So it's not an asset in the textbook form as a -- as in an asset is something that you own. That's the definition of an asset, you own it. You don't rent it, you don't lease it, you own it. But as you sit here today, you do not believe that a REU as contemplated in MPW's system is an asset in the objective full sense, correct?

A. Correct.

Q. Okay. Down here at the bottom, number 26, there's a mention of other documents to review, and there's a reference to two Raftelis rate studies, one from September 2012, one from

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May of 2017. Have you reviewed either of these studies?

A. No.

Q. There's also a reference to Becky Thomson docs. Have you reviewed any documents from Becky Thomson?

A. No.

Q. And there's finally a reference to -- well, there's a reference to Nicole docs. Who's Nicole?

A. Nicole is the Mount Pleasant Waterworks -- I forget her --

Q. Gotcha. And then finally, you close with a question, What did Mount Pleasant do before? Get the old, old rate studies?

Do you see that?

A. Yes, I do.

Q. Have you ever put your hands on those old, old rate studies?

A. No. I was involved with Mount Pleasant before Becky was, and so that's what I'm referring to is I have a distant memory of having been involved -- I don't think the rate structure was at all at issue back then, and I was -- it was a very long while ago. I was new in my

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career, and I was trying to remember what they did before they and Becky built their current system, but I did not go back and try to find anything.

Q. Okay. What group were you with when you were doing work for MPW before Becky's time with MPW?

A. That was when I was with CH2M Hill where Becky also worked when we were coworkers.

Q. I see.

A. I just happened to be working on Mount Pleasant for a relatively small amount of time, and then she started a relationship with them and then continued her relationship with them for quite some time.

Q. Prior to the early '90s when MPW shifted to the current base facility charge framework that we've been discussing today, do you know if MPW had a base charge?

A. That's what I was trying to remember. I just -- I don't -- I don't remember.

Q. Will you do me a favor and provide your attorneys -- or Gray or Amy with the most recent contact information you have for Becky?

(Information requested.)

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A. Yes.
Q. You don't have to do it now, but maybe sometime over the next few days or something. Do you mind doing that?
A. No, I don't.
Q. Okay. Thank you.
All right. We're really coming down the home stretch now. The document I've got on the screen right now is Plaintiff's Exhibit 18.
(Exhibit No. 18 marked for identification.)
Q. This is an e-mail from Katie Morrissey to Ms. Barnes dated January 29, 2021. Do you see that?
A. Yes.
Q. And it says here on the first main points of report, Right-sizing REU assignments, 300 gallons per day, and justify that it is acceptable to put onus on the customer to go into the utility with discrepancies.
Do you see that?
A. Yes.
Q. Did you perform an objective analysis of MPW's structure, or did you go into this analysis trying to justify MPW's practices that puts the

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onus on customers?
A. I reacted to what they're currently doing, and the claims against them without free disposition, and these notes are a result of my conversations with Isalah and Katie. And Katie helped me just capture some of the things that I was -- the conclusions that I was beginning to come to.
Q. Gotcha. Gotcha. Okay. So the second bullet point says, MPW rate structure is acceptable and industry standard.
Do you still believe that as you sit here today?
A. Yes, I would say it's within the -- appropriately comfortably within a range of industry standard practices.
Q. Right. But you testified probably about 30 minutes ago that the length between the base charges and the impact fees are, quote, uncommon, end quote, in your view. Do you still stand by that testimony?
A. Those are not inconsistent conclusions.
Q. So you would say, and I just want to make sure I understand this correctly, that generally MPW is within the realm of normalcy

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from the standpoint of, for example, there is a base charge and it's the base charge based on residential equivalent units, right? That's all common, right?
A. Yes.
Q. But what makes Mount Pleasant's system uncommon is the fact that there's this marriage conceptually and methodologically between the base charge REUs and the impact fee REUs. That's an uncommon feature, correct?
MR. CULBREATH: Object to the form.
A. I think that it is probably uncommon. I am --
Q. Have you --
A. -- more definitively prepared to make the first statement, which is that their structure is within industry norms, and I think that that aspect is uncommon.
Q. Let's put a finer point on it. Have you ever in your decades of experience as a rate industry professional ever seen a utility that marries the base charge REUs to the impact fee REUs like MPW does as expressed in Policy 7.2, Policy 5.3.2, and Policy 5.3.3, the surrendering provision as you put it?

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A. I can't think of an instance, but I don't believe that it is necessarily unique in my experience. I think that -- I perceive that as unusual, but I don't perceive it as unique.
Q. All right. So now I'm confused because you've repeatedly testified that it's an uncommon practice, but now you're saying it's not unique.
A. Both of those are true at the same time.
Q. All right. Okay. So for something to be not unique, there has to be more than one example of that something, correct?
A. Yes.
Q. As you sit here today, do you know of any utility -- I want you to name the utility that marries BFC REU with impact fee REU the way MPW does with all the policies I just mentioned, including the surrendering provision in the capacity reservation fee component. Can you name a utility as you sit here today that does that?
A. No.
MR. APPEL: All right. I think I'm at the end of my line. Mr. Zieburtz, I appreciate your time today. I know that talking about this for any extended period of time can be taxing, and I just appreciate your time today,

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and I hope you have a great Easter weekend.

THE WITNESS: You too. And it's been a pleasure.

MR. APPEL: All right. Thank you, you-all.

THE WITNESS: Thank you. I will read and sign.

(End of deposition at 5:40 PM.)

- - -

DEPONENT CORRECTION SHEET

I, the undersigned, WILLIAM ZIEBURTZ, do hereby certify that I have read the foregoing deposition and wish to make the following clarifications and/or corrections, if any.

PAGE	LINE	CHANGE	REASON

WILLIAM ZIEBURTZ Date

PW

CERTIFICATE

I, Paula Wondra, Notary Public at Large, do hereby certify that the witness in the foregoing deposition was duly sworn to testify to the truth, the whole truth and nothing but the truth in the within-entitled cause; that said deposition took place virtually via video conference. The testimony of the witness and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed by computer-aided transcription. The foregoing is a full, complete and true record of the testimony of the witness and of all objections made at the time of the examination.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal on April 9, 2021.

Paula Wondra

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