

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the)	Docket No.
Formal Complaint of Marian)	15-2508-01
Seamons against Ticaboo)	
Utility Improvement)	HEARING BEFORE
District.)	
)	Jennie T. Jonsson

July 27, 2016
9:00 a.m.

Location: Public Service Commission
160 East 300 South, 4th Floor
Salt Lake City, UT 84111
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A P P E A R A N C E S

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I N D E X

	Page
OPENING STATEMENTS	
By Mr. Hogelin	10
By Mr. Long	14
WITNESSES	
MARIAN SEAMONS AND MARY BROADBENT	
Direct Examination by Mr. Hogelin	18
Cross-Examination by Mr. Long	88
Redirect Examination by Mr. Hogelin	94
CHIP SHORTREED	
Witness statement read	99
Cross-Examination by Mr. Hogelin	139
Redirect Examination by Mr. Long	158

E X H I B I T S		
No.	Description	Page Marked
1		
2		
3	Complainant's 1	Ticaboo Utility Improvement
4		District, Resolution No. 2013-0017
5	Complainant's 2	Audit History, Account
6		1000, Lot 005
7	Complainant's 3	Audit History, Account
8		1115, Lots 003, 004
9	Complainant's 4	Letter, 10-23-15, from
10		TUID to Marian Seamons
11	Complainant's 5	Audit History, Account
12		1131, Lots 007, 008
13	Complainant's 6	Audit History, Account
14		1132
15	Complainant's 7	Audit History, Account
16		1133, Lot 098
17	Complainant's 8	Letter to Chip from
18		James and Valeria Hills
19	TUID 1	Joint Settlement Stipulation
20	TUID 2	TUID Regulation Charges and
21		Electric Service Regulations
22	TUID 3	Resolution No. 2015-0019
23	TUID 4	Meeting Minutes, 8-27-15
24	TUID 5	E-mail string ending with
25		11-18-15 from Adam Long to Justin Jetter
	TUID 6	Public Notice Website,
		Meeting 8-27-15
	TUID 7	TUID Public Notice, Special
		Meeting, 8-27-15

			Page 4
1	TUID 8	TUID Public Notice, Regular Meeting, 4-11-13	65
2	TUID 9	Public Notice Website, Meeting 4-20-13	65
3	TUID 10	Affidavit of Publication, 4-18 and 4-25-13	65
4	TUID 11	Meeting Minutes, 4-29-2013	65
5	TUID 12	Resolution No. 2013-0008	65
6	TUID 13	Resolution No. 2013-0009	65
7	TUID 14	Letter, 6-14-13, from Gary Widerburg to Chip Shortreed	65
8	TUID 15	Meeting Minutes, 3-23-16	65
9	TUID 16	Public Notice, Regular Meeting 3-21-2014	65
10	TUID 17	Public Notice Website, 3-19-2014	65
11	TUID 18	Action Request Response, 11-19-2013	65
12	TUID 19	Letter, 12-6-13, from Gary Widerburg to Chip Shortreed	65
13	TUID 20	Public Notice, Regular Meeting, 8-8-2013	65
14	TUID 21	Affidavit of Publication, 8-15-2013	65
15	TUID 22	Notice of Public Hearing, 8-8-2013	65
16	TUID 23	Resolution No. 2013-0017	65
17	TUID 24	Action Request Response, 11-19-13	65
18	TUID 25	Letter, 12-6-13, from Gary Widerburg to Chip Shortreed	65
19			
20			
21			
22			
23			
24			
25			

1	TUID 26	Action Request Response, 5-30-13	Page 5 65
2			
3	TUID 27	Action Request Response, 4-2-15	65
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
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24			
25			

1 March 17, 2016

9:00 a.m.

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

3 JUDGE JONSSON: And for the record, today is
4 Wednesday, July 27th 2016. It's nine o'clock in the
5 morning. This is the date and time set for the hearing
6 in the matter of Marian L. Seamons. She has filed a
7 formal complaint against Ticaboo Utility Improvement
8 District.

9 This is Docket No. 15-2508-01. Let's go ahead
10 and put appearances on the record. For Ms. Seamons?

11 MR. HOGELIN: Jon Hogelin, and Ms. Seamons is
12 present.

13 JUDGE JONSSON: Thank you. And for Ticaboo?

14 MR. LONG: Adam Long and Chip Shortreed, the
15 district manager, is also present.

16 JUDGE JONSSON: Okay. All right. Very good.

17 MR. HOGELIN: I don't think my mic was on
18 before. Do you want me to repeat?

19 JUDGE JONSSON: I think -- have you got
20 everything so far?

21 COURT REPORTER: Uh-huh.

22 JUDGE JONSSON: All right. And I'll try
23 again. Is there anyone on the line this morning?
24 Anyone on the phone this morning?

25 (Silence.)

1 JUDGE JONSSON: I had a notice that Tom Hill
2 was going to be calling in. If he is not going to do
3 that, I'm going to hang up the phone.

4 MR. LONG: If we could maybe give him a few
5 minutes.

6 JUDGE JONSSON: All right. Okay.

7 MS. BROADBENT: Can we turn the speaker up so
8 she can hear?

9 JUDGE JONSSON: I think we're as loud as we
10 can go.

11 MS. BROADBENT: Okay.

12 JUDGE JONSSON: There is one item I wanted to
13 discuss with counsel. This is considered a formal
14 complaint because it's gone through the informal process
15 that the division of public utilities uses to try to
16 help parties resolve complaints. However, that does not
17 necessarily mean that this hearing needs to be conducted
18 as a formal adjudication under UAPA.

19 So basically, if we conduct this as a formal
20 adjudication and the parties determine subsequently to
21 take the matter to court, it goes to the Court of
22 Appeals, and it's reviewed for commission error or abuse
23 of discretion. If we convert this to an informal
24 proceeding and the parties take it to court, it goes to
25 District Court as a de novo trial.

1 My inclination is to convert it to informal.
2 I think there are some issues that the commission can't
3 necessarily address that are -- that would be of
4 importance to the parties and potentially of interest to
5 the court. And I think that it would be more useful to
6 the parties to be able to take those issues on the
7 merits to district court, rather than having to simply
8 argue whether or not the commission correctly identified
9 the boundaries of its jurisdiction.

10 Any objection to my converting this to an
11 informal proceeding?

12 MR. HOGELIN: May I discuss with my client
13 real quick?

14 JUDGE JONSSON: Okay.

15 MR. LONG: Same request.

16 (Discussion off the record.)

17 MR. HOGELIN: No objection from complainant.

18 JUDGE JONSSON: Thank you.

19 MR. LONG: The district prefers to keep this
20 as a formal, a formal adjudication. We have been
21 through the entire formal complaint process, and it
22 seems to us to derail it now would be not beneficial.

23 JUDGE JONSSON: Why do you consider it to be a
24 derailing? It doesn't change anything that happens
25 here. It simply changes your position if you go to

1 court.

2 MR. LONG: And I recognize that. I think we
3 would nonetheless prefer to keep it as a formal
4 adjudication here.

5 JUDGE JONSSON: Okay. I'll take the objection
6 then as part of the record. It is the commission's
7 determination whether to convert it. The standard of
8 the -- under the statute is whether converting is in the
9 public interest and whether it poses a hardship or an
10 unfair burden on any party.

11 Do you want to address those standards,
12 Mr. Long?

13 MR. LONG: I think we'll leave it up to the
14 commission's discretion.

15 JUDGE JONSSON: Okay. Thank you.

16 MR. LONG: Our objection is noted and --

17 JUDGE JONSSON: Thank you. All right then.
18 Are there any other housekeeping items that the parties
19 want to address before we go to opening statements?

20 MR. HOGELIN: No.

21 JUDGE JONSSON: It doesn't appear that there
22 is. All right then. Ms. Seamons is the complainant, so
23 we'll go to opening statement from her.

24 MR. HOGELIN: Would you prefer for me just to
25 stay here or --

1 JUDGE JONSSON: That's -- yeah, do because
2 there's no microphone up here.

3 MR. HOGELIN: I noticed that.

4 JUDGE JONSSON: Yeah.

5 MR. HOGELIN: Obviously, the commission has
6 made a ruling on part of the issues that were presented.
7 Although we don't agree with the commission, we respect
8 the commission's ruling. And we also recognize that the
9 commission has set aside today to address a couple
10 issues which the commission has provided very
11 succinctly.

12 Essentially, Ms. Seamons is a resident -- or
13 well, she doesn't reside in Ticaboo, but she owns
14 property in Ticaboo. She had this property prior to the
15 formation of the district. When I say district, I am
16 referring to TUID. And with the creation of TUID, there
17 has been obviously some changes with regards to power
18 and water and what we would normally refer to as
19 essential utilities.

20 It has been very concerning, the limitations
21 and the financial burden that's been assessed to
22 Ms. Seamons in regards to the creation of the district.
23 But what's more troubling is the conduct of the district
24 in creating its tariff and enforcing its tariff or lack
25 thereof.

1 Ms. Seamons filed the complaint based off the
2 premise that she felt there was injustice being carried
3 on by the district, in particular, with how her property
4 is being liened up with certain financial burdens that
5 seem completely unfair and outside the scope of the
6 tariff.

7 In regards to what the commission has set
8 provided to be addressed today, we plan to show that
9 it's our understanding that TUID has not complied with
10 the commission regulations with regards to being in
11 compliance with regards to setting forth its own tariff.

12 We also would like to show the tariff (sic)
13 today that the district doesn't follow its own tariff
14 and that -- and in particular with certain fees and
15 with the implementation of standby fees, that the
16 standby fees were not implemented in accordance with
17 either a resolution or the tariff set forth by the
18 district and more particular the district manager, and
19 that they have continuously charged Ms. Seamons
20 inappropriately and unjustly.

21 And when Ms. Seamons has tried to resolve the
22 issue, that there has been absolutely zero cooperation
23 from the district in trying to find a resolve to this,
24 which was a product of us bringing this before the
25 commission. It shouldn't have to be that way.

1 Also, there seems to be some unfairness with
2 regards to the enforcement of the tariff with regards to
3 how tenants are treated. Obviously, not all the
4 implementation of the tariff is being enforced with all
5 tenants or owners with regards to said tenants having
6 contracts with TUID.

7 And I think a more dire issue is the amount of
8 notice and information that's being provided by the
9 district that its tariff demands and that those
10 commission rules demand. And we also plan to show today
11 the violation of Ms. Seamons' due process with regards
12 to utilities and more specifically with taps.

13 I am not sure what TUID's incentive is with
14 regards to just running roughshod around its own tariffs
15 and around the commission's rules. Believe me, Ms.
16 Seamons would rather not be here today. She would
17 rather not have had to file a complaint.

18 She feels akin to Ticaboo, having the --
19 coming from a long line of mining family and having, you
20 know, that property down there. It's a sentimental
21 issue for them, not a financial or economical issue.
22 However, the district is making it solely a financial
23 and economical issue, and it's making it impossible for
24 Ms. Seamons to continue to have that property.

25 And the bottom line is, not only is it making

1 it impossible for her to have the property; it's making
2 it impossible for her and others to sell their property.

3 So we really don't know what the end game is
4 here for the district where it just doesn't seem like
5 the feasibility of how the -- it structures its policies
6 and tariffs with regards to utilities, how it's going to
7 continue, given the fact that it doesn't -- it's not
8 affordable, especially with Ms. Seamons, who is a
9 retired lady and doesn't have the income to do all these
10 things.

11 Now, I know that's not before the commission
12 today, but we just felt that it was important to let the
13 commission know that, that this is, again, a no-win
14 situation for Ms. Seamons and likely other property
15 owners that are in Ticaboo. And so we appreciate the
16 commission allowing us to be here today to raise these
17 concerns, to address these concerns, to make it public.

18 Again, we feel strongly that Ms. Seamons is
19 not the only one that has these concerns but has the
20 wherewithal to try to stand up to the district and to
21 bring forth these issues to find resolve and hopefully
22 resolve for all property owners down in Ticaboo. With
23 that, does the commission have any questions?

24 JUDGE JONSSON: I don't think I have any
25 questions. I'll just make a couple of points on the

1 record. First of all, we don't have any mechanism to
2 entertain a sort of class action complaint. We have
3 received some additional complaints against TUID that
4 raise similar issues. And we will have to deal with
5 those one on one.

6 Whatever order is issued here, if it grants
7 relief to Ms. Seamons, that might be used as evidence by
8 subsequent complainants, but likely would not extend to
9 provide relief to them as well.

10 MR. HOGELIN: Thank you.

11 JUDGE JONSSON: Okay. All right. Mr. Long,
12 your opening.

13 MR. LONG: Thank you. In Mr. Hogelin's
14 opening statement he seems to have taken a few steps
15 backwards. I'd like to point out that the commission's
16 order of July 6, 2016, in this docket disposes of the
17 standby fee issue in its entirety.

18 JUDGE JONSSON: That's not correct. It says
19 that standby fees are legal generally. It does not say
20 that the current standby fees may be imposed or
21 collected against Ms. Seamons. The question is whether
22 it has properly noticed and held the meetings that it
23 had to notice and hold in order to assess standby fees.

24 If it has not done that, then its tariffs are
25 not necessarily valid, and if it does not have valid

1 tariffs, it cannot enforce them.

2 MR. LONG: True. Without being argumentative,
3 can I perhaps clarify our understanding?

4 JUDGE JONSSON: Please.

5 MR. LONG: Reading from the order, the
6 commission says, "We dismissed Ms. Seamons' allegations
7 as to the legality in general of standby fees and as to
8 legality of the specific rates and policies set forth in
9 TUID's tariff."

10 JUDGE JONSSON: Correct.

11 MR. LONG: And goes on to list seven questions
12 which are the topic of this hearing day.

13 JUDGE JONSSON: Correct.

14 MR. LONG: And Ticaboo is prepared to address
15 those seven questions.

16 JUDGE JONSSON: Excellent. So the fact that
17 the specific rates and fees are legal does not
18 necessarily mean that they are also currently
19 enforceable. That's the distinction.

20 MR. LONG: Okay. And I would like to point
21 out that the dockets referenced in these questions are
22 not the docket in which standby fees were implemented.

23 JUDGE JONSSON: I understand that, but there
24 is a question on point No. 3 as to whether, in the 2013
25 docket, where standby fees were first imposed, if there

1 was notice and a public meeting. So we're going to be
2 looking at both those dockets today. Okay. Go ahead
3 with your opening.

4 MR. LONG: The issue of standby fees, which
5 again the district doesn't feel needs any substantive
6 justification, is simply a matter of fairly allocating
7 costs to those property owners that bear the ben -- you
8 know, that receive the benefits of the service provided
9 by the district.

10 You know, whether a house is occupied and
11 receiving utility service so actually having electricity
12 and water flowing to it, or the house is vacant or even
13 if it's an undeveloped lot for which the district is
14 ready to provide service essentially on a moment's
15 notice, the district incurs costs.

16 And those are simple -- simple realities of a
17 utility, you know, to maintain power lines in this case
18 or to maintain generator, simply to keep the
19 infrastructure in place so service can be provided upon
20 request. And standby fees simply fairly allocate those
21 costs to those who receive the benefits of it.

22 As I noted previously, the district is
23 prepared to address the commission's questions as set
24 forth in the July 16th order, and to the extent that
25 that discussion today goes beyond those questions, I

1 would ask that we have the opportunity to file
2 post-hearing briefs or some other sort of -- other sort
3 of response after the hearing today.

4 JUDGE JONSSON: That's certainly an option.

5 MR. LONG: Thank you.

6 JUDGE JONSSON: All right. We potentially
7 have an issue with burden of proof in this case. As to
8 the commission's specific questions that are set forth,
9 I am not sure, I don't think, that Ms. Seamons has the
10 burden to demonstrate whether TUID did or did not hold a
11 board meeting within 30 days of the commission's
12 September 10th, 2015, order approving the stipulation.
13 I believe that that really is Ticaboo's burden.

14 Do the parties disagree?

15 MR. HOGELIN: We don't disagree. However, we
16 would be -- if the commission will allow, we would like
17 to have on record Ms. Seamons' knowledge of those.

18 JUDGE JONSSON: That's fine. Why don't we go
19 ahead and go with that.

20 MR. HOGELIN: Okay.

21 JUDGE JONSSON: Would you like to have her
22 sworn then?

23 MR. HOGELIN: Yes.

24 JUDGE JONSSON: All right. Will you go ahead
25 and take care of that.

1 COURT REPORTER: Uh-huh. Ma'am, would you
2 raise your right hand and be sworn?

3 MR. HOGELIN: Actually, what I would like to
4 request is that, this is her daughter, Mary Broadbent,
5 who has power of attorney and is the executor of
6 Ms. Seamons. And I would request that she be sworn in
7 to testify in Ms. Seamons' behalf.

8 JUDGE JONSSON: That's fine. Why don't you
9 both raise your hands. Go ahead.

10 MARY BROADBENT (Witness Daughter),
11 and MARIAN SEAMONS (Witness Mother),
12 called as witnesses at the instance of the complainant,
13 having been first duly sworn, was examined and testified
14 as follows:

15 MR. HOGELIN: Thank you, and we'd also ask for
16 a little patience. Ms. Seamons has some hearing --

17 JUDGE JONSSON: I understand and that's fine.

18 MR. HOGELIN: It may take a second to get
19 questions across.

20 JUDGE JONSSON: We will accommodate her as
21 best we can.

22 DIRECT EXAMINATION

23 BY MR. HOGELIN:

24 Q. Mary, I'm going to direct these questions to
25 you. Were you or was your mother aware of the joint

1 **settlement stipulation of Docket 15-2508-T01?**

2 A. (Witness Daughter) No. I am not. And neither
3 one of us at that time.

4 **Q. At what time?**

5 A. (Witness Daughter) In September. In October
6 we enacted upon trying to go to meetings. On October
7 5th we called to --

8 **Q. Okay. So you didn't -- you weren't aware of a**
9 **meeting in September --**

10 A. (Witness Daughter) Oh, no.

11 **Q. -- or October, okay.**

12 A. (Witness Daughter) Nothing prior.

13 **Q. And then did -- were you aware of any board**
14 **meeting that was held by TUID between the dates of**
15 **September 30th, 2015, and October 10, 2015?**

16 A. (Witness Daughter) No.

17 **Q. Did you reach out to TUID to try to --**

18 JUDGE JONSSON: Just a minute, Mr. Hogelin.
19 Did you mean September 10th? I believe you said
20 September 30th.

21 MR. HOGELIN: You are right. I did. I was
22 looking at the 30 days. I apologize.

23 **Q. (By Mr. Hogelin) So September 10th of 2015**
24 **and October 10, 2015, were you aware of any board**
25 **meeting that was held?**

1 A. (Witness Daughter) An October 5th board
2 meeting was to be held. I called and talked to
3 Mr. Shortreed. Well, my husband called, and we had it
4 on voice speaker. And it was canceled, he told us.

5 Q. Okay. So there was no meeting that you are
6 aware of that was held by the board for TUID between
7 September 10th, 2015, and October 10, 2015?

8 A. (Witness Daughter) Right, no --

9 Q. Okay.

10 A. -- board meeting.

11 Q. With regards to the -- are you aware of any
12 revised tariff that was filed with the commission on
13 Docket No. 15-2508-T01 within 15 days after October
14 10th, 2015?

15 A. (Witness Daughter) No.

16 Q. Okay. Did you make any -- did you take any
17 action to try to ascertain whether or not that had
18 happened?

19 A. (Witness Daughter) Yes. I spoke with the
20 commission office, Erika Tedder and another one. I am
21 trying to think of her name, and asked if there was a
22 tariff filing for TUID, and they said that there was
23 not.

24 Q. Okay. Now, regarding the tariff also known as
25 Docket No. 15-2508-T01, were you given any notice of any

1 **public meetings regarding that tariff?**

2 A. (Witness Daughter) I was not involved in that
3 time, so my mother would have to then respond to that.

4 JUDGE JONSSON: All right.

5 WITNESS DAUGHTER: Do you know anything of the
6 2013 meeting to the tariff filing or -- in 2013?

7 WITNESS MOTHER: Which, which?

8 WITNESS DAUGHTER: Any month, for meetings
9 held in 2013. Were you alerted of meetings?

10 MR. HOGELIN: For the tariff.

11 WITNESS DAUGHTER: No, you were not living
12 there. But were you aware of any meetings that were to
13 be held --

14 THE WITNESS: No.

15 WITNESS DAUGHTER: -- in 2013?

16 WITNESS MOTHER: No, I was not.

17 WITNESS DAUGHTER: Were you informed of
18 meetings?

19 WITNESS MOTHER: No.

20 **Q. (By Mr. Hogelin) Were you given any notice**
21 **regarding any public meetings concerning Docket**
22 **15-2508-T01?**

23 A. (Witness Daughter) Now, were we given -- say
24 that one more time. I'm sorry.

25 **Q. (By Mr. Hogelin) Were you given notice of any**

1 public meetings that were to be held on court docket in
2 2015, for the tariff in 2015?

3 A. (Witness Daughter) No.

4 Q. How did you find out about the 2015 docket
5 regarding the tariff?

6 A. (Witness Daughter) At September of 2015,
7 started to look at ways that they were posting
8 information towards meetings. Searched the Internet,
9 found TSSD, and then started to find out county
10 newspaper, located Garfield County, and was informed of
11 meetings under Garfield County newspaper.

12 MR. HOGELIN: And I believe that is our -- my
13 client's responses to the first three questions. If you
14 want to hold there or go forward.

15 JUDGE JONSSON: Let's keep going.

16 MR. HOGELIN: Okay. So I am going to ask
17 Ms. Broadbent to testify on behalf of her mother, even
18 though her mother is the one that has the actual
19 knowledge.

20 Q. (By Mr. Hogelin) Ms. Broadbent, when did --
21 when did -- when was your mother first notified that she
22 was going to be charged standby fees?

23 MR. LONG: I'd like to note an objection. I'd
24 like to note an objection.

25 JUDGE JONSSON: Go ahead.

1 MR. LONG: I understand we are not bound by
2 the rules of evidence here, but on a hearsay basis, I --
3 we would prefer to hear directly from Ms. Seamons.

4 JUDGE JONSSON: Well, I am going to ahead and
5 let her --

6 MR. LONG: -- difficulties.

7 JUDGE JONSSON: -- daughter say what she needs
8 to say.

9 MR. LONG: Sure.

10 JUDGE JONSSON: Could you please make sure
11 that your mother can hear you.

12 WITNESS DAUGHTER: Yeah.

13 JUDGE JONSSON: As you speak, and then we'll
14 see where that takes us.

15 WITNESS DAUGHTER: So she is going to allow me
16 to speak for you.

17 WITNESS MOTHER: Right. I can't hear.

18 WITNESS DAUGHTER: She is hoping that I speak
19 loud enough that you can hear me.

20 WITNESS MOTHER: Oh, I'll try.

21 WITNESS DAUGHTER: And then agree or disagree
22 at any point that I don't speak within what you would
23 testify on your own behalf.

24 WITNESS MOTHER: Okay.

25 JUDGE JONSSON: So pull that microphone right

1 up to you.

2 WITNESS DAUGHTER: To me?

3 JUDGE JONSSON: Either way, yeah, either one,
4 so that that should help your mom hear.

5 WITNESS DAUGHTER: Okay.

6 JUDGE JONSSON: All right. And speak nice and
7 loud.

8 Q. (By Mr. Hogelin) When did -- when did your
9 mother first get notice that she was being charged
10 standby fees?

11 A. (Witness Daughter) Her first notice was not
12 until March of 2014.

13 Q. Now, in that notice, when was she first
14 actually charged standby fees?

15 A. (Witness Daughter) The charges began September
16 1st of 2013.

17 Q. Okay. Do you recall receiving or -- okay. I
18 have here Ticaboo Utility Improvement District
19 Resolution No. 2013-0017.

20 JUDGE JONSSON: Okay.

21 Q. (By Mr. Hogelin) Do you recognize this
22 document?

23 A. (Witness Daughter) Yes. But I received this
24 from --

25 Q. I am just asking if you --

1 A. (Witness Daughter) Yeah, I recognize this.

2 **Q. Okay. And can you turn to the second page?**

3 A. (Witness Daughter) Yes.

4 **Q. Do you see -- can you read the top line?**

5 A. (Witness Daughter) No. 1 or 2?

6 **Q. No, the top line.**

7 A. (Witness Daughter) Oh. "Now, therefore, be it
8 resolved by the legislative body of Ticaboo Utility
9 Improvement District as follows."

10 **Q. And can you read paragraph No. 2.**

11 A. (Witness Daughter) No. 2, the rules regarding
12 the minimum --

13 **Q. The new rules.**

14 A. (Witness Daughter) "The new rules regarding
15 the minimum payment of standby fees for all services.
16 If a customer is receiving, connected and/or tapped into
17 any of the utility services provided; electric, water,
18 waste water, solid waste, will be required and hereby
19 approved by the district manager as authorized to file
20 the rules, with such clerical changes as district
21 manager deems reasonable and necessary to comply within
22 Utah law and with the rules and regulations of the
23 district."

24 **Q. Can you read paragraph No. 3.**

25 A. (Witness Daughter) Three. "The new rates and

1 rules shall become effective September 1st, 2013."

2 Q. Okay. And is it signed?

3 A. (Witness Daughter) Yes.

4 Q. By who?

5 A. (Witness Daughter) It's a printed, Mr. Chip
6 Shortreed and Justin Fischer, secretary with their seal.

7 Q. And then is it sealed?

8 JUDGE JONSSON: Do you want that document --

9 MR. HOGELIN: Yes.

10 JUDGE JONSSON: -- in the record as an
11 exhibit? Any objection?

12 MR. LONG: No.

13 JUDGE JONSSON: Okay.

14 MR. LONG: No.

15 MR. HOGELIN: Permission to approach?

16 JUDGE JONSSON: Yeah, go ahead. So I am going
17 to mark this as Complainant's Exhibit 1.

18 MR. HOGELIN: Amended? Oh, okay.

19 JUDGE JONSSON: Yeah.

20 MR. HOGELIN: I just didn't want to confuse
21 with all those other exhibits.

22 JUDGE JONSSON: Well, they are not really
23 marked.

24 MR. HOGELIN: Okay.

25 JUDGE JONSSON: At least not particularly, not

1 in a really clear order.

2 MR. HOGELIN: Okay.

3 JUDGE JONSSON: So we'll just mark everything
4 today. Exhibit 1.

5 So let me just ask a couple of questions to
6 deal with the evidentiary objection. How, how do you
7 know when the standby fees were first -- when your
8 mother first received notice of the standby fees?

9 MR. HOGELIN: We're going to -- we're going to
10 show that.

11 JUDGE JONSSON: Okay.

12 MR. HOGELIN: We're going to show that.

13 JUDGE JONSSON: And similarly, how do you know
14 when the charges began?

15 MR. HOGELIN: Absolutely.

16 JUDGE JONSSON: If you are going to bring in
17 some documentary evidence, that would be helpful.

18 MR. HOGELIN: Yeah.

19 JUDGE JONSSON: Okay.

20 MR. HOGELIN: Okay.

21 **Q. (By Mr. Hogelin) So what is your understanding**
22 **of paragraph 2?**

23 A. (Witness Daughter) In No. 2 being receiving,
24 connected or tapped, tapped being, my reference would be
25 the meters.

1 Q. Okay. And is your understanding that if you
2 were not receiving, connected or tapped on any of your
3 properties, that you would or would not be charged the
4 standby fee?

5 A. (Witness Daughter) Would not.

6 Q. Okay. How many properties does your mother
7 own in the district?

8 A. (Witness Daughter) We have a total of eight.

9 Q. Okay. As of September 1st, 2013, were all
10 eight properties receiving, connected and/or tapped with
11 any utilities?

12 A. (Witness Daughter) At that time of September
13 1st, we were only connected with one double-wide home.

14 Q. Just where --

15 A. (Witness Daughter) One property. Well, one
16 and two, but they are considered one with being
17 contiguous.

18 Q. Okay. How many properties were not receiving,
19 connected or tapped into with any type of utility at the
20 time of September 1st?

21 A. (Witness Daughter) Six.

22 Q. Okay. Okay. I have a document. It says
23 audit history. It's for Account 1000 for Ticaboo
24 Utility Improvement District. For reference that is lot
25 005. And do you recognize this document?

1 A. (Witness Daughter) Yes.

2 Q. Can you please -- can you please read the
3 account number.

4 A. (Witness Daughter) Account 1000.

5 Q. And which lot is that for?

6 A. (Witness Daughter) Lot 5.

7 Q. And in the -- well, is there a name at the top
8 of it?

9 A. (Witness Daughter) Sharon A. Seamons is our
10 father and my mother's husband.

11 Q. Okay. And so is this a -- this is an audit
12 history of that lot, correct?

13 A. (Witness Daughter) Correct. We received one
14 for each property.

15 MR. HOGELIN: Would the commission like a
16 copy?

17 JUDGE JONSSON: Yes. It's, it's in -- it's in
18 here, but let's go ahead and take a clean copy and mark
19 it.

20 MR. HOGELIN: Great.

21 JUDGE JONSSON: Thank you. So I am going to
22 mark this as Complainant's Exhibit 2 unless there's an
23 objection. Mr. Long, any objection?

24 MR. LONG: Sorry. Could you repeat that?

25 JUDGE JONSSON: I am prepared to enter this

1 into evidence and mark it as Complainant's Exhibit 2.

2 Any objection?

3 MR. LONG: No objection.

4 JUDGE JONSSON: Thank you.

5 Q. (By Mr. Hogelin) So the first line of the
6 audit, what's the date?

7 A. (Witness Daughter) Well, the first one is
8 August 31st, 2012.

9 Q. Okay. And does it show a balance?

10 A. (Witness Daughter) It shows a previous balance
11 of 758.06.

12 Q. Okay. So just for background purposes, why is
13 there a previous balance from that?

14 A. (Witness Daughter) In the previous balance,
15 it's a bill that Ticaboo states that we owe, yet
16 under --

17 Q. Okay. So it's a previous, an alleged previous
18 balance that was carried over?

19 A. (Witness Daughter) Correct.

20 Q. Okay. And then for the next month, so what
21 does the next month say?

22 A. (Witness Daughter) Well, it goes down to 930,
23 beginning balance of usage, but at the bottom of the
24 page --

25 Q. No. I'm asking questions here.

1 A. (Witness Daughter) Oh, okay.

2 Q. Okay. So the next month says what?

3 A. (Witness Daughter) 9-30-2012.

4 Q. And what's the balance?

5 A. (Witness Daughter) 758.06.

6 Q. So essentially it was the same balance as the
7 month before, correct?

8 A. (Witness Daughter) Correct.

9 MR. LONG: I object. This is -- these
10 balances are all water bills that were balances owed to
11 TSSD before the two districts were combined to form what
12 is now Ticaboo Utility Improvement District. In the
13 district's opinion any issues with water service are
14 outside the commission's jurisdiction.

15 JUDGE JONSSON: That's an excellent point, so
16 we can talk about that in just a minute. But look at
17 the December 31st, 2012, line.

18 MR. HOGELIN: The water issue is not what
19 we're using this for.

20 JUDGE JONSSON: This is where we see some
21 kilowatt hours. So it looks like it does become both
22 electricity and water. At least that's how it appears.
23 Is that correct?

24 MR. LONG: Yeah, that's correct.

25 JUDGE JONSSON: Okay.

1 MR. LONG: And if we could simply move to the
2 -- whatever issues they have with electric service.

3 MR. HOGELIN: Yeah, I am getting there.

4 JUDGE JONSSON: Is it correct that up until
5 December 31st, 2012, the charges are for water, not for
6 electricity? Is that your understanding?

7 MR. HOGELIN: For in -- yeah. For whatever.
8 Actually, these charges were carried over. Okay?

9 JUDGE JONSSON: Right.

10 MR. HOGELIN: So what we're trying to show is
11 that the billing is the same up until September of 2013.
12 Okay?

13 JUDGE JONSSON: Oh, okay. So we have a
14 carried-over balance.

15 MR. HOGELIN: Right.

16 JUDGE JONSSON: It begins -- this document
17 begins to show that carryover as to electricity
18 beginning December 31st, 2012.

19 MR. HOGELIN: Correct.

20 JUDGE JONSSON: No changes in that balance
21 appear until --

22 MR. HOGELIN: September of 2013.

23 WITNESS DAUGHTER: At the bottom of the page,
24 it shows 9-9-2013, and that began the standby fees
25 implementation.

1 MR. HOGELIN: So I was just trying to get -- I
2 was just trying to get the long way of giving a
3 foundation for that.

4 JUDGE JONSSON: Yeah. And you don't need
5 to -- I am not going to require you to spend a lot of
6 time on foundation unless you are going to consider that
7 to be an error and appeal on that basis.

8 MR. LONG: No. I am fine admitting this as
9 evidence.

10 JUDGE JONSSON: Okay.

11 MR. LONG: This is a document that was
12 provided to them as part of what was ostensibly a GRAMA
13 request.

14 JUDGE JONSSON: Okay. Right. So go ahead
15 and --

16 Q. (By Mr. Hogelin) So in September of 2013 --

17 JUDGE JONSSON: Right.

18 Q. -- what -- there was charges that were being
19 put on that property, correct?

20 A. (Witness Daughter) Right.

21 Q. And what charges were those?

22 A. (Witness Daughter) They were standby fees for
23 tapped property.

24 Q. Now, prior to those charges being implemented,
25 was Lot 5, for which this audit is specifically for, was

1 **it receiving, connected and/or tapped to any of the**
2 **utility services?**

3 A. (Witness Daughter) No. Meters were removed in
4 2008.

5 **Q. Okay.**

6 JUDGE JONSSON: Okay. So let me just make a
7 note of that. So this -- where does this show what the
8 property number is or the property identifier?

9 MR. HOGELIN: Well, the 1000 is the account
10 number.

11 JUDGE JONSSON: Uh-huh.

12 MR. HOGELIN: And that account number
13 correlates, and based off the testimony of my client,
14 that that coordinates with 005. And again, this was
15 provided by Ticaboo Utility Improvement District.

16 JUDGE JONSSON: Okay. So Account No. 1000 is
17 for lot or plat number 005.

18 MR. HOGELIN: Correct. We, we -- my clients
19 received a letter from TUIA and explaining that. I
20 didn't make copies. But I do have --

21 WITNESS DAUGHTER: It's submitted into the
22 formal complaint.

23 MR. HOGELIN: It is in the formal complaint.

24 JUDGE JONSSON: Okay. All right. Well, if we
25 need to look for the documentary evidence, we can do

1 that. I just want to make sure that I understand what
2 we're talking about.

3 MR. HOGELIN: Correct.

4 JUDGE JONSSON: So it's your testimony that on
5 this particular plat, Lot 005, there were no taps, that
6 taps had been removed in 2008; is that right?

7 WITNESS DAUGHTER: Right.

8 WITNESS MOTHER: Yes.

9 JUDGE JONSSON: Okay.

10 Q. (By Mr. Hogelin) Okay. Can you turn to the
11 second page of that audit.

12 A. (Witness Daughter) This still says 1000.

13 Q. Just to the second page please.

14 A. (Witness Daughter) Oh, sure.

15 Q. Okay. Can you please read -- do you see where
16 at March of 2014 the block is for?

17 A. (Witness Daughter) Yes.

18 Q. Okay. And what does it say at the bottom of
19 the block?

20 A. (Witness Daughter) Notice printed for \$1946.25
21 due on 4-21-2014.

22 Q. Okay. Prior to March of 2014, is there
23 anywhere on the audit history that shows that there was
24 any notice printed or put forth to you?

25 A. (Witness Daughter) No.

1 Q. Okay. And did your mother receive any notice
2 of these charges prior to March of 2014?

3 A. (Witness Daughter) No.

4 A. (Witness Mother) No.

5 Q. Thank you. Okay. As for Lot 3 and 4, and is
6 it your testimony that Lot 3 and 4 are Account No. 1115?

7 A. (Witness Daughter) Yes.

8 Q. Okay.

9 A. (Witness Mother) Yes.

10 JUDGE JONSSON: What was the account number
11 again?

12 MR. HOGELIN: 1115.

13 JUDGE JONSSON: Okay. And that's Lots 3 and 4
14 together, correct?

15 MR. HOGELIN: Correct.

16 JUDGE JONSSON: Okay.

17 Q. (By Mr. Hogelin) And for Account No. 1115,
18 Lots 3 and 4, was there -- we're looking at a copy of
19 audit history for Account 1115. Is this the --
20 basically look the same as the account for 1000 in the
21 billing?

22 A. (Witness Daughter) Yes, and the same --

23 Q. Okay. And is this -- where did you get this
24 from?

25 A. (Witness Daughter) We GRAMA Act requested

1 documents from the district and received them in October
2 of 2015.

3 Q. Okay. And was there -- is there any billing
4 shown on there prior to September of 2013?

5 A. (Witness Daughter) Okay. At that time, no.

6 Q. Okay. So was Lots 3 and 4, were they
7 receiving, connected and/or tapped to any utilities
8 prior to September of 2013?

9 A. (Witness Daughter) Yes, they were. To this
10 lot there was.

11 Q. Okay.

12 A. (Witness Daughter) The meters were removed by
13 the district in August of 2013.

14 JUDGE JONSSON: So it had taps through August?

15 MR. HOGELIN: Of 2013.

16 WITNESS DAUGHTER: Well, July 31st, and in
17 August 1st of 2013 the district came and removed the
18 meters.

19 JUDGE JONSSON: Okay. Hang on. Let me get
20 the dates down.

21 WITNESS DAUGHTER: Yes.

22 JUDGE JONSSON: Through July 31st, 2013.

23 WITNESS DAUGHTER: Uh-huh.

24 JUDGE JONSSON: Right? And then taps were
25 removed on what date? August?

1 WITNESS DAUGHTER: August of 2013.

2 JUDGE JONSSON: Okay. You don't know the
3 exact date?

4 WITNESS DAUGHTER: I went down there on the
5 15th of that month.

6 JUDGE JONSSON: Uh-huh.

7 WITNESS DAUGHTER: But the -- our renters that
8 were there and had the taps called us at the first of
9 the month and reported to us that the district had come
10 and removed the meters.

11 JUDGE JONSSON: Okay.

12 MR. LONG: If I could add a point of
13 clarification.

14 JUDGE JONSSON: Sure.

15 MR. LONG: There seem to be some confusion
16 about meters versus taps versus connections.

17 JUDGE JONSSON: Okay.

18 MR. LONG: The district in my own words
19 defines taps as the presence of a utility connection at
20 the property line. So in this case a -- in the case of
21 electricity a line drop. Is that --

22 MR. SHORTREED: A line extends to a meter.

23 MR. LONG: So a power line of some sort
24 extends to the property. Now, that's the tap as far as
25 the district is concerned.

1 JUDGE JONSSON: Okay.

2 MR. LONG: Whether there's a meter connected
3 to that tap is another issue.

4 JUDGE JONSSON: Okay.

5 MR. LONG: And obviously, the district owns
6 meters, and those are an expense. And generally, if a
7 property is not receiving service, having a meter on it
8 is an expense the district tries to avoid. So taps
9 versus -- taps are not the same as meters.

10 JUDGE JONSSON: Okay. So if meters were
11 removed, that doesn't necessarily mean that the taps
12 were removed. Is that what you are saying?

13 MR. LONG: Precisely.

14 JUDGE JONSSON: And as far as you know, the
15 meters were removed, but are you aware of whether or not
16 the line, the electrical line to the property was also
17 removed?

18 WITNESS DAUGHTER: Electrical line is to the
19 back of the property at the five foot variance. It's
20 not actually on the property.

21 JUDGE JONSSON: Okay.

22 WITNESS DAUGHTER: So once they remove the
23 meters, that is upon the property of the district at
24 their five foot variance. To the property? No?

25 VOICE: It's your property. It's just in an

1 easement.

2 WITNESS DAUGHTER: It's in an easement, but
3 it's still my property. But it's -- the line is
4 lateral, once the meter is taken to the rear of the
5 property.

6 JUDGE JONSSON: Okay. So let me just -- let's
7 go at it from this angle. The tenants, excuse me,
8 reported to you that the meters had been removed, right?

9 WITNESS DAUGHTER: Correct.

10 JUDGE JONSSON: Did they also report that they
11 were no longer receiving electricity?

12 MR. HOGELIN: That is correct.

13 WITNESS DAUGHTER: They were taken. There's
14 no -- so there was nothing provided.

15 JUDGE JONSSON: No electricity being provided?

16 WITNESS DAUGHTER: Or water, correct.

17 WITNESS MOTHER: No power.

18 MR. HOGELIN: Any utilities.

19 WITNESS DAUGHTER: Any utilities.

20 JUDGE JONSSON: So if there was a line there,
21 it wasn't being used to deliver --

22 WITNESS DAUGHTER: No.

23 JUDGE JONSSON: -- utility service. Okay.

24 **Q. (By Mr. Hogelin) And again, this -- was this**
25 **before September 1st, 2013?**

1 A. (Witness Daughter) Yes.

2 Q. So looking at this audit history, are there
3 charges after September -- or beginning in September of
4 2013?

5 A. (Witness Daughter) Yes.

6 Q. And what charges are those?

7 A. (Witness Daughter) Standby fees for utility
8 service.

9 Q. Okay. And then can you turn to -- can you
10 turn to page 2. And do you see where the -- it
11 represents the billing for March of 2014?

12 A. (Witness Daughter) Yes. \$1213.49.

13 Q. What does it say at the bottom of that?

14 A. (Witness Daughter) Notice printed for \$1213.49
15 due on 4-21 of 2014.

16 Q. For any of the other months was -- does it
17 show that there was any notices printed?

18 A. (Witness Daughter) No.

19 Q. Did your mother receive any notices prior to
20 March of 2014?

21 A. (Witness Daughter) No.

22 A. (Witness Mother) No.

23 Q. Thank you.

24 JUDGE JONSSON: Are you going to put that
25 audit history into evidence for those two lots?

1 MR. HOGELIN: This is the original, right?

2 WITNESS DAUGHTER: Is it my original?

3 MR. HOGELIN: Yes.

4 WITNESS DAUGHTER: It doesn't matter. I have
5 it on the computer with original filings.

6 MR. HOGELIN: Okay.

7 WITNESS DAUGHTER: I have file docket so it's
8 fine. I have the --

9 MR. HOGELIN: But I printed it out.

10 WITNESS DAUGHTER: -- zip drive. That's fine.
11 I have the zip on it.

12 JUDGE JONSSON: Any objection, Mr. Long?

13 MR. LONG: No objection.

14 JUDGE JONSSON: Okay.

15 Q. (By Mr. Hogelin) So is it your testimony that
16 Lot 7 and 8 are --

17 MR. LONG: Mr. Hogelin, do you have a copy for
18 me?

19 MR. HOGELIN: I don't.

20 JUDGE JONSSON: Okay. Just --

21 MR. HOGELIN: I do of all the other ones. I
22 don't know what happened to that one.

23 JUDGE JONSSON: We'll take a little break, and
24 I'll go run some copies.

25 MR. HOGELIN: It's just that one. Thank you.

1 JUDGE JONSSON: Hold on just a minute. Let's
2 just take a break, and we'll go. How many did we need?
3 Two. Let's make two copies.

4 (Discussion off the record.)

5 JUDGE JONSSON: Just so you know, I wrote on
6 your Exhibit No. 2. Next to Account 1000, I put in
7 parenthesis Lot 005.

8 MR. HOGELIN: Yes.

9 JUDGE JONSSON: And on No. 3, I did the same
10 thing, put in parentheses Lots 003 and 004 to help me
11 keep it straight.

12 WITNESS DAUGHTER: Do you want the original
13 that shows the lots showing them?

14 MR. HOGELIN: We don't have the copies, but
15 that is the letter from TUID that shows the accounts
16 with corresponding lots.

17 JUDGE JONSSON: Oh, any objection to this?

18 MR. LONG: No objection.

19 JUDGE JONSSON: All right. We need copies of
20 this one as well?

21 MR. HOGELIN: Please.

22 JUDGE JONSSON: Okay. Be right back. We can
23 go off the record.

24 (Discussion off the record.)

25 JUDGE JONSSON: Okay. There are some people

1 who are listening to the hearing through our live
2 streaming service, and we just received notice that they
3 are having some difficulty hearing. So if you would
4 pull those mics right up close and try to speak loudly,
5 that would be helpful.

6 Also, our court reporter has some -- has a
7 little device that shows the transcription coming up on
8 text as she captures what we do here today. So
9 Ms. Seamons is looking at that now, and that might help
10 her to participate a little bit more and answer some
11 questions.

12 So Mrs. Seamons, can you see what I am saying?

13 WITNESS DAUGHTER: Can you see what --

14 WITNESS MOTHER: I can read this.

15 JUDGE JONSSON: Okay.

16 WITNESS DAUGHTER: But understanding it and
17 going through it, her eyesight isn't as great either.

18 JUDGE JONSSON: I understand. These things
19 happen, and they will happen to all of us.

20 MR. HOGELIN: Thank you.

21 JUDGE JONSSON: All right. So --

22 WITNESS MOTHER: I have to rely on my attorney
23 and my daughter.

24 JUDGE JONSSON: I understand. I am going to
25 mark the letter that ties the lot numbers to the account

1 numbers as Complainant's Exhibit 4. All right. Are we
2 back on the record?

3 COURT REPORTER: Uh-huh.

4 JUDGE JONSSON: All right. Mr. Hogelin, go
5 ahead.

6 Q. (By Mr. Hogelin) Okay. So we were talking
7 about Lots 7 and 8. And is it your understanding,
8 according to the letter from Ticaboo, that Lot 7 and 8
9 are also known as Account No. 1131?

10 A. (Witness Daughter) Yes.

11 Q. Okay. I am handing you a document. What does
12 it say at the very top?

13 A. (Witness Daughter) Audit history.

14 Q. And does it have an account number?

15 A. (Witness Daughter) 1131.

16 Q. Okay. And in whose name is at the top of
17 that?

18 A. (Witness Daughter) Sharon A. Seamons.

19 Q. Okay. Okay. For 1131, does it -- when does
20 the billing start?

21 A. (Witness Daughter) 9-30-2013.

22 Q. Was -- on Lot 7 and 8, was there -- were you
23 receiving, connected and/or tapped into any of the
24 utility services?

25 A. (Witness Daughter) No. Vacant property.

1 Q. Okay.

2 MR. LONG: Again, I would point out the
3 difference between meters and taps that we discussed
4 earlier.

5 JUDGE JONSSON: That's fine. And I would
6 actually -- it would be really helpful if, when you
7 cross-examine or you bring your own witness, you could
8 go through these same accounts and same lots and give me
9 the utility's perspective of what was there.

10 MR. LONG: Certainly. I just wanted to make
11 sure everyone is on the same page until that point.

12 JUDGE JONSSON: Okay. That's fine. So just
13 to reiterate that testimony, as to these lots, these
14 were vacant property, you said.

15 WITNESS DAUGHTER: Vacant property.

16 JUDGE JONSSON: Okay. So are you aware that
17 there was an electrical line or electrical meter to
18 these properties?

19 WITNESS DAUGHTER: Again at the back of each
20 one --

21 JUDGE JONSSON: Uh-huh.

22 WITNESS DAUGHTER: -- when the mining district
23 created the community in 1978 that was infrastructured.

24 JUDGE JONSSON: Uh-huh.

25 WITNESS DAUGHTER: And those lines or -- is at

1 the rear of every property.

2 JUDGE JONSSON: So there are lines running
3 through the utilities easement on every property?

4 WITNESS DAUGHTER: Yes.

5 JUDGE JONSSON: As to whether there's a line
6 that runs off of that to the -- to a home or to a home
7 site, are you aware that there was any line?

8 WITNESS DAUGHTER: Well, I know that they are
9 available for hookup if you put something there, but
10 there's -- like, I mean.

11 JUDGE JONSSON: Okay.

12 WITNESS DAUGHTER: There's never been nothing
13 on there.

14 WITNESS MOTHER: There had never been a
15 trailer or anything on that property.

16 JUDGE JONSSON: I understand.

17 WITNESS MOTHER: There had never been any
18 power or water used on those vacant properties.

19 JUDGE JONSSON: Okay. So there was no meter
20 there.

21 WITNESS MOTHER: No.

22 **Q. (By Mr. Hogelin) And just to go back, so**
23 **based off the two other properties that we talked about,**
24 **Lots 3 and 4 and then Lots 5, the way that you answered**
25 **the commission's question, it's the same, same way,**

1 correct?

2 A. (Witness Daughter) Right. Back at the 5 foot
3 variance from the back of the property easement would be
4 where the meters exist.

5 JUDGE JONSSON: Okay.

6 Q. (By Mr. Hogelin) But prior to this, there was
7 no charges anyways, correct?

8 A. (Witness Daughter) No. We purchased the
9 properties in 2000.

10 Q. Okay.

11 A. (Witness Daughter) I have to maybe state,
12 2006. We actually bought them from SITLA.

13 Q. You are fine. So these standby fee charges,
14 do they continue monthly?

15 A. (Witness Daughter) Yes.

16 Q. Okay. And then can you look down under the
17 charges of March of 2014. What does the last item say?

18 A. (Witness Daughter) Notice printed for
19 \$1213.49. Due on 4-21 of 2014.

20 Q. And is that statement provided in any of the
21 other months?

22 A. (Witness Mother) No. We have never had any
23 statements before that.

24 Q. Okay. So it's your testimony that you
25 never -- you never received notice of these fees until

1 **March of 2014, correct?**

2 A. (Witness Mother) Correct.

3 **Q. Okay.**

4 JUDGE JONSSON: Did you want to have this
5 audit history marked?

6 MR. HOGELIN: Yes. Can we please have that
7 marked as Exhibit 5, please.

8 JUDGE JONSSON: Any objection, Mr. Long?

9 MR. LONG: No objection.

10 JUDGE JONSSON: Thank you.

11 **Q. (By Mr. Hogelin) Is it your testimony, based**
12 **off the representation by TUID in the letter that is**
13 **Exhibit 4, that Lot 8 is also known --**

14 A. (Witness Mother) Yes.

15 **Q. -- as Account No. 1132?**

16 A. (Witness Daughter) Yes.

17 **Q. Okay. And would you submit that your**
18 **testimony for Lot 8 is the same as your testimony for**
19 **Lot 7 and 8.**

20 A. (Witness Daughter) Correct.

21 A. (Witness Mother) Correct.

22 **Q. Okay. Let me get copies of this.**

23 WITNESS MOTHER: Yeah, I can hear him.

24 **Q. (By Mr. Hogelin) What is your understanding**
25 **for the purpose that TUID combined 7 and 8 for Account**

1 **No. 1131 and then also has a separate account for Lot 8**
2 **specifically?**

3 A. (Witness Daughter) My understanding later upon
4 reading the tariff is that they are contiguous, if I say
5 that right.

6 **Q. Contiguous?**

7 A. (Witness Daughter) Contiguous, yes.
8 Contiguous.

9 **Q. Okay. But again for Lot 8, Account 1132, it's**
10 **vacant?**

11 A. (Witness Daughter) Yes.

12 **Q. And there was no usage of any utilities prior**
13 **to September of 2013?**

14 A. (Witness Daughter) Correct. No.

15 MR. HOGELIN: We would like to have that as
16 Exhibit 6, please.

17 JUDGE JONSSON: Any objection?

18 MR. LONG: No objection.

19 JUDGE JONSSON: Thank you.

20 **Q. (By Mr. Hogelin) Okay. And referring to**
21 **Exhibit 4, the letter from TUID with regards to the**
22 **account numbers and lot numbers, is it your testimony**
23 **that Account No. 1133 is also known as Lot 98?**

24 A. (Witness Daughter) Yes.

25 A. (Witness Mother) That's correct.

1 Q. Okay. Could you please state what's at the
2 top of the page.

3 A. (Witness Daughter) Beginning of usage, 9-30.
4 Oh, audit history, Sharon A. Seamons.

5 Q. Okay.

6 A. (Witness Daughter) 1133.

7 Q. Is what, the account number?

8 A. (Witness Daughter) Is Lot 98, Account No.
9 1133.

10 Q. Okay.

11 A. (Witness Mother) That's a vacant lot. That's
12 that corner lot.

13 Q. Does this audit history show any charges prior
14 to September of 2013?

15 A. (Witness Daughter) No.

16 A. (Witness Mother) No, it wasn't.

17 Q. Was this Account Lot No. 98, was it receiving,
18 connected and/or tapped into any of the utilities
19 services prior to September of 2013?

20 A. (Witness Daughter) No, it's not.

21 A. (Witness Mother) No.

22 Q. Okay. Is it vacant?

23 A. (Witness Daughter) Yes, it's a vacant
24 property.

25 A. (Witness Mother) It was vacant.

1 Q. And as of September of 2013, were there any
2 charges or billing?

3 A. (Witness Daughter) Prior to September, no.

4 Q. But in September, there was billing?

5 A. (Witness Daughter) No.

6 Q. Yes?

7 A. (Witness Daughter) Oh, on September they
8 started billing.

9 Q. Okay. Thank you.

10 A. (Witness Daughter) Prior no.

11 Q. And what were -- what was the billing for?

12 A. (Witness Daughter) Standby use of utilities.

13 Q. Okay. And those charges continued every
14 month, correct?

15 A. (Witness Daughter) Yes.

16 Q. Okay. And in March of 2014 on the audit
17 history, what does the bottom line state?

18 A. (Witness Daughter) Notice printed for \$1213.49
19 due on 4-21 of 2014.

20 Q. Okay.

21 A. (Witness Mother) That's correct.

22 Q. And did -- was -- is that listed any -- under
23 any of the previous months on the audit history?

24 A. (Witness Daughter) No.

25 A. (Witness Mother) No.

1 **Q. Okay. Did you receive any notice of these**
2 **fees prior to March of 2014?**

3 A. (Witness Daughter) No.

4 A. (Witness Mother) No, we hadn't.

5 MR. HOGELIN: Okay. I would like to have that
6 as, is that Exhibit 7?

7 JUDGE JONSSON: It is. Any objection?

8 MR. LONG: No objection.

9 MR. HOGELIN: Did we -- did we already submit
10 the --

11 WITNESS DAUGHTER: Yeah.

12 MR. HOGELIN: -- the resolution? Is that
13 Exhibit 1?

14 JUDGE JONSSON: Yes.

15 MR. HOGELIN: Okay. Thank you.

16 **Q. (By Mr. Hogelin) You, however -- you own other**
17 **properties in Ticaboo, correct?**

18 A. (Witness Daughter) The ones that we have just
19 stated. We had two --

20 **Q. Other than those?**

21 A. (Witness Daughter) We had two that were sold
22 in 2012 that were listed on that.

23 **Q. Okay.**

24 A. (Witness Daughter) It was --

25 JUDGE JONSSON: So we have been through six

1 properties by my count.

2 WITNESS DAUGHTER: So one and two were tapped
3 into. That was the living residence where my mother
4 lived from 2000 to 2009, '10.

5 JUDGE JONSSON: So that's Lots 001 and 002?

6 WITNESS DAUGHTER: Uh-huh, that is correct.

7 JUDGE JONSSON: And there's a residence on
8 those?

9 WITNESS MOTHER: That's correct.

10 WITNESS DAUGHTER: And those taps existed in
11 September of 2013, September of 2013.

12 JUDGE JONSSON: Okay.

13 MR. HOGELIN: I'm sorry?

14 WITNESS DAUGHTER: We used that residence that
15 -- in one and two, Lot 1 and 2.

16 MR. HOGELIN: Uh-huh.

17 WITNESS DAUGHTER: Is where our residence is
18 that we have.

19 MR. HOGELIN: Okay, great.

20 WITNESS DAUGHTER: -- were tapped into and --

21 MR. HOGELIN: Right.

22 WITNESS DAUGHTER: And lived.

23 **Q. (By Mr. Hogelin) Now, it also shows on here**
24 **Account Nos. 5051, 505 -- and when I say shows here, I**
25 **am referring to Exhibit 3, the letter from TUID**

1 **corresponding account numbers with lots.**

2 JUDGE JONSSON: It's actually Exhibit 4.

3 MR. HOGELIN: Exhibit 4, excuse me.

4 JUDGE JONSSON: It's all right.

5 **Q. (By Mr. Hogelin) 5051, 5052, 5054, do you**
6 **currently own those properties?**

7 A. (Witness Daughter) No. Those were sold in
8 2012.

9 **Q. Okay. So is it your testimony out of the --**

10 A. (Witness Daughter) Well, there's two, four,
11 six, eight.

12 **Q. -- those six account numbers going from 1000**
13 **to 1000 -- 1133, that only one of those properties as of**
14 **September of 2013 was using or -- utilities?**

15 A. (Witness Daughter) Correct. Those were the
16 only ones out of the eight. The other six did not have
17 meters.

18 **Q. And on the one -- and we're talking about Lot**
19 **1 and 2, Account No. 1002, what notice would you receive**
20 **of billing of --**

21 JUDGE JONSSON: Can I pause just a moment.
22 I'm sorry to interrupt. So these three account numbers
23 which represent five properties, you say those
24 properties were all sold?

25 WITNESS DAUGHTER: No. I don't understand why

1 5051 is listed as one and two, because it's also listed
2 as 0 -- 1002.

3 JUDGE JONSSON: Right.

4 WITNESS DAUGHTER: So error correction on
5 that. The only ones that were sold was Lot 5054.

6 JUDGE JONSSON: Well, account.

7 WITNESS DAUGHTER: Account, I'm sorry. Lots
8 92 and 93 --

9 WITNESS MOTHER: Yeah, 92 and 93.

10 WITNESS DAUGHTER: -- were sold in 2012.

11 Excuse us.

12 JUDGE JONSSON: In 2012 okay. Just a minute.
13 Lots 92, 93 were sold in --

14 WITNESS MOTHER: That did not have a meter.

15 JUDGE JONSSON: -- 2012, okay.

16 WITNESS MOTHER: No.

17 JUDGE JONSSON: And do you know why there are
18 two different account numbers for the combined Lots 1
19 and 2 and also two different account numbers for Lot 5?

20 WITNESS DAUGHTER: Okay. The residence on
21 5051, Lot 1 and 2 --

22 JUDGE JONSSON: Uh-huh.

23 WITNESS DAUGHTER: -- is our home occupant,
24 that we occupied.

25 JUDGE JONSSON: I understand that.

1 WITNESS DAUGHTER: And then Lot 5 --

2 WITNESS MOTHER: It's a double-wide home.

3 WITNESS DAUGHTER: 5052 had the previous
4 balance that they state owed from the prior --

5 JUDGE JONSSON: Okay.

6 WITNESS DAUGHTER: -- district. Same with
7 5054.

8 JUDGE JONSSON: Right. But there are two
9 different account numbers for each of those properties.
10 Do you know why that is?

11 MR. HOGELIN: You are referring to Lot 1 and
12 2, correct?

13 WITNESS DAUGHTER: I don't. I think because
14 they existed before standby fees.

15 JUDGE JONSSON: Well, maybe we'll have to have
16 Ticaboo Utility Improvement District explain that.

17 WITNESS DAUGHTER: Yeah. I believe that's
18 before they existed before the standby fees.

19 JUDGE JONSSON: Okay. But you don't know.

20 WITNESS DAUGHTER: I don't know.

21 JUDGE JONSSON: All right. Go ahead. Sorry.

22 **Q. (By Mr. Hogelin) So for Lot 1 and 2 was the**
23 **only lots that were using utilities at the time as of --**
24 **prior to September of 2013, what notice do you receive**
25 **for utilities generally? Is it monthly?**

1 A. (Witness Daughter) Monthly.

2 Q. Okay. And so for Lot 1 and 2, you received
3 notice monthly of what was owed. But for all the other
4 lots that start standby fees in September of 2013, you
5 didn't receive notice until March of 2014?

6 A. (Witness Mother) I didn't understand that.

7 WITNESS DAUGHTER: Did you receive your
8 billing for Lot 1 and 2 and not the other ones prior to
9 that or up until March?

10 JUDGE JONSSON: Let's rephrase it. Can you
11 hear me, Mrs. Seamons?

12 WITNESS DAUGHTER: Can you hear the judge?

13 WITNESS MOTHER: Now what?

14 JUDGE JONSSON: Okay. So for the lot where
15 you have the double-wide home.

16 WITNESS MOTHER: Yes.

17 JUDGE JONSSON: Did you receive monthly bills
18 from TUID for the utilities?

19 WITNESS MOTHER: I think so. I kept those
20 current.

21 JUDGE JONSSON: Okay. And then on the other
22 properties that you own that are vacant, did you receive
23 monthly billings from TUID, or did you receive a
24 combined billing for several months' worth of charges?

25 WITNESS MOTHER: I received a combined

1 billing. But there were no charges on the vacant lots.

2 JUDGE JONSSON: I believe the records, the
3 records show that there were charges. Did you mean to
4 say that nobody there was using any utilities?

5 WITNESS MOTHER: I can't understand that.

6 MR. HOGELIN: Okay.

7 JUDGE JONSSON: Can you help?

8 **Q. (By Mr. Hogelin) The lots that you were**
9 **getting standby fees on, did you get monthly notice of**
10 **those bills?**

11 A. (Witness Mother) Like this?

12 **Q. Just anything.**

13 A. (Witness Mother) Did I get a combined notice
14 on that?

15 A. (Witness Daughter) No.

16 MR. HOGELIN: I believe she's already
17 testified that she didn't receive any notice of -- until
18 March.

19 JUDGE JONSSON: That's what the complaint
20 states.

21 MR. HOGELIN: And I was just trying to show
22 there was -- on the ones that were being used she was
23 receiving monthly billing. However, the ones where the
24 standby was being billed, that was not being given
25 notice or monthly bill but rather was a collection of

1 months that were done periodically.

2 JUDGE JONSSON: Okay. So let me just ask you,
3 Mr. Long. I don't think that we have --

4 WITNESS DAUGHTER: I don't know.

5 JUDGE JONSSON: I know, but I'm going over
6 here. I don't think we have really clear testimony from
7 Mrs. Seamons. I think we have a communication
8 breakdown. But what counsel is asking me to accept into
9 the record is that TUID was sending out monthly billings
10 for those Lots 1 and 2 for the utilities that were
11 actually being used, but on the vacant lots it was not
12 sending out monthly billings for the standby fees. Do
13 you contest that?

14 MR. LONG: Yeah. And I will have
15 Mr. Shortreed testify as to exactly how the billing
16 process works when it's his turn.

17 JUDGE JONSSON: That's fine.

18 MR. LONG: In effect, the bills sent out are
19 sent out on a group bill basis, so each bill has all of
20 the lots owned by a particular property owner.

21 MR. SHORTREED: For Mrs. Seamons specifically,
22 in this case she gets a group billing.

23 JUDGE JONSSON: Okay. That's fine. We'll
24 have -- Mr. Shortreed, until you are sworn in, if you
25 would let your counsel speak, that would, I think, be

1 best for the record.

2 MR. SHORTREED: Sorry.

3 JUDGE JONSSON: That's all right.

4 MR. LONG: And I'll have Mr. Shortreed address
5 that question when he is speaking.

6 JUDGE JONSSON: Okay. That's fine. And if we
7 feel like we need any follow up with Mrs. Seamons, we'll
8 give you that opportunity.

9 MR. HOGELIN: If I could have one more shot
10 because I think this is very important to have on the
11 record.

12 JUDGE JONSSON: Go ahead.

13 **Q. (By Mr. Hogelin) Ms. Seamons.**

14 A. (Witness Mother) Yes.

15 **Q. Did you receive any notice of any standby fees**
16 **prior to March of 2014?**

17 A. (Witness Mother) No. I did not.

18 **Q. So is it fair to say that you did not receive**
19 **a monthly bill for those standby fees?**

20 A. (Witness Mother) No. I didn't know there was
21 standby fees. So I didn't receive a bill.

22 **Q. Okay. So the bill that you did receive for**
23 **standby fees were for multiple months, correct?**

24 A. (Witness Mother) Correct.

25 **Q. Okay. And after March of 2014, on the**

1 properties that were being billed standby fees, did you
2 receive billing monthly for that?

3 A. (Witness Mother) No.

4 Q. Okay. And so that is it your testimony that
5 the properties with standby fees, you would only receive
6 bills periodically with multiple months?

7 A. (Witness Mother) Correct.

8 Q. Okay. Thank you.

9 JUDGE JONSSON: All right. Go ahead.

10 Q. (By Mr. Hogelin) Okay. Was the issue of being
11 billed for standby fees on properties that were not
12 using utilities prior to September of 2013, was that
13 ever addressed with TUID?

14 A. (Witness Daughter) You will have to --

15 Q. You can answer too.

16 A. (Witness Daughter) You will have to repeat
17 that, I'm sorry.

18 Q. Okay. Did -- did you address the fact that
19 you had not received any notice or any bills concerning
20 the standby fees starting in 2013, September of 2013,
21 with TUID?

22 A. (Witness Mother) Yes. I verbally addressed
23 that to Mr. Shortreed, and he said that if I paid those
24 fees, then I could abandon the properties. But that was
25 an exorbitant amount of money because I only received

1 \$750 a month Social Security. And I was relying on the
2 rental to keep my bills paid, and he pulled the meters
3 from my rental. So I received no money from my rents.

4 **Q. When did you address with Mr. Reed (sic) that**
5 **you had been charged standby fees but hadn't received**
6 **notice until March of 2014?**

7 A. (Witness Mother) I went down for a meeting.
8 Was it the meeting? I went to Ticaboo for the monthly
9 meeting.

10 **Q. Okay.**

11 A. (Witness Mother) And addressed that with
12 Mr. Shortreed at the meeting.

13 **Q. So was that the March 21st, 2014, meeting?**

14 A. (Witness Mother) Yes. Correct.

15 **Q. And I believe it's already in the -- I know it**
16 **is. It's already attached. There are meeting minutes**
17 **from the TUID meeting on March 21st, 2014.**

18 JUDGE JONSSON: Do I have that marked?

19 MR. HOGELIN: That's already in with --

20 WITNESS DAUGHTER: Formal complaint.

21 MR. HOGELIN: With the formal complaint.

22 JUDGE JONSSON: But it's not marked as an
23 exhibit here today.

24 MR. HOGELIN: No, it's not.

25 JUDGE JONSSON: Let's see if we could find

1 that because I think that would be helpful. Any idea
2 about where that is in this?

3 WITNESS DAUGHTER: Nearly to the end of the
4 filing. I would say about 20 pages from the back. It
5 -- none of the pages are actually marked on that filing
6 with the formal complaint in December. We do have
7 available if we need copies, but it is submitted.

8 MR. HOGELIN: So it's the -- it starts with --
9 the meeting minutes that was filed with the commission
10 starts with April 11th, 2013, and then goes chronically
11 to -- or chronologically to the March 21st, 2014,
12 meeting minutes.

13 WITNESS DAUGHTER: They should be filed by
14 monthly order, I believe, is the way we received them.

15 MR. LONG: If I may interject. We have these
16 same meeting minutes as one of the -- one of the
17 exhibits we'll introduce as well if that's --

18 JUDGE JONSSON: Want to just do that right
19 now? We'll --

20 MR. LONG: If that's helpful. I have -- I
21 have whole binders put together if I could pass those
22 out now, and that might save us some time.

23 JUDGE JONSSON: Let's go ahead and do that
24 then. I think that would be helpful.

25 MR. LONG: Here is a commission binder that

1 has electronic versions too, if that's helpful.

2 MR. SHORTREED: Do you know which number that
3 is?

4 (Discussion off the record.)

5 MR. LONG: The commission has a CD of
6 electronic versions too.

7 MR. HOGELIN: Thank you, Mr. Long. It looks
8 like it's under No. 15, index No. 15 of the trial
9 binder, of TUID's trial binder.

10 JUDGE JONSSON: And so I take it you have no
11 objection.

12 MR. HOGELIN: No objection.

13 JUDGE JONSSON: Okay. So I will leave you the
14 option to object to anything that you find in, in this
15 binder as we go through, but for now I am just going to
16 consider these as marked, and then we'll see if, if as
17 we use them there's any evidentiary issues that you want
18 to make me aware of.

19 So this is TUID's Exhibit No. 16. And go
20 ahead.

21 MR. HOGELIN: Fifteen.

22 JUDGE JONSSON: Excuse me. Thank you. No.
23 15. All right. Go ahead.

24 Q. (By Mr. Hogelin) On the third page -- you can
25 go ahead. Was it state -- can you read the second

1 **paragraph.**

2 A. (Witness Daughter) Well, in this one it says,
3 "Resolution 2014-0011 was introduced by Mr. Shortreed.
4 The resolution amends Resolution 2014-005, the policies
5 about the abandonment of utilities.

6 "Mrs. Seamons asked about leeway that the
7 district might extend to those with few means.
8 Mr. Shortreed describes why utilities in Ticaboo are so
9 expensive and why fees must be high. He noted that
10 standby fees were never intended to be perpetual.
11 Mrs. Seamons expressed her concerns for those with --
12 those on fixed incomes."

13 **Q. So Ms. Seamons, is this when you addressed the**
14 **billing of the standby fees for the months from**
15 **September to March of 2014?**

16 A. (Witness Mother) That's correct, yes.

17 **Q. And what was their response to your bringing**
18 **up the issue?**

19 A. He said he didn't care.

20 **Q. Okay.**

21 MR. LONG: That's hearsay, and the meeting
22 minutes don't reflect that.

23 WITNESS MOTHER: It's the truth.

24 JUDGE JONSSON: Yeah. It's not -- it's not
25 relevant what his personal feelings were, so that's

1 fine.

2 Q. (By Mr. Hogelin) Okay. And then can you read
3 this paragraph right here. Oh. Yeah, go ahead and read
4 that. Can you please read, it looks like two paragraphs
5 up from the bottom.

6 A. (Witness Daughter) "Mrs. Seamons asked a
7 hypothetical question about a situation of nonpayment.
8 Mr. Shortreed noted that she would have the right to
9 terminate the lease. She said that terminating the
10 lease is very difficult in the state of Utah."

11 Q. Okay. So when you addressed this standby fee
12 bill with TUID, what was your feeling of how they
13 addressed it, or how would you state that they -- it was
14 addressed by them?

15 A. (Witness Mother) The standby fees?

16 Q. Uh-huh, or your concerns regarding the fees?

17 A. (Witness Mother) It looked to me like I was
18 being charged for the services.

19 Q. Okay.

20 A. (Witness Mother) It didn't look like standby
21 fees at all.

22 Q. Okay.

23 A. (Witness Mother) I was being charged for
24 power, water, sewer and garbage.

25 Q. Okay.

1 A. (Witness Mother) Which I did not use.

2 Q. Did they try to meet with you individually to
3 resolve your concerns?

4 A. (Witness Mother) I didn't hear you.

5 Q. Did they try to meet with you individually to
6 resolve your concerns?

7 A. (Witness Mother) No.

8 Q. No. Did they offer to try to meet with you at
9 all?

10 A. (Witness Mother) No. I tried to meet with
11 him the next day. I went to the office, and he said he
12 was on the phone and closed the door. I have never been
13 in the office.

14 Q. Okay. And since then, at any time that you
15 have tried to address the billing, have they been
16 cooperative with you at all?

17 A. (Witness Mother) No. Since we have been
18 there, my daughter Mary and Rick have been helping me
19 with everything. And they have tried, and my other
20 daughters have tried to talk with Mr. Shortreed and with
21 no results.

22 Q. Okay. Thank you.

23 MR. HOGELIN: So I believe we have addressed
24 the issue that the commission has provided -- or set
25 with regards to this hearing for No. 4.

1 JUDGE JONSSON: Right.

2 MR. HOGELIN: With regards to beginning of the
3 charges of the standby fees.

4 JUDGE JONSSON: Okay.

5 MR. HOGELIN: We would like to move on to the
6 issue of tenants and just would like to ask my client.

7 **Q. (By Mr. Hogelin) Are you aware of any tenants**
8 **that have contracts with TUID presently?**

9 A. (Witness Daughter) The motel, the resort
10 carries the tenant contracts for SITLA.

11 **Q. So who is the owner of the property?**

12 A. (Witness Daughter) The Utah State School Trust
13 Lands.

14 **Q. Which is also known as?**

15 A. (Witness Daughter) SITLA.

16 **Q. Okay. And however, the contracts with TUID,**
17 **are they with SITLA or through the tenant of SITLA's?**

18 A. (Witness Daughter) Through the tenant.

19 A. (Witness Mother) That's correct.

20 **Q. Okay. Have your tenants been entitled to the**
21 **same consideration as SITLA's?**

22 A. (Witness Daughter) No.

23 A. (Witness Mother) No.

24 **Q. Have -- and what has been the response from**
25 **TUID regarding any concerns with regards to your tenants**

1 **having contracts with TUID directly?**

2 A. (Witness Daughter) That the property owner has
3 to carry the contract with the district.

4 A. (Witness Mother) That's correct.

5 **Q. Do you think it's fair that you aren't**
6 **receiving the same considerations as another property**
7 **owner in Ticaboo?**

8 A. (Witness Daughter) No. We have to assume
9 their utilities after they leave upon a contract.

10 A. (Witness Mother) That's correct.

11 MR. HOGELIN: Okay. I believe that resolves
12 the issue No. 5 or, well, not resolves, but --

13 JUDGE JONSSON: Yeah.

14 MR. HOGELIN: I'm sorry. One second.

15 (Discussion off the record.)

16 **Q. (By Mr. Hogelin) So have you had tenants on**
17 **the property, or any of your properties?**

18 A. (Witness Daughter) No.

19 **Q. You have never had any tenants?**

20 A. (Witness Daughter) Well, we had tenants. The
21 tenants --

22 **Q. Okay. Thank you.**

23 A. (Witness Daughter) -- have not resided there
24 since --

25 **Q. Okay. So you have had tenants on your**

1 **property, correct?**

2 A. (Witness Daughter) Yes.

3 **Q. And when the tenants moved away from the**
4 **property, were you able to stop the charges for the**
5 **utilities?**

6 A. (Witness Daughter) No.

7 A. (Witness Mother) No. We continue to pay them.

8 **Q. Okay. So you had to continue to pay them?**

9 A. (Witness Mother) I had to pay them.

10 **Q. Okay. All right.**

11 MR. HOGELIN: I believe that we have addressed
12 No. 5. All right. With regards to item No. 6 that the
13 commission had asked for evidence to be proffered,
14 obviously I just would like to make a note, it's kind of
15 hard to provide evidence of nothing. But I will still
16 ask my clients for their testimony. Excuse me.

17 **Q. (By Mr. Hogelin) Have you received any**
18 **information pamphlets from TUID?**

19 MR. HOGELIN: Can we -- can we take a short
20 recess for restroom break?

21 JUDGE JONSSON: That's fine. We'll take a
22 break, go off the record for about 10 minutes. Come
23 back at about 10:30.

24 (Recess from 10:21 a.m. to 10:32 a.m.)

25 JUDGE JONSSON: All right. We'll go back on

1 the record. We left off, we were just about to start
2 talking about the customer information pamphlet.

3 Q. (By Mr. Hogelin) Have you received any
4 customer information pamphlet? Did you receive a
5 customer information pamphlet from TUID?

6 A. (Witness Mother) I didn't hear that correctly.

7 WITNESS DAUGHTER: Did you receive a customer
8 information pamphlet?

9 A. (Witness Mother) No.

10 Q. Okay.

11 WITNESS DAUGHTER: Sorry.

12 A. (Witness Mother) No, I did not.

13 WITNESS DAUGHTER: Did it work?

14 MR. HOGELIN: Hit the button.

15 WITNESS DAUGHTER: It shows on. Oh, there we
16 go. Sorry.

17 A. (Witness Mother) No, I did not.

18 Q. (By Mr. Hogelin) Okay. Thank you. Have you
19 received any -- a copy of the statement of customer
20 rights and responsibilities from TUID ever?

21 A. (Witness Mother) No.

22 Q. Okay. Have you received any notices from TUID
23 through any type of pamphlet?

24 MR. LONG: Did you receive a pamphlet?

25 Q. (By Mr. Hogelin) Mary, are you aware of any?

1 A. (Witness Daughter) Yes, we received a pamphlet
2 February 20th, 2015.

3 **Q. And what was that pamphlet concerning?**

4 A. Meter tampering.

5 **Q. Okay. But nothing with regards to tariff or**
6 **your rights or your responsibilities under the tariff?**

7 A. (Witness Daughter) I didn't read completely
8 through it, but I -- it was meter tampering and new
9 rates of February.

10 A. (Witness Mother) There it is right there.
11 Yeah, that's correct.

12 JUDGE JONSSON: New rates as of February 2015?

13 WITNESS DAUGHTER: 2015, February 20th, 2015.

14 JUDGE JONSSON: Okay.

15 WITNESS DAUGHTER: '16. This year. Sorry.

16 JUDGE JONSSON: '16.

17 WITNESS DAUGHTER: Yeah, just barely, we just
18 barely got it.

19 **Q. (By Mr. Hogelin) Did you receive any pamphlets**
20 **prior to that?**

21 A. (Witness Daughter) No.

22 A. (Witness Mother) No.

23 **Q. Okay. I'd like to go on to the last issue,**
24 **and that's regarding the removal of taps from**
25 **Ms. Seamons' property. Ms. Seamons, have you -- has**

1 TUID removed the taps from your property, or taps or
2 meters from your property?

3 A. (Witness Mother) Yes, he has.

4 Q. Okay. How many times has that happened?

5 A. (Witness Mother) At least twice.

6 Q. Okay. So let's talk about the two, the two
7 times. On either -- well, on either of those times were
8 you given any prior notice to the taps or meters being
9 removed?

10 A. (Witness Mother) No, I did not.

11 JUDGE JONSSON: I just need to clarify a
12 little bit. Are we talking about a single property?
13 Are we talking about --

14 MR. HOGELIN: Yes.

15 JUDGE JONSSON: -- one and two?

16 MR. HOGELIN: We are talking about a lot.

17 WITNESS DAUGHTER: Three and four.

18 JUDGE JONSSON: Lots 3 and 4?

19 WITNESS MOTHER: Yes.

20 JUDGE JONSSON: And twice something was
21 removed from Lots 3 and 4?

22 WITNESS MOTHER: Right, yes.

23 MR. HOGELIN: So it was the same lots?

24 WITNESS MOTHER: Same lots.

25 WITNESS DAUGHTER: Both properties.

1 (Talking at once.)

2 COURT REPORT: Sorry. I'm having trouble with
3 four people talking at once, just a little confusing.

4 Q. (By Mr. Hogelin) Okay. So just to recap, Lots
5 3 and 4 are the lots at issue, and those are both --
6 those are the lots for both incidents?

7 JUDGE JONSSON: Okay. So what's on those
8 lots? Is it a home?

9 WITNESS DAUGHTER: Double-wide home.

10 JUDGE JONSSON: A double-wide home?

11 WITNESS DAUGHTER: Trailer home.

12 JUDGE JONSSON: Double-wide trailer home,
13 okay.

14 WITNESS MOTHER: Four bedroom home.

15 Q. (By Mr. Hogelin) Okay. So let's talk about
16 the first incident. When about was the first incident?

17 A. (Witness Mother) The first time the taps, the
18 meters were removed, I had a renter, and the renter
19 called and said that they got a --

20 WITNESS DAUGHTER: That they --

21 A. (Witness Mother) That they pulled the meters
22 on them because they, they had their own generator. And
23 they had pulled the meters, and they had no water and no
24 power, and they had to move.

25 Q. Okay. So the renters, did they notify TUID?

1 A. (Witness Mother) Yes.

2 **Q. Okay. How did they notify TUID?**

3 A. (Witness Mother) They called me on the phone.

4 WITNESS DAUGHTER: No, T-U-I-D.

5 A. (Witness Mother) Oh, T-U-I-D?

6 WITNESS DAUGHTER: Yes. How did Jim and Val
7 Hill in 2013? Remember we GRAMA Acted. Did you --

8 A. (Witness Mother) I didn't understand the
9 question properly.

10 **Q. (By Mr. Hogelin) In what form did your**
11 **tenants inform TUID that they -- now, which utility were**
12 **they requesting to discontinue?**

13 A. (Witness Mother) How did they contacted
14 T-U-I-D?

15 **Q. Which utility were they asking TUID to**
16 **discontinue?**

17 A. (Witness Mother) They were receiving their
18 water and power.

19 **Q. Okay. And what were they asking to be**
20 **discontinued?**

21 MR. LONG: I'd just like to note a hearsay
22 objection here. We are talking about what someone else
23 allegedly asked the district to do three-plus years ago.

24 JUDGE JONSSON: Understood. Thank you.

25 **Q. (By Mr. Hogelin) What did -- okay. What did**

1 **your tenants tell you that they wanted disconnected?**

2 A. (Witness Mother) The tenants said they had no
3 water or no power, and they couldn't stay. They had a
4 business there.

5 WITNESS DAUGHTER: Okay. So --

6 Q. (By Mr. Hogelin) What did they tell you that
7 they wanted? What utility did they tell you they wanted
8 disconnected? Did they want electric disconnected? Did
9 they want water disconnected? Did they want all of it
10 disconnected?

11 A. They didn't want anything disconnected.

12 Q. Okay. Mary, can you testify?

13 A. (Witness Daughter) Okay.

14 Q. Mary, to your knowledge, did the tenants
15 inform your mom that they wanted any utility
16 disconnected?

17 A. (Witness Daughter) They informed me. I went
18 down in August of 2013, on the 15th of that month, and
19 was informed by them that they had requested to not have
20 power, that they wanted to run a generator.

21 Q. My question to you is, what did they tell you
22 that they wanted disconnected?

23 A. (Witness Daughter) Their power.

24 Q. Okay. Did they want the water disconnected as
25 well?

1 A. (Witness Daughter) No.

2 Q. Okay. Did, did you or your mother inform TUID
3 that -- or request that the power service be
4 disconnected?

5 A. (Witness Daughter) No.

6 Q. Okay.

7 A. (Witness Mother) That's correct.

8 Q. All right. And did TUID disconnect the power?

9 A. (Witness Daughter) They took the meters, both
10 water and power.

11 A. (Witness Mother) Correct, they did.

12 Q. So they -- even though the tenants informed
13 you that they only wanted the power disconnected, TUID
14 came out and disconnected all of the utilities, correct?

15 A. (Witness Daughter) Correct.

16 A. (Witness Mother) Correct.

17 Q. Okay.

18 MR. LONG: Again, objection that anything
19 beyond electric service is beyond the commission's
20 jurisdiction, I think beyond the scope of this hearing.

21 JUDGE JONSSON: Thank you.

22 MR. HOGELIN: Okay.

23 Q. (By Mr. Hogelin) Was there any notice provided
24 that all of the utilities would be disconnected?

25 A. (Witness Daughter) No.

1 A. (Witness Mother) No.

2 Q. Okay. Was there any notice of what day or
3 time that even the electrical utility would be
4 disconnected?

5 A. (Witness Mother) No.

6 Q. Okay. Thank you. Now, there -- the second
7 incident that you referred to --

8 WITNESS DAUGHTER: Can you put that in as
9 exhibit?

10 MR. HOGELIN: Mary, Mary.

11 WITNESS MOTHER: That just recently?

12 Q. (By Mr. Hogelin) Okay. So the -- let's talk
13 about the second incident. Mary, you were involved in
14 that. What -- can you please describe the second
15 incident with regards to the taps or meters being
16 removed from those lots.

17 A. (Witness Daughter) We went down to the meeting
18 on April 28th, on a Thursday. We stated our home --

19 Q. Sorry. What year?

20 JUDGE JONSSON: What year?

21 WITNESS DAUGHTER: 2016.

22 JUDGE JONSSON: So I need you to tell me what
23 happened between. Did the utility service get
24 reinstated?

25 WITNESS DAUGHTER: Okay.

1 MR. HOGELIN: Oh, you are talking from 2013?

2 JUDGE JONSSON: Uh-huh.

3 MR. HOGELIN: Okay.

4 WITNESS DAUGHTER: So in 2000 -- after 2013,
5 no renters, no meters replaced until August of 2014. At
6 that time we were required to pay an \$1875 fee for
7 standby fees during the year the meter was removed in
8 order for the meters to put back on.

9 **Q. (By Mr. Hogelin) So the meters were removed in**
10 **August of 2013, but you were charged standby fees until**
11 **August of 2014?**

12 A. (Witness Daughter) Yes. With the meters
13 removed.

14 A. (Witness Mother) Correct.

15 **Q. And when did the tenants move in?**

16 JUDGE JONSSON: Did you -- did you pay that?

17 WITNESS DAUGHTER: Yes.

18 WITNESS MOTHER: Yes, we did.

19 WITNESS DAUGHTER: For our tenants, for new
20 tenants to come in so that we could have a renter base.

21 JUDGE JONSSON: Okay.

22 **Q. (By Mr. Hogelin) So the tenants that had**
23 **requested for the electric to be removed, did they stay**
24 **on the property for that year?**

25 A. (Witness Daughter) No. They moved out of

1 state. They had to move.

2 **Q. Why did they have to move?**

3 A. (Witness Daughter) Their -- it shut down their
4 business, and there was no service.

5 MR. LONG: Again hearsay. We're going to
6 someone else's motivations.

7 WITNESS DAUGHTER: Oh, well, there was no --

8 **Q. (By Mr. Hogelin) To the best of your**
9 **understanding.**

10 A. (Witness Daughter) They told me they could not
11 stay and with that -- and with no meters, no service
12 with utilities.

13 **Q. Okay.**

14 JUDGE JONSSON: But the fact is, they moved.

15 WITNESS DAUGHTER: Yes.

16 WITNESS MOTHER: They didn't have any water or
17 power.

18 **Q. (By Mr. Hogelin) Okay. So the second incident**
19 **so --**

20 A. (Witness Mother) Oh.

21 **Q. You testified that the meters were put back in**
22 **August of 2014; is that correct?**

23 A. (Witness Daughter) Correct.

24 **Q. Okay.**

25 A. (Witness Daughter) In 2016, April 28th, we

1 went down. We stayed at the house for four days and
2 left on Sunday, May 1st. May 2nd, upon returning,
3 received an e-mail from Ticaboo that they had removed
4 our meter.

5 **Q. Okay.**

6 JUDGE JONSSON: This is still on --

7 WITNESS MOTHER: On three and four.

8 WITNESS DAUGHTER: This is three and four.

9 JUDGE JONSSON: So you personally stayed there
10 for 10 days?

11 WITNESS DAUGHTER: No. We stayed there for
12 three -- four days.

13 JUDGE JONSSON: For four days.

14 WITNESS DAUGHTER: We stayed in our home, but
15 we were over there cleaning and fixing it for new
16 renters.

17 JUDGE JONSSON: I see, okay. And so you
18 worked in the house for four days.

19 WITNESS DAUGHTER: We worked in the house,
20 uh-huh.

21 **Q. (By Mr. Hogelin) Now, let's go back to**
22 **February.**

23 A. (Witness Daughter) But we can go back to
24 February.

25 **Q. So in February, was there an issue regarding**

1 utilities in Ticaboo?

2 A. (Witness Daughter) Yes. On February 18th
3 there was a meeting. And as we arrived to the meeting,
4 it was stated that if anyone touched the meters or did
5 any tampering, that they would have a thousand dollar
6 tampering fee charge. And they -- the meeting was in
7 regards to changing the rates for tampering.

**8 Q. And had you -- had you had any contact with
9 the meters?**

10 A. (Witness Daughter) Yes. We didn't know that
11 you could not touch the meters, so during the winter
12 months we turned them off. And so when we came down
13 there after being gone for the coldest months, November,
14 December, and January, we turned them on. Make sure
15 there was no frozen pipes and then went over to -- and
16 we had to use water, so we turned on.

17 And then we went over to the meeting. During
18 the meeting we informed --

**19 Q. So what was the purpose of turning them off
20 during the winter? What were you trying -- what was the
21 purpose of it?**

22 A. (Witness Daughter) So no pipes would break.

23 A. (Witness Mother) That's correct.

**24 Q. And so in February you went to the meeting,
25 and you were -- were you given a warning or anything for**

1 **doing that?**

2 A. (Witness Daughter) During the meeting, as we
3 informed the district, we informed them that we had
4 turned the meters on. And so Mr. Shortreed and the
5 board members informed us that that was our warning.
6 Upon returning home, we received the pamphlet.

7 **Q. When you say -- okay. In February?**

8 A. February 20th.

9 MR. LONG: I am going to object here. This is
10 well beyond the scope of the commission's questions and
11 what I understand to be the scope of this hearing. If
12 it needs addressed, I'd suggest that we do it in --

13 MR. HOGELIN: Your Honor, we would ask --

14 MR. LONG: -- filings after this hearing or at
15 least give Ticaboo the opportunity to respond.

16 MR. HOGELIN: Can I respond to the objection?

17 JUDGE JONSSON: I'm trying to understand the
18 circumstances under which taps were removed. They were
19 saying taps were removed or meters shut down or some
20 sort of action taken by Ticaboo to discontinue service
21 on two occasions.

22 The first occasion was in connection with a
23 tenant who had a generator. The second occasion was in
24 connection with their trying to prepare the property for
25 new tenants to move in, correct?

1 WITNESS DAUGHTER: Yes.

2 WITNESS MOTHER: Correct.

3 JUDGE JONSSON: So I am a little bit confused
4 about dates. So the second incident you said was this
5 year, right?

6 WITNESS MOTHER: Yes.

7 JUDGE JONSSON: April of 2016?

8 WITNESS MOTHER: Correct.

9 JUDGE JONSSON: So the February meeting, was
10 that also of this year, 2016?

11 WITNESS MOTHER: Yes.

12 JUDGE JONSSON: Okay. And so the meeting that
13 you went to was dealing with tampering charges. When
14 you had turned off the meters, that was to water,
15 correct?

16 WITNESS MOTHER: The water was already on.

17 WITNESS DAUGHTER: No.

18 JUDGE JONSSON: Did you turn off the meters
19 for the electricity at any time?

20 WITNESS MOTHER: Never.

21 JUDGE JONSSON: Okay. So what does the --
22 does their taking action with the meter on the water
23 have anything to do with electricity? Is there going to
24 be a tie-in?

25 MR. HOGELIN: That's where I am going with the

1 testimony, yes.

2 JUDGE JONSSON: Okay. So your objection is
3 noted, but I do need to hear the rest of this, and at
4 that point I'll be able to tell if it's relevant or not.
5 Go ahead.

6 Q. (By Mr. Hogelin) So to go back, you were
7 given a warning in February about doing any action with
8 the meters, correct?

9 A. (Witness Daughter) Correct.

10 Q. Okay. After February and you were given that
11 warning, did you take any actions or do anything with
12 regards to the meters?

13 A. (Witness Daughter) No.

14 Q. Okay. You testified in April that you visited
15 the property and you were there for three days, correct?

16 A. (Witness Daughter) Correct.

17 A. (Witness Mother) Correct.

18 Q. And while you were visiting the property, did
19 you do anything with the meters, whether electrical,
20 water or whatever, turning anything on or off?

21 A. (Witness Daughter) No.

22 A. (Witness Mother) No.

23 Q. Okay. And then what was the -- so you left
24 the property on what date?

25 A. (Witness Daughter) May 1st.

1 **Q. May 1st. And after May 1st, you -- did you**
2 **receive any correspondence from TUID?**

3 A. (Witness Daughter) On May 2nd we received an
4 e-mail that our meters -- meter had been removed, water
5 meter had been removed from our property.

6 **Q. Was your electrical meter removed?**

7 A. (Witness Daughter) I had -- did not check
8 that.

9 **Q. Okay.**

10 A. (Witness Daughter) I turned off the power with
11 the box, our power box, our main box.

12 **Q. But there wasn't any notice given prior to the**
13 **removal of the meter?**

14 A. (Witness Daughter) No contact from the
15 district in regards.

16 JUDGE JONSSON: Okay. So the question was,
17 was anything done to electricity, and you don't know,
18 right?

19 WITNESS DAUGHTER: I don't know. I did not go
20 out and check that.

21 JUDGE JONSSON: Okay. So do you have renters
22 in that property now?

23 WITNESS DAUGHTER: We cannot. They cannot use
24 water.

25 JUDGE JONSSON: Okay.

1 WITNESS DAUGHTER: I don't even know power.
2 At that point we knew that there wasn't a viable. We
3 had renters ready to move in at that time. That's why
4 we were preparing that home, seasonal workers were
5 there.

6 WITNESS MOTHER: They had gone back to pick up
7 their things to move in. We had the rent -- we had it
8 rented.

9 JUDGE JONSSON: Okay. Anything more,
10 Mr. Hogelin?

11 MR. HOGELIN: We rest, your Honor.

12 JUDGE JONSSON: Mr. Long, are you ready?

13 MR. LONG: Yeah. I just have a few questions
14 for cross-examination. And I guess the particular
15 person answering them, we will take answers from whoever
16 can give them.

17 JUDGE JONSSON: Okay. Thank you.

18 CROSS-EXAMINATION

19 BY MR. LONG:

20 Q. So Ms. Seamons, I just have a handful of
21 questions.

22 A. (Witness Daughter) If you ask questions, I'll
23 try to answer or if she can't hear.

24 Q. Sure. And if I need to restate anything or
25 speak louder, please let me know. As I understand your

1 testimony, and this is simply for the -- for my benefit,
2 you claim that you had no notice of standby fees between
3 September 2013, when the district first started charging
4 standby fees, and March of 2014?

5 WITNESS DAUGHTER: So he is asking, did you
6 have any notice on the standby fees from '13 until --

7 A. (Witness Mother) No, I never had a bill until
8 March.

9 Q. (By Mr. Hogelin) And again, by way of
10 clarification, I think, and please correct me if I am
11 wrong, that you testified that you had been receiving
12 bills for the house on Lot 1 and 2. The house --

13 A. (Witness Daughter) Can I specify --

14 A. (Witness Mother) I'm not sure.

15 A. (Witness Daughter) -- an answer for that for
16 her?

17 Q. Certainly.

18 A. (Witness Daughter) So during the course before
19 September 2013, any property that we had rented or sold
20 was held, a contract to the district to pay the
21 utilities. So we weren't receiving any bills prior to
22 that. And after 2000 -- that 2013, standby fees were
23 implemented, we did not receive one. We received it for
24 one and two, the only lot, the house that we resided in.

25 Q. And at that time, the house that's built or

1 **located on Lot 1 and 2 was occupied?**

2 A. (Witness Daughter) We visit it. We do not --
3 we are not full-time residents. We go down and
4 seasonally visit.

5 **Q. Sorry. Maybe more clearly, the house was**
6 **actively receiving service, as in when you turn on the**
7 **tap, water comes out?**

8 A. (Witness Daughter) Correct, on one and two.

9 **Q. Light switches, lights go on?**

10 A. (Witness Daughter) Yes.

11 **Q. Okay. And the other ones were either**
12 **undeveloped properties or not occupied?**

13 A. (Witness Daughter) Correct. The tenants had
14 left on three and four.

15 **Q. Okay. Okay. Thank you, just by way of**
16 **clarification.**

17 A. (Witness Mother) Yeah, that's correct.

18 **Q. You brought up a few different issues of**
19 **notice or claim that you didn't have notice of various**
20 **actions that the district was taking. Are you familiar**
21 **with what's referred to as the Utah Public Notice**
22 **Website?**

23 A. (Witness Daughter) Yes. Actually, last night
24 I received an alert that there's a meeting tomorrow
25 night.

1 **Q. And have you subscribed to that?**

2 A. (Witness Daughter) Just in November.

3 **Q. Okay.**

4 A. (Witness Daughter) I wasn't aware of it prior.

5 **Q. And are you aware of the commission's website**
6 **that contains filings from the district as far as they**
7 **regard electrical service?**

8 A. (Witness Daughter) I went in and tried to
9 locate that before, but TSSD and TUID were very confused
10 within that. And I wasn't aware of TUID being. So I
11 tried to. I did subscribe to the Public Services
12 Commission's, but they eliminated their alerts, I want
13 to say in April. I got a notice that they no longer
14 would serve alerts in regards to filings or anything
15 with districts.

16 **Q. So since -- after March of 2014, and again,**
17 **this is -- maybe I'm a little confused because this has**
18 **been sort of a hectic hearing. Have you been receiving**
19 **bills for all of the properties?**

20 A. (Witness Daughter) Yes.

21 **Q. Okay.**

22 A. (Witness Daughter) So as of 2014 in March, we
23 started to receive combined billing statements for all
24 properties.

25 **Q. And those combined billing statements, again**

1 **just for the commission's benefit, this is one bill that**
2 **has, has charges for all eight lots that you own?**

3 A. (Witness Daughter) Let me look at the billings
4 that I have.

5 WITNESS MOTHER: It's just right there. You
6 just had it there.

7 WITNESS DAUGHTER: I have current ones. I had
8 the current ones.

9 WITNESS MOTHER: It is for all properties.

10 WITNESS DAUGHTER: Well, I don't know if they
11 are combining seven and eight or if it's separate.

12 WITNESS MOTHER: Oh, I didn't know that
13 either. I think it's separate.

14 A. (Witness Daughter) Seven and eight are
15 combined, so they are not -- they are separate. But on
16 our property taxes, they are separate.

17 **Q. (By Mr. Hogelin) Sure.**

18 A. (Witness Daughter) Utility fees.

19 **Q. We have discussed a little bit the difference**
20 **between taps and meters or connections. Again, just to**
21 **clarify, understanding the district definition of a tap**
22 **is having utility service, in this case electrical**
23 **service, available at the property line, so at any edge**
24 **of the property, do all of the lots that you own in**
25 **Ticaboo have electrical service or electrical lines**

1 available at the edge of the property?

2 A. (Witness Daughter) Yes.

3 Q. Okay. Thank you. Just to clarify, thank you.

4 A. (Witness Daughter) Well, I am not sure.

5 Maybe they are and they are not. I don't know if

6 there's electrical really cable. How would I know?

7 It's buried. There's pedestals.

8 Q. Okay.

9 A. (Witness Daughter) But I don't know what --

10 Q. Okay. Thank you. That's sufficient. Can you
11 describe current tenants, if any, that you have?

12 A. (Witness Daughter) None.

13 Q. Okay. In your opinion, would you be able to
14 rent any of these properties without utility service; in
15 particular, electrical service?

16 A. (Witness Daughter) No. Utility? Did you say
17 power? With solar, I could, yes.

18 Q. Do any of your properties have essentially
19 off-the-grid capable solar systems?

20 A. (Witness Daughter) No.

21 Q. Okay.

22 A. (Witness Daughter) But I could purchase a
23 generator.

24 MR. LONG: I have no further questions.

25 JUDGE JONSSON: Okay. Thank you. Any

1 follow-up?

2 REDIRECT EXAMINATION

3 BY MR. HOGELIN:

4 Q. Have you looked into using alternative
5 electrical services such as solar or generators?

6 A. (Witness Daughter) Yes.

7 Q. And have you notified TUID that you are
8 interested in using alternative services?

9 A. (Witness Daughter) Yes. We have spoke with
10 Tom Hill and Mr. Shortreed.

11 Q. And did they -- were -- were you told, or is
12 it your understanding that if you use alternative
13 electrical services, that you will no longer have any
14 fees from TUID with regards to electrical?

15 A. (Witness Daughter) No. We would still be
16 charged a standby fee.

17 MR. HOGELIN: Thank you. That's all.

18 JUDGE JONSSON: All right. Any recross?

19 MR. LONG: No.

20 JUDGE JONSSON: Okay. Go ahead. You want to
21 call Mr. Shortreed?

22 MR. LONG: Yeah. I'd like to discuss one
23 issue with the commission.

24 JUDGE JONSSON: Uh-huh.

25 MR. LONG: And I alluded to this earlier.

1 Again, the district has come prepared to answer the
2 commission's questions, and those questions in
3 particular involve Dockets 13-2508-T01 and 15-2508-T01.
4 I'd like to point out to the commission at this point in
5 the proceeding that neither of those dockets involve the
6 implementation of standby fees.

7 JUDGE JONSSON: It was my understanding that
8 Docket 13 is where standby fees were first introduced.
9 Is that not correct?

10 MR. LONG: Docket 13-2508-T02 is the docket
11 where standby fee -- the new tariff including standby
12 fees was filed with the commission.

13 JUDGE JONSSON: Okay. Well, perhaps I made a
14 mistake. I took the docket number, I believe, straight
15 out of your response.

16 MR. LONG: And I am not promising we made no
17 typos. We are prepared to address it on a very
18 preliminary basis here. We would ask that anything
19 regarding the legality of standby fees or the notice
20 provided be --

21 JUDGE JONSSON: The commission has already
22 stated that standby fees are legal. The question is
23 whether you have a valid tariff that includes standby
24 fees. That's the question. And if you did not comply
25 with the statutory notice requirement to customers and

1 to the commission in the docket where you created and
2 first imposed those standby fees, then you do not have a
3 valid tariff. And that's what we're trying to figure
4 out today.

5 MR. LONG: I understand the commission's
6 position. I'd like to request the opportunity to
7 complete some sort of posthearing brief or filing as the
8 commission feels it necessary. As based on our readings
9 of the questions --

10 JUDGE JONSSON: So let me just figure this
11 out. What's the docket number where you first created
12 standby fees?

13 MR. LONG: That's 13-2508-T02.

14 JUDGE JONSSON: So what was the purpose of
15 T01?

16 MR. LONG: T01 made overall changes to the
17 rate structure. It set forth different, I guess we
18 would call them, blocked billing schedules. Essentially
19 changed the way that customers could pay for electrical
20 service.

21 And again, we're prepared to address --
22 address the district's compliance with the requirements
23 as far as Docket 13-2508-T02. But that hasn't been the
24 top of our preparation. And understanding that was
25 perhaps a typo or miscommunication by us in the

1 beginning, we would simply like the opportunity to file
2 a posthearing brief if we feel it necessary.

3 MR. HOGELIN: Point of clarification. So is
4 the commission asking when tariff -- the standby fees
5 were introduced?

6 JUDGE JONSSON: Correct, into the tariff.

7 MR. HOGELIN: Although, I think it's not
8 disputed that in the 2015 tariff it's also included,
9 correct?

10 JUDGE JONSSON: It's included in the 2015
11 tariff, yes.

12 MR. HOGELIN: Yes. I just wanted to --

13 JUDGE JONSSON: The question is whether -- is
14 where they were very first introduced.

15 MR. LONG: So if it's helpful to the
16 commission, in our binder of exhibits, we have the
17 action request response in Docket 13-2508-T02.

18 JUDGE JONSSON: Okay.

19 MR. LONG: From the Division of Public
20 Utilities that describes essentially the changes that
21 were made in that tariff filing.

22 JUDGE JONSSON: Where is that?

23 MR. LONG: That's Exhibit 24.

24 JUDGE JONSSON: Let's see. Okay. The
25 implementation of standby fees for all services provided

1 by district. That's on page 2 of that exhibit. Any
2 objection, Mr. Hogelin, to this Exhibit No. 24?

3 MR. HOGELIN: No objection, your Honor. I'm
4 sorry. You were referring to page 2 with regards to --

5 WITNESS DAUGHTER: Is there an action number,
6 did you say?

7 MR. HOGELIN: No, no, just...

8 WITNESS DAUGHTER: This says one. How come
9 that one says two?

10 MR. HOGELIN: Just, Mary, please.

11 JUDGE JONSSON: All right. We'll do the best
12 we can and see where it takes us, and if we need
13 posthearing briefing, we'll put together a schedule for
14 that. Go ahead.

15 MR. LONG: Okay. Understood. Mr. Shortreed
16 has prepared a written statement that he would like to
17 read, as has typically been commission practice. The
18 hope is that the statement will both set forth the
19 district responses to the commission's seven questions,
20 as well as introduce this entire binder full of
21 exhibits.

22 JUDGE JONSSON: Go ahead and have him sworn.

23 CHIP SHORTREED,
24 called as a witness at the instance of the Ticaboo
25 Utility Improvement District, having been first duly

1 sworn, was examined and testified as follows:

2 MR. LONG: Would you like Mr. Shortreed here?

3 JUDGE JONSSON: That's fine.

4 MR. LONG: That acceptable?

5 JUDGE JONSSON: Uh-huh.

6 THE WITNESS: Good morning. My name is Chip
7 Shortreed. I am the district manager for the Ticaboo
8 Utility Improvement District. I have been involved with
9 TUID for a number of years. With the guidance of the
10 board of trustees, I am responsible for day-to-day
11 operations of TUID and its facilities, including
12 operations and maintenance, billing and finances,
13 customer relations and all other aspects of TUID. I am
14 the sole full-time employee of TUID. I am also a
15 resident of Ticaboo and a TUID customer.

16 The major issue in these proceedings has been
17 standby fees charged by TUID. TUID adopted its standby
18 fees in 2013, and the corresponding tariff changes were
19 filed and acknowledged by the commission on December 6,
20 2013 in commission Docket 13-2508-T02.

21 This docket is not a topic for this hearing
22 per the commission. Nevertheless, it is important to
23 note that TUID provided the required notice to customers
24 and to the commission of the proposed changes and that
25 the standby fees were acknowledged by the commission.

1 Could I just say, as a side-bar, this was written before
2 what we have talked about today.

3 JUDGE JONSSON: I understand.

4 THE WITNESS: Okay. Thank you. Although the
5 commission has dismissed all aspects of Mrs. Seamons'
6 complaint as it relates to standby fees, I want to make
7 a brief statement on the record about the necessity of
8 standby fees.

9 TUID's standby fees are the method by which
10 the costs of keeping and maintaining TUID's utility
11 infrastructure are fairly allocated among the customers
12 that are actively receiving utility service and those
13 property owners to which service is available upon
14 request. Standby fees as charged by TUID are legal,
15 just, and reasonable.

16 TUID is authorized to charge standby fees,
17 both as an improvement district and as a public utility.
18 Without standby fees, the active customers of TUID would
19 be forced to subsidize the owners of undeveloped
20 properties in Ticaboo.

21 TUID stands ready to provide utility service
22 upon request to a number of yet-to-be-developed
23 properties in Ticaboo, the only full service community
24 within 60 miles. The fact that utility services are
25 available upon request means that properties in Ticaboo

1 can be developed. Without available utility services,
2 platted lots in Ticaboo would be worth no more than
3 barren, undeveloped and unimproved land in the desert.

4 TUID -- excuse me, TUID incurs expenses to
5 keep these services available, and standby fees simply
6 allocate these expenses according to those who benefit.
7 The commission has very clearly stated that TUID's
8 standby fees are legal. In the order issued in this
9 docket on July 6, 2016, the commission stated, "TUID is
10 correct that standby fees are legal. The commission has
11 regularly approved and required standby fees in the
12 tariffs of regulated utilities."

13 Further, Utah code, 17B-1-1032J allows a local
14 district to charge, quote, fees or other charges for
15 commodities, services or facilities provided that the
16 district -- provided by the district, end quote. While
17 the statute does not use the specific term, quote,
18 standby fee, a tap is a facility for which a fee may be
19 charged.

20 The commission has dismissed Ms. Seamons'
21 allegation as to legality in general of the standby fees
22 and as to the legality of the specific rates and
23 policies set forth in TUID's tariff. That means the
24 standby fees are not at issue today, and I will not
25 address them any further in my statement.

1 MR. HOGELIN: Objection.

2 JUDGE JONSSON: Sustained. Go ahead.

3 THE WITNESS: May I proceed?

4 JUDGE JONSSON: Uh-huh.

5 THE WITNESS: In the order in this docket
6 dated July 6, 2016, the commission listed seven
7 questions to be answered at this hearing. I will now
8 take a few minutes and address each of those questions
9 in turn.

10 TUID has provided the commission and the other
11 parties with a binder of exhibits that are relevant to
12 the commission's questions, and I ask that those
13 documents be admitted into evidence at the conclusion of
14 my statements. Footnote: They already have been, I
15 guess.

16 No. 1, when the commission approved the joint
17 settlement stipulation in Docket No. 15-2508-T01, TUID
18 was ordered to hold a board meeting within 30 days of
19 September 10, 2015, or no later than Saturday, October
20 10th, 2015. Did TUID comply with that order?

21 Our response: The stipulated step -- excuse
22 me, the stipulated settlement in question was submitted
23 by the division on August 20th, 2015, with a proposed
24 settlement stipulation. The division also filed revised
25 tariff sheets to reflect the terms of the stipulated

1 settlement.

2 On August 27, 2015, TUID had a publicly and
3 properly noticed board meeting to approve the settlement
4 and the revised tariff sheets, although this was prior
5 to the issuance of the order from the commission on
6 September 10th, 2015, approving the settlement,
7 stipulated settlement. TUID took board action prior to
8 the issuance of the actual order as the board was
9 confident that the commission would approve the
10 settlement as requested by the division.

11 On November 18, 2015, Justin Jetter, one of
12 the attorneys for the division, e-mailed TUID's attorney
13 to check if the required board meeting had been held to
14 adopt the changes in the stipulated settlement. On that
15 same day TUID's attorney replied to Mr. Jetter and sent
16 him the resolution approving the changes, as well as the
17 minutes from that meeting.

18 The stipulated settlement is marked as Exhibit
19 TUID-001. The red-lined revised tariff sheets submitted
20 by the division are marked as Exhibit TUID-002.
21 Resolution 2015-0019 approving the tariff changes is
22 marked as Exhibit TUID-003.

23 The minutes of the August 27, 2015, meeting
24 are marked as Exhibit TUID-004. The e-mail
25 correspondence between Mr. Jetter and TUID's attorney is

1 marked as Exhibit TUID-005. The notice of the August
2 27th meeting posted on the public notice website is
3 marked as Exhibit TUID-006. The agenda for the August
4 27th meeting is marked as Exhibit TUID-007.

5 No. 2, if TUID held the board meeting as
6 ordered in Docket No. 15-2058-T01, did it also file its
7 revised tariff with the commission within the ensuing 15
8 days? Through an unfortunate oversight, TUID did not
9 file the revised tariff with the commission within 15
10 days of the board meeting.

11 Please note that the board meeting
12 contemplated by the commission had already happened by
13 the time this order was issued. To meet the special
14 15-day requirement as set by the commission in this
15 unique case, TUID would have needed to file the revised
16 tariff within two days of the order. TUID should have
17 completed that file, but mistakenly failed to do so.

18 The changes in this update tariff are
19 relatively minor and deal with tampering fees and some
20 details regarding service to tenant-occupied properties.
21 I am sorry, tenant, hyphen, occupied properties. From
22 TUID's perspective, this -- these changes do not have
23 any material effect on Ms. Seamons' claims that are
24 currently at issue.

25 Notice was given of the board meeting by

1 public notice website. See footnotes. You can see that
2 in our footnotes from our previous response, and posted
3 at the meeting location in compliance with the Utah Open
4 and Public Meetings Act, thus giving notice of the
5 pending changes to any interested parties.

6 The fact that TUID mistakenly failed to file
7 its revised tariff sheets did not disadvantage
8 Mrs. Seamons, as all of the changes to be made to the
9 tariff were discussed in the stipulated settlement and
10 were also shown on the tariff sheets the division filed
11 along with the stipulated settlement on August 21st,
12 2015.

13 TUID did file, including the changes as agreed
14 to in the stipulated settlement, on March 1st, 2016, in
15 Docket 16-2508-T01. The division reviewed those changes
16 and recommended that the commission acknowledge the
17 changes on March 30th, 2016. On April 20th, 2016, the
18 commission issued a letter acknowledging the changes on
19 March 31st, 2016.

20 No. 3, did TUID hold public meetings for
21 customers as required under Utah Code 17B-2A-406,
22 (6)(A)(iii), both as to Docket 13-2508-T01 and as to
23 Docket No. 15-2508-T01? If so, was Mrs. Seamons
24 properly notified of the public meetings pursuant to
25 Utah code 17B-2A-406, (6)(A)(iii).

1 Some background is useful in this case to
2 understand the tariff changes filed with the commission
3 in these two dockets. The tariff changes filed with the
4 commission, Docket 13-2508-T01, set up a variety of
5 different electric service schedules designed to meet
6 customers needs and provide predictable revenue to TUID
7 and set an enrollment period for these different service
8 schedules.

9 These changes are described in the division's
10 action response dated May 30th, 2013, which is marked as
11 Exhibit TUID-026. Docket 15-2508-T01 changed certain
12 definitions, required landlords to be responsible for
13 utilities instead of tenants, clarified the ability of
14 property owners to fully abandon the taps on their
15 properties, and made other changes.

16 The division's action request response
17 describing these changes is marked as Exhibit TUID-027.
18 In that docket TUID and the division disagreed on
19 several issues. However, those issues were eventually
20 resolved, and TUID and the division agreed to a
21 settlement that was approved by the commission.

22 As part of that stipulation, TUID agreed to
23 make certain changes to its tariff, including reducing
24 the charges for tampering or unauthorized connections,
25 clarifying that a landlord can have separate accounts

1 for multiple rental properties, and made it clear that
2 tenants may request the status of the landlord's
3 utilities account for that particular property. As
4 noted previously, the stipulation is marked as Exhibit
5 TUID-001.

6 As to Docket 13-2508-T01, during a regular
7 meeting of the board -- of the TUID board on April 11,
8 2013, the board discussed proposed changes to TUID's
9 electric rates and rules and scheduled a public hearing
10 on the changes for April 29th, 2013.

11 Customers were notified at that meeting by a
12 U.S. mail, posting on the public notice website,
13 publication of notice in the local newspaper on April
14 18th and 25th, and posting notice of the hearing on
15 TUID's community bulletin board located by the community
16 mailboxes on Ticaboo Drive. I, personally mailed the
17 notices and posted the notice on the TUID community
18 bulletin board.

19 The agenda and minutes of the April 11th
20 meeting are marked as Exhibit TUID-008. The notice of
21 the April 29th meeting, as posted on the public notice
22 website is marked as Exhibit TUID-009. The published
23 notice of the April 29th meeting is marked as Exhibit
24 TUID-010.

25 That public hearing was indeed held on April

1 29, 2013. On that same day the proposed rate changes
2 were approved by Resolution 2013-0008. The other tariff
3 changes were approved by Resolution 2013-0009. TUID
4 then submitted the tariff changes in Docket 13-2508-T01,
5 and the commission issued its letter acknowledging the
6 tariff on June 14th, 2013. Mrs. Seamons did not provide
7 comments or otherwise involve herself in the TUID board
8 meetings or in the related commission docket.

9 The minutes of the April 29th meeting are
10 marked as Exhibit TUID-011. Resolution 2013-008 is
11 marked as Exhibit TUID-012. Resolution 2013-009 -- I'm
12 sorry, 0009, is marked as Exhibit TUID-013. The
13 commission's tariff acknowledgement letter in Docket
14 13-2508-T01 is marked as Exhibit TUID-014.

15 As to Docket 13-2508-T01, during a public and
16 properly noticed board meeting held on March 21st, 2014,
17 the TUI -- TUID board made changes to rules regarding
18 the abandonment of taps and imposing an increased
19 penalty charge for unauthorized connection or tampering.

20 Customers were notified of this meeting by
21 U.S. mail, posting on the public notice website, posting
22 of notice on the TUID community bulletin board, and I,
23 personally mailed the notices and made the posting on
24 the public notice website and on the community bulletin
25 board.

1 Mrs. Seamons was in attendance at this
2 meeting, and her attendance is noted in the meeting
3 minutes. Mrs. Seamons was provided with actual notice
4 of this meeting, as is shown by her attendance. Note
5 that the tampering fees that were adopted at this
6 meeting were later decreased as part of the settlement
7 stipulation that I mentioned earlier.

8 The minutes of the March 21st meeting are
9 marked as Exhibit TUID-015. The agenda for the March
10 21st meeting is marked as Exhibit TUID-016. The notice
11 of the March 21st meeting is marked as Exhibit TUID-017.

12 No. 4, when did TUID first begin to charge
13 Mrs. Seamons' standby fees? TUID first began charging
14 standby fees to Mrs. Seamons and other property owners
15 on August 1st -- excuse me, correct that. October 1st,
16 2013. As I noted previously, the standby fees were
17 implemented with the tariff changes filed with the
18 commission in Docket 13-2508-T02.

19 The division reviewed the proposed changes and
20 recommended that the commission acknowledge the tariff
21 changes in the letter dated November 19th, 2013. The
22 commission acknowledged the changes on December 6th,
23 2013. The changes were effective on September 1st,
24 2013, and the charges for standby fees began October 1st
25 of 2013.

1 The division's recommendation letter in Docket
2 13-2508-T02 is marked as Exhibit TUID-018. The
3 commission's acknowledgement letter in Docket
4 13-2508-T02 is marked as Exhibit TUID-019.

5 No. 5, does TUID allow contracts with tenants?
6 If so, are Mrs. Seamons' tenants entitled to similar
7 consideration? Excuse me.

8 TUID is required to follow its tariff. In
9 accordance with the tariff, TUID does not -- excuse me,
10 TUID generally does not allow for contracts directly
11 with tenants. The tariff allows for exceptions in the
12 case of long-term existing tenants that are TUID
13 customers in good standing. Even if such an exception
14 is granted, if service is disconnected and then later
15 reconnected, the landlord will be responsible for
16 utility services in accordance with the general rule.

17 As far as TUID is aware, none of the tenants
18 in Mrs. Seamons' properties would qualify for this
19 exception. If Mrs. Seamons has long-term tenants that
20 may fit this exception, TUID will of course discuss this
21 issue with her.

22 Simply stated, the purpose of this rule is to
23 make sure that TUID is paid for the services it
24 provides. Ticaboo generally has a large number of
25 seasonal, temporary residents, and TUID has found that

1 collecting past-due fees from former tenants of rental
2 properties is often difficult.

3 Once a tenant moves away from Ticaboo, the
4 only way for TUID to collect those fees is to sue the
5 former tenant, obtain a judgment against that tenant,
6 and collect on that judgment. Suing a former tenant for
7 a few hundred or even a few thousand dollars in unpaid
8 fees is generally not cost effective. And even once a
9 judgment is obtained, collecting on a judgment is often
10 impossible.

11 In the end, when a tenant moves away without
12 paying their utility bills, TUID is simply unable to
13 collect. Since TUID is a governmental -- local
14 governmental entity, TUID relies completely on revenues
15 from utility services to pay its expenses. When a
16 customer does not pay and TUID is unable to collect, the
17 funds to cover the services that customer received must
18 necessarily come from the remaining TUID customers.

19 TUID believes that is not fair for those other
20 customers to pay more than their fair share. For many
21 larger utilities a few nonpaying customers may not be a
22 serious issue. However, for TUID, the matter of a few
23 thousand dollars in unpaid fees is a serious issue, and
24 those costs eventually must be paid by the remaining
25 customers.

1 By making landlords responsible for utility
2 services, TUID increases the likelihood that it will
3 actually receive payment for those services it provides.
4 A tenant in a given property must pay for utility
5 services. Whether that tenant pays for those services
6 as part of the rent to the landlord or directly to TUID
7 as a customer is really irrelevant as the amounts due
8 for the services are the same.

9 Requiring that landlords are responsible for
10 the utilities makes sense as the landlord is the person
11 screening and selecting tenants that are likely to pay
12 their bills. There is no premium to be charged or added
13 expense in requiring that landlords be responsible for
14 utilities, and the tenants are no worse off. The policy
15 simply increases the ability of TUID to collect the
16 amounts it is owed.

17 No. 6, has TUID mailed a customer information
18 pamphlet to Mrs. Seamons as required under the tariff
19 and by commission rule?

20 TUID has mailed the customer information
21 pamphlet to Mrs. Seamons. I mailed the pamphlets every
22 year myself to the addresses on file with TUID in
23 September or October with the monthly bills. TUID does
24 not obtain proof of delivery of these mailings, as
25 mailing those notices via certified mail or some similar

1 method would be an unnecessary expense and an unneeded
2 strain on an already very tight budget.

3 The customer information pamphlet is available
4 on the TUID website as well, along with a variety of
5 other documents and information. The current version of
6 the -- the current version of the pamphlet is marked as
7 Exhibit TUID-028.

8 No. 7, has TUID removed taps from
9 Mrs. Seamons' properties or property? If so, what were
10 the circumstances under which the taps were removed?

11 TUID has not physically removed any of the
12 taps from any of Mrs. Seamons' multiple properties.
13 Note that, quote, taps are the physical connections to a
14 particular property for a particular service, such as
15 service laterals for water and sewer service or a power
16 line terminating on the property.

17 I also wish to offer my testimony as to
18 several other minor matters not covered by the
19 commission's specific list of questions. TUID has
20 mailed the annual customer information pamphlet --

21 MR. HOGELIN: Objection, your Honor. He has
22 already admitted to the fact that he is going to be --
23 I'm sorry. Objection. He's stating that he's going to
24 be making statements outside of the scope of what the
25 commission has requested to be presented today.

1 JUDGE JONSSON: Response?

2 MR. LONG: I believe the hearing to this point
3 has been in large part outside of the bounds of those
4 seven questions, particularly anything regarding Docket
5 13-2508-T02 is technically outside the bounds of those
6 questions as written. I understand that that may have
7 been a typo or miscommunication somewhere along the
8 line, but an objection now seems unfounded.

9 MR. HOGELIN: Well, if -- you know, counsel is
10 raising that one issue. I mean, but he's stating that
11 he's going to go outside the scope on a number of
12 issues.

13 JUDGE JONSSON: What issues do you want to
14 address, Mr. Shortreed?

15 THE WITNESS: Ma'am, I'm addressing the
16 customer information pamphlet and addressing standby
17 fees as they relate to Docket 13-2508-T02.

18 JUDGE JONSSON: I do need information about
19 Docket 13-T02. If we can deal with it here, that would
20 be great. I would hate to have to continue this hearing
21 and call you all back from the south of the state. It
22 is unfortunate that we didn't get the correct docket
23 number. That well could be my mistake, so I'd like to
24 do what we can on that docket.

25 MR. LONG: And if I may, the topics that

1 Mr. Shortreed is going to address in the last little bit
2 of his statement are topics that have been raised by
3 Ms. Seamons in various filings, you know, perhaps
4 outside of those seven questions.

5 JUDGE JONSSON: Okay. Let's go ahead and hear
6 what you have to say, Mr. Shortreed.

7 THE WITNESS: I also wish to offer my
8 testimony as to several other minor matters not covered
9 by the commission's specific list of questions. TUID
10 has mailed the annual customer information pamphlets
11 every year as required by its tariff and the
12 commission's rules.

13 Mrs. Seamons alleges that she has not received
14 this pamphlet. While TUID does not have any information
15 about whether Mrs. Seamons actually received the
16 pamphlet, I did send out these pamphlets every year as
17 required by the tariff.

18 Mrs. Seamons also alleges that the tariff is
19 not publicly available in the TUID office and that the
20 required notice is not posted in the office. Based on
21 my own personal knowledge as district manager and the
22 sole full-time employee of TUID, the tariff is indeed
23 available for public inspection, and the notice is
24 posted in the office stating that the rate schedules are
25 available for inspection.

1 TUID also posts a variety of information on
2 its basic website, and all tariff filings are available
3 on the commission's website.

4 MR. LONG: If I may interrupt Mr. Shortreed, I
5 think now would be a time to discuss briefly
6 13-2508-T02, even though we had assumed it was outside
7 the bounds of this hearing. If that's acceptable to the
8 commission, Mr. Shortreed has prepared a very short
9 statement on that.

10 JUDGE JONSSON: Please go ahead.

11 THE WITNESS: Standby fees were proposed in a
12 regular TUID board meeting on August 8th, 2013. TUID
13 mailed notice to all customers of the proposed rate
14 changes and hearing, published notice in the newspaper
15 of the proposed rate increase and hearing on August
16 15th, 2013, and posted a similar notice on the TUID
17 community bulletin board.

18 I, personally mailed those notices. The
19 public hearing and public meeting to adopt the proposed
20 standby fees was held on August 29, 2013, as scheduled.
21 TUID adopted the standby fees with Resolution 2013-0017
22 on August 29th, 2013, and the rate went into effect
23 September 1st, 2013.

24 TUID filed its revised tariff sheet with the
25 commission on October 16th, 2013. The division

1 recommended that the commission acknowledge the revised
2 tariff sheets on November 19th, 2013. The commission
3 acknowledged the revised tariff sheets on December 6th,
4 2013.

5 In addition to the notices required prior to
6 adopting the standby fees, TUID also mailed information
7 brochures to all customers explaining the necessity of
8 the standby fees and answering common questions about
9 the standby fees.

10 August 8th, 2013, meeting minutes are Exhibit
11 TUID-020. The published notice of the proposed rate
12 change and public hearing is marked as Exhibit TUID-021.
13 August 29, 2013, meeting minutes are marked as Exhibit
14 TUID-022. Resolution 2013-0017 is marked as Exhibit
15 TUID-023. The division recommendation is marked as
16 Exhibit TUID-024. And the commission's acknowledgement
17 letter is marked as Exhibit TUID-025.

18 JUDGE JONSSON: Okay. So let me just ask you
19 some questions. On Docket 13-T02, what was the date
20 that you mailed out the customer notices?

21 THE WITNESS: It was the same day that I
22 published the notices.

23 JUDGE JONSSON: So what date was that?

24 THE WITNESS: Prior to August -- prior or on
25 to August 15th, immediately following the board meeting.

1 JUDGE JONSSON: Okay. So on August 15th you
2 mailed out a notice as to an August 29th, 2013, meeting?

3 THE WITNESS: Yes, ma'am.

4 JUDGE JONSSON: Do you have a copy of that
5 notice for me?

6 THE WITNESS: Not here, no, ma'am, and I don't
7 know if I have one. I can't readily state that right
8 now.

9 MR. LONG: We do have a copy of the published
10 notice that made it in the newspaper marked as one of
11 our exhibits. Perhaps Mr. Shortreed can testify the
12 notice mailed out was substantially the same as that
13 notice.

14 JUDGE JONSSON: Well, here's the difficulty.
15 Under the statute, the statute does not acknowledge a
16 website notice or a newspaper notice. The only thing
17 that qualifies you for exemption from commission
18 oversight of your tariff is if you mail a notice at
19 least 10 days ahead of the date on which you hold the
20 public meeting.

21 So that's what I am trying to figure out, is
22 where is that public notice and when was it mailed. So
23 I believe that is your burden to demonstrate, and if all
24 we have got is a customer testimony saying, "Never got
25 one," and you saying, "I am absolutely sure I mailed

1 that," then this gets decided on the burden of proof.

2 And it's your burden.

3 MR. LONG: Understood and, you know, had we
4 known this docket was coming three years later, we
5 perhaps would have sent those in some sort of trackable
6 format. Barring that, Mr. Shortreed can testify that he
7 mailed the notices, to the contents of the notices and
8 can also testify as to the standard practice and
9 procedures of the district.

10 JUDGE JONSSON: Okay. So let's look then at
11 the August 29th, 2013, public meeting, in which the
12 changes that included the introduction of standby fees
13 were to be proposed and discussed. I -- we have in the
14 record a printout of your website, your public notices
15 website. Where on that website is this August 29th,
16 2013, meeting noticed?

17 Here is what I see. I see a post on February
18 6, 2016, of a meeting that occurred prior to that, on
19 January 28th, 2016. I see a post on February 6th, 2016.
20 Then a post on May 20th, 2015, again as to a meeting
21 that took place previously on April 23rd, 2015. And
22 notice of a public meeting for June 11th, 2015.

23 There is a post on May 20th, 2015, a post on
24 November 11th, 2013, and then a post on April 20th,
25 2013. As I have gone through here, I don't see anything

1 on your website that talks about an August 29th, 2013,
2 meeting. Am I missing that?

3 MR. LONG: Without looking at the public
4 notice website, I'm not sure we can speak to that.

5 JUDGE JONSSON: Here is the printout. Would
6 you like a minute to look it over?

7 MR. LONG: If that would be helpful to the
8 commission, certainly.

9 JUDGE JONSSON: That would be great. Let's go
10 off the record for about 10 minutes.

11 (Recess from 11:35 a.m. to 11:46 a.m.)

12 JUDGE JONSSON: All right. Go ahead. Help me
13 out with the August 29th, 2013 meeting, if you can, and
14 if you can't today, then we'll figure out how to deal
15 with that.

16 MR. LONG: And I think it may be the latter.
17 I am looking at this right here, and this is a printout
18 from Ticaboo's own website?

19 JUDGE JONSSON: Correct.

20 MR. LONG: Not the public notice website.

21 JUDGE JONSSON: Correct.

22 MR. LONG: And off the top of my head the
23 district is not required to provide electronic notice on
24 its own website of public meetings.

25 JUDGE JONSSON: Correct.

1 MR. LONG: And again, just off the top of my
2 head, and again, this may be better addressed in a
3 written filing, unless we are all very up to speed on
4 our Open and Public Meeting Act's requirements.

5 JUDGE JONSSON: I am pretty up to speed. But
6 what -- I am not concerned about whether you complied
7 with the Open and Public Meetings Act.

8 MR. LONG: Okay.

9 JUDGE JONSSON: I am concerned with whether
10 you complied with 17B, which requires mailed notice of
11 the August 29th, 2013, meeting to customers at least 10
12 days ahead of that date. And that's, that's really the
13 critical issue in this case, is whether that notice was
14 mailed out.

15 So, I mean, if I were running a small utility
16 like this, and I were trying to be sure that I stayed
17 within my exemption, I would have a copy of that notice.
18 I would -- you have got 80-some customers. I would
19 maybe even photocopy a few of the envelopes to keep in
20 my files as evidence that they were in fact mailed.

21 That's up to you, of course, how you handle
22 that. But I, I need to see whatever you have got to
23 demonstrate that you mailed out a notice at least on --
24 what's 10 days before the 29th? August 19th, 2013. And
25 perhaps we'd have to deal with that after the hearing.

1 MR. LONG: And that may be true.

2 JUDGE JONSSON: Yeah.

3 MR. LONG: We don't have any evidence of a --
4 we don't have a photocopy of that mailing or something
5 to that extent.

6 JUDGE JONSSON: Okay. So I have some
7 additional questions. Of your 80-some-odd customers,
8 how many of those lots -- or 80-some-odd lots that you
9 are either serving or standing ready to serve, how many
10 of those are standby properties for electricity? Do you
11 know? Even an estimate would be helpful.

12 THE WITNESS: Yes, ma'am. I'd like to
13 correct, though, that it's approximately 124 customers
14 that are billed for active or standby services.

15 JUDGE JONSSON: Okay.

16 THE WITNESS: As a rough estimate of that, I
17 would say that on a guess, probably 60 of those.

18 JUDGE JONSSON: About half -- almost half, not
19 quite half.

20 THE WITNESS: That would be my best guess,
21 yes, ma'am.

22 JUDGE JONSSON: Are standbys, okay. And of
23 those, do you -- again, do you know -- and you might
24 not. Of those 60, how many have structures on the
25 premises where, you know, upon notice to you, you can do

1 something in your computer, and they can flick the
2 switch and the lights come on? Versus how many are
3 vacant lots with nothing built?

4 THE WITNESS: Well, I can't give you a
5 specific number, ma'am. I can say a majority are vacant
6 lots with nothing built on them.

7 JUDGE JONSSON: Majority are vacant, okay. So
8 of those that are vacant, how many are liened for unpaid
9 standby fees?

10 THE WITNESS: I believe at my last
11 certification with the Garfield County treasurer, we
12 were at 13.

13 JUDGE JONSSON: Thirteen liens, 13 liened
14 properties. Have you foreclosed?

15 THE WITNESS: No, ma'am.

16 JUDGE JONSSON: Okay. So I need to understand
17 what you consider to be -- mean that you are ready,
18 willing and able to deliver service to a vacant lot.

19 THE WITNESS: Yes, ma'am.

20 JUDGE JONSSON: Does that mean simply that you
21 have your main supply line running through your utility
22 easement on the property? Or does that mean that you
23 have a direct drop line from your supply line to a point
24 on the property where a structure might be built?

25 THE WITNESS: To a point on the property where

1 the structure might be built for all utility services.

2 JUDGE JONSSON: So there is a line outside of
3 the utility easement onto a potential building site on
4 the property?

5 THE WITNESS: Yes.

6 JUDGE JONSSON: In every case?

7 THE WITNESS: No.

8 JUDGE JONSSON: Okay. So do you charge --

9 THE WITNESS: In every -- I'm sorry, ma'am.

10 JUDGE JONSSON: Do you charge a standby fee
11 even where you don't have a drop line to a building site
12 or a potential building site?

13 THE WITNESS: Can I have a moment?

14 JUDGE JONSSON: Uh-huh.

15 THE WITNESS: I'm sorry, ma'am. Ticaboo is a
16 very difficult situation when it comes to the
17 infrastructure because it was constructed in two
18 primarily different ways. In the mobile home park,
19 where Mrs. Seamons' property -- Mrs. Seamons' properties
20 are, all of the utility electric lines are run to the
21 perimeter or to the property on the back side of the
22 property, where there is a ped in place for the customer
23 to be able to connect from the home to the ped.

24 JUDGE JONSSON: Uh-huh.

25 THE WITNESS: Now, in the estates it's a

1 little bit different, which is another platted section
2 of the -- of Ticaboo, where the lines run parallel to
3 the property on the property line. But because the lots
4 are vacant, there may not be a connection to a customer
5 home because there is no lot -- no home there.

6 JUDGE JONSSON: Okay. So let's, let's talk
7 about the mobile home sites. And correct me if I am
8 wrong. Does -- is that what all of these properties
9 are? They are all within a mobile home park?

10 MR. HOGELIN: Yes.

11 JUDGE JONSSON: Okay. So if Ms. Seamons had a
12 tenant bring in a mobile home and site it on her
13 property, how long would it take for you to deliver
14 electricity to that mobile home?

15 THE WITNESS: In accordance with our rules and
16 regulations, it would be immediate. Only the customer
17 would have to extend the customer service from the home
18 to the ped.

19 JUDGE JONSSON: Okay. So there's a drop line
20 available --

21 THE WITNESS: Yes, ma'am.

22 JUDGE JONSSON: -- to each of those. Okay.

23 THE WITNESS: One second. Yeah, there's a ped
24 on every mobile home lot except for maybe one or two.
25 In Mrs. Seamons' case, they are all there.

1 JUDGE JONSSON: Okay. So these properties
2 were all purchased prior to the date on which you first
3 imposed standby fees. So -- and you have got maybe a
4 third of your customers who, who own vacant lots not
5 paying the standby fees. And yet you have made the
6 argument that these fees are necessary to the health and
7 the ongoing operations of the company.

8 So my question is, how were you functioning
9 before 2013 without them? And how are you continuing to
10 function where at least a third of your standby
11 customers are not paying?

12 THE WITNESS: Do you want me to be blunt and
13 frank?

14 JUDGE JONSSON: Yes, I do.

15 THE WITNESS: Okay. So prior to the
16 implementation of the standby fees, we were operating
17 dramatically in the red as a utility district, as an
18 improvement district, barely making enough money to be
19 able to pay for fuel through usage fees and everything
20 else. Oftentimes problems were dealt with in the best
21 way that we could, given the finances that we had at the
22 time, which unfortunately was how the utilities were
23 handled in the town of Ticaboo for 35 years prior to the
24 Ticaboo Electric Improvement District Coming into
25 existence in 2009, and going into operations in 2010.

1 At that time, the board of trustees realized
2 that we had to do something in order to be able to
3 ensure that we could deliver reliable service on demand
4 to our customers, in an effort to be able to improve
5 those customer relations. And also while it is not our
6 responsibility to promote economic development, but to
7 be able to support it if economic development were to
8 happen.

9 So 2013 was a very tumultuous year in that
10 regards. Is that me that keeps knocking this with my
11 voice?

12 JUDGE JONSSON: Yeah.

13 THE WITNESS: I apologize.

14 JUDGE JONSSON: That's all right.

15 THE WITNESS: In 2013 was a very involved year
16 because we got involved in so many different things to
17 fix. We started fixing the things that needed to be
18 fixed in town to be able to ensure we could deliver that
19 service when required.

20 MR. LONG: And I think it may be worth noting
21 that at this point nobody was getting paid for any of
22 this work.

23 THE WITNESS: That's correct. There were no
24 paid staff members for much of that time.

25 JUDGE JONSSON: Okay. All right. So let's

1 turn to the tariff itself. I read through it very
2 carefully. Where is the language that says that the
3 restriction against the tenant contract is waived or
4 lifted if we're dealing with a long-term tenant?

5 THE WITNESS: Ma'am, I don't have that in
6 front of me, but I believe it's in Section 8, if I
7 remember right. It may be 8.02. But I don't have that
8 in front of me, but it does state in there an exception
9 paragraph.

10 JUDGE JONSSON: Okay.

11 THE WITNESS: An exception paragraph does
12 stipulate that -- I'd like to say, ma'am, that we
13 actually instituted that exception based upon public
14 comment and concerns.

15 JUDGE JONSSON: Uh-huh.

16 THE WITNESS: Primarily because of SITLA
17 properties.

18 JUDGE JONSSON: Right.

19 THE WITNESS: So we understood those concerns,
20 and by putting that exception in place, we were able to
21 ensure that none of the existing SITLA tenants were -- I
22 hate to be harsh -- but summarily evicted because SITLA
23 won't be responsible for utility bills, just as a part
24 of their policy.

25 JUDGE JONSSON: So have you allowed a

1 long-term tenant contract under any owner other than
2 SITLA?

3 THE WITNESS: Yes.

4 JUDGE JONSSON: Okay.

5 THE WITNESS: Me, for example. I am a renter
6 in Ticaboo, ma'am. And I was a long-time customer prior
7 to this rule being put in place.

8 JUDGE JONSSON: So on the 2015 T docket where
9 you entered into the stipulation with the division, it
10 was sometime later that the commission issued the order
11 approving the stipulation. During that period of time
12 that passed, you held a public meeting.

13 THE WITNESS: Yes, ma'am.

14 JUDGE JONSSON: Well, excuse me. You held a
15 board meeting. And in the statement that you have read,
16 you have identified exhibits where that board meeting --
17 where the board meeting minutes are and so on, correct?

18 THE WITNESS: Yes, ma'am.

19 JUDGE JONSSON: Did you also hold a public
20 meeting?

21 THE WITNESS: All of our board meetings are
22 public, ma'am.

23 JUDGE JONSSON: Did you send out a mailed
24 customer notice of a public meeting with regard to the
25 tariff changes?

1 THE WITNESS: I would have to admittedly say
2 where the tariff changes were concerned, no, ma'am,
3 because we weren't instituting any rate changes.

4 JUDGE JONSSON: Okay.

5 THE WITNESS: It was just agreeing to the
6 settlement stipulation that Mr. Jetter had drafted and
7 sent forward as part of that T docket.

8 JUDGE JONSSON: Okay. But it did include,
9 though, a penalty fee for tampering. You had proposed a
10 thousand dollars per day. But then you agreed with the
11 division to take it down to a hundred dollars per day.
12 So this was a new tariff charge.

13 And my question is whether you noticed within
14 10 days of a public meeting, sent a notice to customers
15 within 10 days prior to the public meeting saying,
16 "We're putting a new fee in our tariff. It's been
17 approved by the board, or it's going to be approved by
18 the board, and here is our public meeting for customers
19 to come and talk to us about this."

20 THE WITNESS: Factually, ma'am, that
21 particular tampering rate was already in place, and
22 during this particular T docket it was brought up as a
23 point of concern or contention.

24 JUDGE JONSSON: Right.

25 THE WITNESS: And was then settled upon

1 because I believe, if memory serves me right, our
2 original charge was a thousand dollars per incident per
3 day.

4 JUDGE JONSSON: Right.

5 THE WITNESS: And then through the settlement
6 stipulation with the division, we changed it to a
7 thousand dollars per incident, a hundred dollars per
8 day. Now, having said that, I cannot sit here in front
9 of you and tell you that I sent out a notice for a
10 reduction in a fee. I have no recollection of sending
11 such a notice out to my customers.

12 JUDGE JONSSON: Okay. I am going to have
13 to -- I am going to have to check again the records of
14 that because my, my sense is that the tampering fine was
15 brand-new in the tariff in that 2015 docket. You think
16 you had a tampering fine in place prior to that?

17 MR. LONG: I can maybe shed a little bit of
18 light without looking at the details.

19 JUDGE JONSSON: Great.

20 MR. LONG: The tampering fee has in recent
21 memory always been \$1,000 per incident. In the very
22 beginning of that docket, 15-2508-T01, that fee was
23 increased to \$1,000 per incident plus a \$1,000 per-day
24 tampering fee.

25 JUDGE JONSSON: Per day, okay.

1 MR. LONG: Going off the top of my head, I
2 believe the district complied with all the notice
3 requirements for that initial change. At that point,
4 when those -- when those changes were filed with the
5 commission, the division had some objections to them.

6 JUDGE JONSSON: Right.

7 MR. LONG: And this was a situation where the
8 district and the division have some -- and probably
9 still have some disagreement about how far the
10 commission's jurisdiction extends.

11 At any rate, in the settlement stipulation
12 that we have introduced as Exhibit TUID-001, we
13 essentially came to a conclusion on the points the
14 division had problems with.

15 JUDGE JONSSON: Uh-huh.

16 MR. LONG: And that tampering fee was reduced,
17 so -- in the district. And the tampering fee was
18 effective upon filing with the commission.

19 JUDGE JONSSON: So wait. But you just said
20 that prior to the 2015 docket, the tampering fee was a
21 thousand dollars per incident, no per-day fine, correct?

22 MR. LONG: Correct.

23 JUDGE JONSSON: So through the 2015 docket you
24 implemented a per-day fine.

25 MR. LONG: Uh-huh.

1 JUDGE JONSSON: And the dispute between the
2 district and the division was what the number would be,
3 correct?

4 MR. LONG: Correct, and perhaps it's useful to
5 think of that 2015 docket as two separate tariff
6 changes. We had the initial tariff changes done by the
7 district on -- I'd have to go look at the docket. At
8 any rate, at the very beginning of that docket, that
9 docket started -- that docket started after the district
10 had adopted those changes, and following the
11 requirements, the district is required to file the
12 tariff with the commission.

13 So at that point, from the district's
14 perspective, the tariff was effective.

15 JUDGE JONSSON: So here is my question. Did
16 you mail out a notice of a public meeting that included
17 discussion of a per-day tampering fine, whatever the
18 amount was?

19 MR. LONG: I'd have to defer to Mr. Shortreed,
20 and perhaps this is something that needs looked at,
21 but --

22 THE WITNESS: I would have to go back and
23 check my records on that, ma'am.

24 JUDGE JONSSON: Okay.

25 MR. LONG: But Mr. Shortreed perhaps can tell

1 us if it's the district's policy to mail out notice of
2 any rate increases or any increases that would cause
3 dollars paid by customers to go up.

4 JUDGE JONSSON: Well, I think that's what the
5 statute requires.

6 THE WITNESS: Yes, ma'am, and that is also
7 what we follow.

8 JUDGE JONSSON: Okay.

9 MR. HOGELIN: Just for the record, we do have
10 a copy of the tariff that was effective, and this is
11 redlined, July 25th. Or I'm sorry, March 21st of
12 2000 -- I'm sorry. Never mind. I withdraw.

13 JUDGE JONSSON: Okay. All right. So we have
14 Ms. Seamons' testimony that the district removed meters
15 from a rental property twice. And your -- in your
16 statement that you read, it seemed to me that you were
17 stating that that's simply not true. Well, you said no
18 taps were removed.

19 So this is what I want to know. Is a tap in
20 your mind equivalent with a drop line? Is that the same
21 thing?

22 THE WITNESS: What is your definition of a
23 drop line, ma'am?

24 JUDGE JONSSON: A drop line is dedicated line
25 from your main supply source that runs through your

1 easement, to the property. So here is your main --

2 THE WITNESS: Saying electric pedestal, ma'am?

3 JUDGE JONSSON: I don't know what an electric
4 pedestal is. Here is your supply line that runs through
5 your easement. Here is the property. Here is your drop
6 line right there. Where is -- what is the tap?

7 THE WITNESS: The tap is anything from the
8 main line to service on the property.

9 JUDGE JONSSON: Okay.

10 THE WITNESS: To a pedestal, to a meter.

11 JUDGE JONSSON: Okay. So you have never
12 pulled the drop line?

13 THE WITNESS: No, ma'am.

14 JUDGE JONSSON: You have never pulled the tap.

15 THE WITNESS: No, ma'am.

16 JUDGE JONSSON: Okay. Have you pulled a
17 meter?

18 THE WITNESS: Yes, ma'am.

19 JUDGE JONSSON: Okay. Did you comply with the
20 commission's rules for notice to the customer before
21 pulling that meter?

22 THE WITNESS: I would have complied with those
23 rules, ma'am, if I were terminating the service. But
24 the service was requested to be terminated by the
25 tenant.

1 JUDGE JONSSON: Say that again.

2 THE WITNESS: Had I enforced a termination
3 rule in accordance with the rules, I would have had to
4 have properly noticed.

5 JUDGE JONSSON: Okay. What do you consider to
6 be termination of electrical service?

7 THE WITNESS: Something as -- of an adverse
8 nature, such as no payment on the bill.

9 JUDGE JONSSON: Well, that would be grounds
10 for termination. From the customer's point of view, if
11 I flip the switch and it doesn't come on, the
12 electricity doesn't come on, have I been terminated?

13 THE WITNESS: Yes, ma'am. But in this
14 particular circumstance, it was cited by Mrs. Seamons.
15 The customer at the time, who was a tenant of
16 Mrs. Seamons, requested the service in writing to be
17 turned off.

18 JUDGE JONSSON: Okay.

19 THE WITNESS: They made that request of us.

20 JUDGE JONSSON: Okay.

21 THE WITNESS: As a matter of fact that --

22 JUDGE JONSSON: Is that in the record? Is
23 that written request in the record?

24 THE WITNESS: I do not believe that it is,
25 ma'am.

1 MR. HOGELIN: We have a copy of it.

2 JUDGE JONSSON: Okay.

3 MR. HOGELIN: Well, it's the original but...

4 THE WITNESS: And that should be a letter from
5 Jim and Valerie Hills, ma'am.

6 JUDGE JONSSON: Okay. So what action did you
7 take on receiving this letter? Shall we put this in the
8 record? Let's do. Let's make this Complainant's
9 Exhibit 8. Will you go run a couple copies of this?

10 So what action did you take on receiving that
11 letter?

12 THE WITNESS: Correct me if I'm wrong, ma'am,
13 but the rules state that at least three days of notice
14 have to be given for the turning on or turning off of a
15 service, and arrangements were made with Mr. and
16 Mrs. Hills to turn off the service after they had
17 vacated the property.

18 JUDGE JONSSON: Okay. So were the tenants
19 your customers? Did they have an account with you?

20 THE WITNESS: At that time, yes, ma'am.

21 JUDGE JONSSON: They did at that time.

22 THE WITNESS: Yes, ma'am, because that was
23 prior to that rule change.

24 JUDGE JONSSON: Okay. And then when you
25 pulled the meter and discontinued their service, you

1 also began charging standby fees to the owner. Is that
2 correct?

3 THE WITNESS: I don't know how that timeline
4 falls, ma'am. I would have to go back and check that.

5 MR. HOGELIN: Your Honor, let the accounts
6 that we admitted as exhibits show that the standby fees
7 did take effect after that.

8 THE WITNESS: That's 1115.

9 JUDGE JONSSON: All right.

10 THE WITNESS: Actually, ma'am, in answer to
11 your question, at the time that Mr. and Mrs. Hills
12 vacated the premises just so happened to be at the time
13 the standby fees were adopted by the board and made part
14 of the resolution -- or part of the tariff. So that
15 following month the standby fees would have started to
16 be charged, yes, ma'am.

17 JUDGE JONSSON: Okay. So if the tenant had
18 requested to permanently abandon service, what would
19 have been your response?

20 THE WITNESS: No, ma'am. That has to come
21 from a property owner per our rules.

22 JUDGE JONSSON: Property owner.

23 THE WITNESS: Yes, ma'am.

24 JUDGE JONSSON: All right. Any
25 cross-examination?

1 MR. HOGELIN: Yes.

2 JUDGE JONSSON: Go ahead.

3 CROSS-EXAMINATION

4 BY MR. HOGELIN:

5 Q. Mr. Shortreed, in your epilog, you stated that
6 the standby fees started in October of 2013?

7 A. Yes, sir. That's when they were billed with
8 the October 1st billing that went out, which was for the
9 month of September.

10 Q. Okay. So there has been a number of exhibits
11 submitted today with -- of account summaries provided by
12 your office and possibly by you to Ms. Seamons that
13 reflects the standby fees actually started in September.
14 Why does your testimony conflict with the account audit
15 histories that you provided to Ms. Seamons?

16 A. They don't conflict, sir. Our billing date is
17 October 1st for the month, September, that was billed
18 for.

19 Q. Okay. But you --

20 A. So they were billed October 1st for the
21 standby fees.

22 Q. But they were billed for September?

23 A. For September services, yes, sir.

24 Q. All right. So just a clarification there.

25 You also testified that you were granted an exception as

1 a long-term resident to the owner. Who granted that
2 exception?

3 A. The, the board did.

4 Q. Okay. And you applied for that exception?

5 A. There's no application process. It's taken as
6 a case-by-case basis on --

7 Q. So when were you granted exception to that?

8 A. At the same time that the other residents were
9 granted exception under that rule.

10 Q. Okay. So you were specifically -- they
11 specifically gave you that exception? Or was that just
12 something that just kind of, everybody kind of went
13 about their way and assumed that it was there?

14 JUDGE JONSSON: Is it in the meeting minutes?

15 MR. LONG: I think this is perhaps a little
16 bit more of a leading question than I would like. Maybe
17 I can explain, and Mr. Shortreed can confirm.

18 The exception to the tenant rules, it
19 essentially allows status quo to stay the same, that if
20 a tenant is there and stays there, that tenant's account
21 with the district for utility services stays as it was.
22 If that tenant were to move out and hypothetically move
23 back in or if a new tenant moves back in after these
24 rules are implemented, the landlord would then be
25 responsible for that utility account.

1 Is that a correct statement of the rules,
2 Mr. Shortreed?

3 THE WITNESS: Yes.

4 Q. (By Mr. Hogelin) Okay. What I am asking
5 though, is who determines that?

6 A. The district manager does.

7 Q. So you determined for yourself to have the
8 exception apply?

9 MR. LONG: Object. I think we made it clear,
10 there's no determination that's required. Simply if no
11 change is made, no change is required to be made
12 according to rules of the tariff.

13 MR. HOGELIN: The rules -- his testimony said
14 that exceptions can be applied.

15 JUDGE JONSSON: So --

16 MR. HOGELIN: So what I am trying to find out
17 is what's -- how does that happen? Who has the
18 discretion? So I am asking Mr. Shortreed, "Who has
19 discretion?" And I am doing it by applying his own
20 situation which he testified that he was granted this
21 exception.

22 JUDGE JONSSON: Well, and I think it is a
23 relevant point. I want to see the tariff provision that
24 sets out that exemption, and I would like to see how the
25 tariff says it works. If it doesn't say how it works,

1 then we potentially have a problem.

2 Q. (By Mr. Hogelin) So my point is,
3 Mr. Shortreed, you testified that there were others.
4 You included yourself, and so I am just trying to find
5 out when and how that exception was applied and in what
6 -- if it was done formally or informally. So that's a
7 compound question. So let me rephrase that.

8 Was your exception applied formally or
9 informally?

10 A. I don't understand what you mean by formally
11 or informally.

12 Q. So it's your testimony that you didn't apply
13 for the exception, correct?

14 A. We don't have an application process for the
15 exception, no.

16 Q. So was your exception presented to the board,
17 your specific exception?

18 A. No.

19 Q. Okay. So the board never -- so no one ever
20 really approved your exception?

21 MR. LONG: I object to that leading question.
22 Perhaps Mr. Hogelin could simply ask Mr. Shortreed what
23 the process is.

24 MR. HOGELIN: I can ask leading questions.
25 This is cross-examination.

1 JUDGE JONSSON: Well, these rules don't apply.
2 We are in an administrative proceeding, so let's -- this
3 is what -- this is what I need to know. These long-term
4 customers, including yourself, including some tenants of
5 SITLA, including at least, well --

6 MR. HOGELIN: Well, that's where I want to go.

7 **Q. (By Mr. Hogelin) Is there any other long-term**
8 **tenants that have been granted this exception besides**
9 **yourself or the -- associated with SITLA?**

10 A. No. Because the long-term tenants, as they
11 are defined, are those people. There have been no other
12 long-term tenants in good standing with the district.

13 JUDGE JONSSON: Okay. So here is the
14 question.

15 THE WITNESS: And if I -- I'm sorry, ma'am.

16 JUDGE JONSSON: Did the tenants have to come
17 to you and say, "I am a long-term tenant. I want to
18 be -- I want to have the contract with you"? Were they
19 required to do that?

20 THE WITNESS: No, ma'am.

21 JUDGE JONSSON: Okay. Was the property owner
22 required to come to you and say, "I have long-term
23 tenants. I want your contract to be with my tenant not
24 with me"?

25 THE WITNESS: Not required, no, ma'am.

1 JUDGE JONSSON: Okay. Did -- so how did you
2 decide who the long-term tenants were?

3 THE WITNESS: Because I know everybody in
4 Ticaboo, ma'am, because there's a whopping 40 people who
5 live there.

6 JUDGE JONSSON: So you just did this on your
7 own. You went through your accounts and you said,
8 "Okay. This is one with a tenant, but this is a
9 long-term tenant, so we're going to keep the account
10 with the tenant."

11 THE WITNESS: In accordance with the rule that
12 we set forth, I identified those customers who would
13 have fit the exception, yes.

14 JUDGE JONSSON: Okay.

15 MR. LONG: I think the perhaps the point is
16 that the rule doesn't require any changes to the
17 situation as it existed when that rule was implemented.
18 If a tenant had an account at that time, that tenant
19 could continue. And if a new tenant moved in after
20 that, the owner would then be responsible for the
21 account.

22 THE WITNESS: And I don't -- I apologize,
23 ma'am. I don't have a copy of my tariff in front of me,
24 and I must say that I don't know this particular section
25 verbatim.

1 JUDGE JONSSON: That's fine.

2 THE WITNESS: But if memory serves me right, I
3 believe there was a one-year stipulation in that
4 exception that said, so long as the tenant was a
5 customer, a long-term customer of one year or more in
6 good standing with the district, then they would qualify
7 for the exception rule.

8 JUDGE JONSSON: Okay. And that's what I want
9 to see is the tariff language so --

10 THE WITNESS: I apologize, I don't have that.

11 JUDGE JONSSON: So I'll look for it. But I'm
12 probably going to order you to submit posthearing briefs
13 that deal with some of these things.

14 MR. LONG: Certainly, and we're happy to do
15 that.

16 JUDGE JONSSON: Okay. All right.
17 Mr. Hogelin, go ahead.

18 **Q. (By Mr. Hogelin) I guess that was my next**
19 **question is because SITLA, their tenants came in about**
20 **2013, correct?**

21 A. No. There are some -- there are some people
22 in Ticaboo who have been tenants of SITLA for a number
23 of years, beyond 2013.

24 **Q. Okay. But you are including the resort in**
25 **these discussion, right?**

1 A. No, I am not.

2 **Q. Okay. So the resort isn't powered by TUID?**

3 A. By TUID, powered by TUID?

4 **Q. Yeah.**

5 A. We do provide them with power, yes, sir.

6 **Q. Okay. And they are owned by SITLA, correct?**

7 A. No, they are not.

8 **Q. Who are they owned by?**

9 A. Themselves, sir. They are their own
10 organization. They own their own land.

11 JUDGE JONSSON: The resort does, the resort
12 owns the lands?

13 THE WITNESS: Yes, ma'am.

14 MR. HOGELIN: Okay.

15 A. I will offer this, though. They are a master
16 development lease holder of SITLA.

17 **Q. (By Mr. Hogelin) They are what?**

18 A. A master development lease holder.

19 MS. BROADBENT: So they lease the other
20 property.

21 MR. HOGELIN: Mary, please.

22 **Q. (By Mr. Hogelin) So -- but they own the**
23 **property.**

24 A. Not where they are the master development
25 lease holder, no.

1 Q. Who does?

2 A. SITLA does.

3 Q. Okay.

4 A. In that particular case.

5 Q. Okay. So how much of the property do they
6 own?

7 A. SITLA?

8 Q. No, the resort.

9 A. They own all the commercial property and
10 approximately one, two, three -- four or five
11 residential properties.

12 Q. So but they are the master -- I'm sorry,
13 designer on --

14 A. Master development lease holder, sir, yes.

15 Q. For a property that's owned by SITLA, and are
16 there standby fees charged on that?

17 A. No, because SITLA abandoned all of the taps in
18 2014.

19 Q. Okay. And so prior to 2014 -- or I mean, so
20 -- but there was a -- why wouldn't there be a standby
21 fee then?

22 A. Our abandonment rule allows that if a customer
23 applies for abandonment of their taps, once that
24 application has been approved and processed, then they
25 are no longer responsible for paying standby fees. And

1 that abandonment application in turn gets recorded on to
2 the property records with Garfield County.

3 Q. So the abandonment process, doesn't that
4 include a fee?

5 A. An application fee, yes, sir.

6 Q. Okay. And how much is the application fee?

7 A. \$75.

8 Q. Okay. And that's the only fee that's
9 associated with abandonment?

10 A. Yes, sir.

11 Q. Okay. And the -- but they would have to pay
12 other fees to get -- to be rehooked back up, correct?

13 A. To be hooked back up, yes, sir. If they
14 abandon the taps, they essentially would have to pay
15 fees as if the taps didn't exist.

16 Q. Okay.

17 A. To have those taps re -- reinitiated.

18 Q. Okay.

19 A. Or removed from abandonment status, if you
20 will.

21 Q. And that abandonment status was pursuant to
22 the 2013 docket or tariff?

23 A. I believe that it was, but without having it
24 in front of me, I can't say for sure.

25 Q. Okay.

1 JUDGE JONSSON: But a property owner is not
2 allowed to abandon if you consider that they have a
3 delinquent account.

4 THE WITNESS: That's correct. Their account
5 has to be in good standing.

6 JUDGE JONSSON: And they have to continue to
7 pay, at a minimum, standby fees until and unless you
8 approve the abandonment application.

9 THE WITNESS: Yes.

10 JUDGE JONSSON: And there is no -- there is no
11 requirement in the tariff that would actually state that
12 you have to approve the abandonment.

13 MR. HOGELIN: Well, the standby fees are two
14 years.

15 THE WITNESS: Yes, ma'am. Actually, there is
16 in the tariff. It does stipulate in the tariff what the
17 requirements for abandonment are.

18 JUDGE JONSSON: For the customer. But it
19 doesn't put any obligation on you to approve it. As I
20 read the tariff, it looks like you could just simply
21 decline to approve an application for abandonment and
22 continue to require the customer to pay standby fees
23 into perpetuity.

24 MR. LONG: I don't think that's the
25 understanding of the district. If it's written that

1 way, perhaps it needs revised.

2 JUDGE JONSSON: There's a fair bit in the
3 tariff that I think could use a good hard edit. Just
4 throw that out.

5 MR. LONG: Sure, and if there are things the
6 commission would like to see changed, we will certainly
7 consider that. I mean, the district is working with
8 very, very, very, very limited resources. Most of this
9 was frankly done by Mr. Shortreed on an unpaid basis for
10 years.

11 JUDGE JONSSON: Right.

12 MR. LONG: So recognize the district is in a
13 tough situation all around.

14 JUDGE JONSSON: Okay. Mr. Hogelin?

15 MR. HOGELIN: Yes, and we did -- Mr. Shortreed
16 was correct. Under Section 8.02 of the tariff, it does
17 provide the exceptions.

18 JUDGE JONSSON: Okay.

19 MR. HOGELIN: For that.

20 **Q. (By Mr. Hogelin) It does state that it is at**
21 **the sole discretion of the district, as long as these**
22 **conditions apply, meaning that just because you qualify,**
23 **you still -- correct me if I am wrong, you still are the**
24 **one that makes that determination, correct?**

25 **A. Based upon the rules, yes.**

1 Q. Well, it says here, at your sole discretion.
2 So if they qualify, you could still reject them,
3 correct?

4 A. I suppose that it could be perceived that way,
5 yes.

6 Q. Okay.

7 A. But as your Honor just pointed out, we seem to
8 have some things we need to edit in our tariff.

9 Q. Okay. Well, to me it seems pretty clear that
10 what this is stating, though, that the sole discretion
11 of the district under the following conditions. And
12 this is something -- and I just want to be real clear.
13 This isn't something that the board agrees on. This is
14 something that -- when it says "the district," is that
15 just you or is that the board?

16 A. By the authority given to me by the board, I
17 follow the rules that they approve.

18 Q. Okay. And who makes up the board?

19 A. What do you mean, sir?

20 Q. Who makes up the board? How is the board
21 created?

22 A. The board is created by appointment from the
23 Garfield County Commission.

24 Q. Okay. And how many board members are there?

25 A. Five.

1 **Q. And is there any training that the board goes**
2 **through?**

3 A. Yes, there is required training in accordance
4 with the Open and Public Meetings Act, as well as a
5 special service district.

6 **Q. So in August of 2015, was there a -- was the**
7 **board meeting that was -- that you have testified was**
8 **also a public meeting, was that a training meeting for**
9 **the board?**

10 A. Yes, as a matter of fact it was. The first
11 half of the meeting was set as an executive session
12 where LeGrand Bitter from the UASD came down and
13 provided the board with their annual training.

14 **Q. So first, you trained them the first half of**
15 **the part, and then the second half of the part addressed**
16 **the tariff; is that correct?**

17 A. I believe it is, if you are speaking to the
18 joint settlement stipulation.

19 **Q. Okay. So prior to that meeting, did the board**
20 **have any knowledge of the tariff?**

21 A. Did the board members have any knowledge of
22 the tariff? Absolutely.

23 **Q. Okay. They just hadn't been trained.**

24 (Discussion off the record.)

25 MR. LONG: The training that Mr. Shortreed and

1 I think Mr. Hogelin is referring to is simply the annual
2 required training by the Utah Open -- required by the
3 Utah Open and Public Meetings Act.

4 JUDGE JONSSON: Right.

5 MR. LONG: We unfortunately don't have an
6 expert in running an electric district coming to train
7 the board members. There are unfortunately a severe
8 lack of those.

9 JUDGE JONSSON: Yeah.

10 Q. (By Mr. Hogelin) Mr. Shortreed, are you aware
11 of how many property owners reside full time in Ticaboo?

12 A. I can estimate pretty closely, yes.

13 Q. How many would that be?

14 A. Thirty to 40, depending upon how many stay
15 during the off season.

16 Q. Okay.

17 A. That's full-time, year-round residents.

18 Q. Okay. 30 to 40?

19 A. Yes, sir.

20 Q. Now, is -- so from the briefings you had
21 stated that the office and your house are kind of the
22 same; is that correct?

23 A. That is correct. The district doesn't have
24 the budget to be able to build an office.

25 Q. Okay. And so --

1 MR. LONG: I'd like to point out, this is well
2 beyond the scope of what this hearing was intended to
3 be, based on the commission's order.

4 JUDGE JONSSON: Where are you headed,
5 Mr. Hogelin?

6 MR. HOGELIN: I am just going off what he
7 testified. He was talking about -- he testified today
8 at the hearing that he makes the tariff visible, so I
9 just wanted to ask him a question about it.

10 JUDGE JONSSON: Oh, okay. Where is it?

11 MR. HOGELIN: He opened the door so...

12 **Q. (By Mr. Hogelin) So in your testimony you said**
13 **that you make the tariff, upon request. But is the**
14 **tariff visible to people who come into that office,**
15 **slash, home?**

16 A. The notice is visible. The tariff is
17 available for inspection. The tariff is actually kept
18 in a three ring binder with all revisions as they were
19 filed with the commission.

20 **Q. Okay. So no -- it's impossible for anybody to**
21 **look at the tariff without your presence; is that**
22 **correct?**

23 A. No, not necessarily. They can look at our
24 tariff online at the Public Service Commission's
25 website.

1 Q. Well, but that's electronically. I'm talking
2 about the one that's located at the office.

3 JUDGE JONSSON: Just tell me. If I come knock
4 on your door and say, "I want to see the tariff," what
5 happens next?

6 THE WITNESS: We schedule an appointment for
7 you to come in and see the tariff.

8 JUDGE JONSSON: Okay.

9 Q. (By Mr. Hogelin) Have you ever refused to make
10 the tariff available to Ms. Seamons or anyone acting on
11 Ms. Seamons' behalf?

12 A. No.

13 Q. Okay. Have you ever refused -- have you ever
14 -- on February 18th, do you recall Ms. Seamons'
15 daughter, Mary Broadbent, requesting the availability of
16 the tariff at a public meeting?

17 A. No. I don't recall it, but that doesn't mean
18 it didn't happen. I would have to go back and check the
19 meeting minutes.

20 Q. So if you don't recall that, I mean, do you
21 recall rejecting her request to make an appointment to
22 come and view the tariff?

23 A. No. I don't recall that because I wouldn't
24 reject a request for an appointment.

25 Q. Okay. So you don't recall that. You -- okay.

1 I think we have already -- I think the commission
2 already discussed the date that the notices were sent
3 out.

4 We don't -- do we have a date on when the
5 notices were sent out in the March -- let's see, in
6 April for the April meeting of 2013, when they were
7 mailed?

8 A. We don't -- yeah. We don't have -- I'm sorry.
9 We don't have a specific date.

10 Q. Okay. You had testified that there was a
11 meeting in 2013 where you addressed the standby fees, a
12 public meeting. Do you recall that?

13 A. Yes.

14 Q. And then you said that Ms. Seamons did not
15 provide any comments. Do you know if Ms. Seamons was at
16 that meeting?

17 A. I would have to go back and double-check the
18 records. But to the best of my recollection, she was
19 not present.

20 Q. Okay.

21 MR. LONG: I'd like to make a clarification.
22 I think Mr. Shortreed's testimony was as to a meeting in
23 Docket 13-2508-T01, which, as discussed previously, was
24 the docket where the district implemented different
25 electric service rate schedules.

1 MR. HOGELIN: I was just trying to -- he made
2 the statement that she didn't make any statements. I
3 was just trying to see if he recollect that she was even
4 there.

5 JUDGE JONSSON: Okay.

6 Q. (By Mr. Hogelin) You had testified that you
7 recall doing the mailings yourself.

8 A. That is correct.

9 Q. Do you recall specifically doing a mailing to
10 Ms. Seamons?

11 A. Yes, to all customers.

12 Q. Okay. And that you recall doing that for each
13 year?

14 A. Yes.

15 MR. HOGELIN: Okay. That's all my questions.
16 Thank you.

17 JUDGE JONSSON: Okay. So it's after noon, and
18 I'd like to try to wrap up, and we can -- I'll certainly
19 give you time to do closing argument if you want to.
20 But since, I think, we are going to be some posthearing
21 briefing, we can maybe do closing argument as part of
22 that. But I'll leave it to counsel as to what you would
23 prefer.

24 MR. LONG: I am happy to leave that into a
25 posthearing brief. I think we have some issues that

1 need, need more discussion. I do have a couple more
2 redirect questions.

3 JUDGE JONSSON: Some redirect. Go ahead.

4 MR. LONG: But I expect to be very short.

5 JUDGE JONSSON: Okay. Go ahead.

6 REDIRECT EXAMINATION

7 BY MR. LONG:

8 **Q. Mr. Shortreed, can you describe the process**
9 **for sending utility bills every month. Just describe**
10 **the process that you go through in order to send out**
11 **utility bills.**

12 A. Meter readings are entered into a utility
13 billing system that we have, and then those readings are
14 printed out onto either three-by-five postcards that go
15 out to the customers, or in some cases we have several
16 customers who receive what's called group billing, which
17 is an eight and a half by 11 sheets of paper.

18 One page summarizes all of the accounts that
19 are being billed in the group billing, in the group, and
20 then following pages that itemize and individualize each
21 one of those accounts.

22 **Q. So your testimony is that you send a bill out**
23 **every month for every account?**

24 A. That is correct.

25 **Q. In the various audit history reports**

1 introduced by Ms. Seamons; you know, for example, I am
2 looking at the one that's marked Exhibit 7. There is a
3 line item on some dates that says "notice printed for,"
4 and then a certain amount and a due on date. Can you
5 describe what that, what that entry on the audit history
6 means?

7 A. That's a system-generated notice in the
8 billing software that notifies the customer on a
9 separate piece of paper, which is eight and a half by
10 11, that their account is past due and what the amount
11 past due is.

12 In some applicable circumstances, it will also
13 have a termination notice of typically 20 or 21 days,
14 notifying the customer, if they don't pay the bill
15 within that time, then their service will be turned off.

16 Q. So to summarize, if we look at the audit
17 history for a given account, the customer receives a
18 bill for each monthly -- each set of monthly charges,
19 and the notice lines are simply an extraordinary notice
20 saying the account is past due or has some other issue?

21 A. Yes. There will be a line on the bill that
22 says the account is past due.

23 Q. But the sending of a regular monthly bill
24 doesn't generate an entry on the audit history?

25 A. No. That is the audit history.

1 Q. Have -- Mr. Hogelin asked you some questions
2 about, about the approval of longtime tenants to keep a
3 tenant's utility account. In your previous testimony
4 you mentioned that you were one of those tenants.
5 Mr. Hogelin implied from reading the tariff that the
6 district had sole discretion in determining that.

7 I guess, is any particular action required by
8 the district? If we have a long-term tenant, and
9 nothing is changed, that tenant is still present, does
10 the district take any action? Or does the district need
11 to take any action to keep that -- the tenant's account?

12 A. No. It just stays current.

13 Q. We also talked about the abandonment
14 application, and as I understand it, when a person
15 abandons their utility taps, it essentially returns the
16 property to an undeveloped state as far as the district
17 is concerned and relieves the district of any obligation
18 to provide utility service. Is that -- is that a fair
19 description?

20 A. Yes.

21 Q. And thereby relieving the district of any
22 costs that it would incur to, say, for example, make
23 sure the district's generators have sufficient capacity
24 to serve those properties?

25 A. That is correct.

1 Q. And for the abandonment application,
2 Mr. Hogelin asked some questions about the process. Has
3 the district ever denied an abandonment application for
4 a property owner that has met the requirements set forth
5 in the tariff?

6 A. No.

7 Q. And I guess one final question as to the
8 billing process. Has the billing process you described
9 been the same since, say, January of 2013?

10 A. Yes.

11 MR. LONG: I have no further questions.

12 JUDGE JONSSON: Okay. I am sorry to drag this
13 out further, but you have mentioned some things that
14 reminded me of some questions. On the -- we have the
15 letter from the Hills who were the tenants requesting
16 discontinuance of service. And then we have testimony
17 from Mrs. Seamons that they brought the account current
18 sometime later in order to reestablish service, but it
19 was once again discontinued by the district and on the
20 district's decision.

21 Do you -- do you have any testimony to help me
22 understand what happened there?

23 THE WITNESS: When the Hills disconnected the
24 service, ma'am, the property continued to accrue standby
25 fees.

1 JUDGE JONSSON: Right.

2 THE WITNESS: At the time that they wanted to
3 reinstate service.

4 JUDGE JONSSON: Right.

5 THE WITNESS: Thus turn it back on.

6 JUDGE JONSSON: Right.

7 THE WITNESS: Fees had accrued that had not
8 been paid.

9 JUDGE JONSSON: Right.

10 THE WITNESS: And then of course, there were
11 turn-on, turn-off fees that were associated with that as
12 well.

13 JUDGE JONSSON: Okay.

14 THE WITNESS: In that particular circumstance,
15 the tenants at the time actually paid the unpaid fees.

16 JUDGE JONSSON: Okay.

17 THE WITNESS: Directly to the district, and
18 then service was reinstated obviously, at the customer's
19 request, which is the property owner's request.

20 JUDGE JONSSON: Okay.

21 THE WITNESS: Under a specific rate schedule.

22 JUDGE JONSSON: Okay.

23 THE WITNESS: Of which there was an
24 application or an e-mail or both that was done for that.

25 JUDGE JONSSON: Okay.

1 THE WITNESS: And then the -- that particular
2 tenant then vacated the property, the one that we had
3 turned it on for, ma'am.

4 JUDGE JONSSON: After how long?

5 THE WITNESS: Oh, I think they were there a
6 year, ma'am. I think it was about a year. They vacated
7 the property. During an inspection and audit of our
8 meters in February of this year, we sent out a number of
9 notices to customers advising them of our findings in
10 the inspection and during the audit, things such as
11 meters that were previously turned on were now turned
12 off.

13 JUDGE JONSSON: Right, okay.

14 THE WITNESS: And other elementary
15 inspections, like accessibility to the meter to be able
16 to read it or things like that. We then notified the
17 customers of our findings, and in cases where tampering
18 was witnessed -- and we did take photographs and
19 provided those photographs to the customers in the
20 inspection reports -- we notified the customer that this
21 was a warning.

22 JUDGE JONSSON: Right.

23 THE WITNESS: We were not going to impose a
24 tampering fee right away. We just wanted to make sure
25 that they were aware that we found this problem. If

1 they need their service turned back on, they need to
2 notify the district and schedule that turn-on service at
3 the meter.

4 Shortly following, sometime in April, I
5 believe it was, a meter started to show usage that was
6 previously recorded as having been turned off.

7 JUDGE JONSSON: Are we talking all about
8 water?

9 THE WITNESS: Yes.

10 MS. BROADBENT: Yes.

11 JUDGE JONSSON: Okay. Never mind. All right.
12 Thanks.

13 THE WITNESS: Yes, ma'am.

14 JUDGE JONSSON: All right. So any recross,
15 Mr. Hogelin?

16 MR. HOGELIN: Nothing relevant.

17 JUDGE JONSSON: Okay. So again, I apologize
18 to everyone for the error in the docket number. The
19 docket number that I need some help with is the 2013-T02
20 docket. And what I need there is information as to when
21 the public meeting was held in which the standby fees
22 were explained and introduced to customers.

23 I also need information about how that meeting
24 was noticed to customers. It would be very helpful to
25 me to see the monthly bills that were sent to

1 Ms. Seamons. I don't know if either party has that or
2 has the ability to --

3 MR. HOGELIN: We have -- we have some monthly
4 bills that were sent.

5 MS. BROADBENT: Right now?

6 MR. HOGELIN: Well, we'll provide it.

7 MS. BROADBENT: Yes, we have current ones.

8 MR. HOGELIN: Shhh.

9 JUDGE JONSSON: Okay. I am also interested as
10 to the 15-T01 docket that was subject to settlement, I
11 am interested in the parties clarifying whether a
12 per-day tampering charge was introduced in that docket.
13 And I am interested in better understanding whether a
14 public meeting was noticed and held to present and
15 explain to customers a per-day tampering charge.

16 The commission does not regulate TUID's
17 provision of water, so to the extent that the testimony
18 today has dealt with standby fees as to water service or
19 discontinuation of water service, the order will not go,
20 go into that.

21 And then of course, the parties are welcome to
22 provide closing argument as to the testimony and the
23 evidence that's been provided today. How long do you
24 want to file these briefs?

25 MR. LONG: I would suggest 30 days.

1 JUDGE JONSSON: Filed simultaneously?

2 MR. LONG: That's fine.

3 MR. HOGELIN: That's fine.

4 JUDGE JONSSON: Okay.

5 MR. LONG: Maybe as a point of
6 clarification --

7 JUDGE JONSSON: Uh-huh.

8 MR. LONG: Are you planning on issuing an
9 order setting out these questions that you would like to
10 see additional information on?

11 JUDGE JONSSON: Would that be helpful?

12 MR. LONG: Yes, I think it would be.

13 MR. HOGELIN: Very much.

14 JUDGE JONSSON: All right. So I'll do that
15 today.

16 MR. LONG: And while I'm --

17 JUDGE JONSSON: And have I missed anything?
18 Is there anything else that you feel like needs to be
19 addressed or that you want to address?

20 MR. HOGELIN: Well, I would like to address
21 one thing that's been brought up by TUID. It's my
22 understanding that what's been represented to the
23 commission is that they had an August 27th meeting which
24 supposedly fit the requirement of the -- of the
25 mandated --

1 JUDGE JONSSON: The stipulation and the order
2 approving the stipulation.

3 MR. HOGELIN: -- for the board meeting that
4 was supposed to happen between September 10th and
5 October 10th.

6 JUDGE JONSSON: Right.

7 MR. HOGELIN: I just want to make a statement
8 regarding that, because one -- in the response from the
9 commission, you know, it's been made very clear that,
10 based upon that meeting, that sets a deadline, a 30 day
11 deadline for a rehearing with regards to any issues
12 concerning the tariff.

13 JUDGE JONSSON: Uh-huh.

14 MR. HOGELIN: And I, I don't quite understand
15 the argument that August 27th meeting could replace the
16 other meeting, just by e-mails being made between
17 individuals without there being a due process of that 30
18 days for any and all --

19 JUDGE JONSSON: Right.

20 MR. HOGELIN: -- people of interest.

21 JUDGE JONSSON: So I'll just tell you some of
22 the things that I would anticipate discussing with the
23 commission, is whether the board meeting that was held
24 prior to the date the commission approved the
25 stipulation is, is of concern to them or whether they

1 feel like that board meeting is okay. And also whether
2 they consider that there needed to be a public meeting
3 noticed at some point.

4 MR. HOGELIN: Well, my concern goes farther
5 than that.

6 JUDGE JONSSON: Okay. Go ahead.

7 MR. HOGELIN: Because if the commission says,
8 "Okay. The August 27th fulfilled the requirement that
9 was supposed to be in those."

10 JUDGE JONSSON: Uh-huh.

11 MR. HOGELIN: How in the world are -- was
12 Ms. Seamons supposed to know that that then started the
13 30 day time limit to a request for rehearing?

14 JUDGE JONSSON: Okay. So I'm not sure that we
15 actually have anything on that issue in the record. The
16 30 day -- the 30 day notice -- are you talking about the
17 30 day request for rehearing before the commission?

18 MR. HOGELIN: In the December 29th, 2015,
19 memorandum to the original complaint that had been
20 filed --

21 JUDGE JONSSON: Uh-huh.

22 MR. HOGELIN: -- from the division to the
23 commission, it was brought up that the order --

24 JUDGE JONSSON: She didn't intervene, right?
25 We're talking about --

1 MR. HOGELIN: For review of rehearing for 30
2 days after the issuance, but none was requested by any
3 party. In other words, what was brought to light or
4 what was argued is that after September 10th, there was
5 30 days to which the request should have or could have
6 been made with regards to consultation of the tariff.
7 And because that wasn't done, you know, Ms. Seamons'
8 formal complaint was moot.

9 And so I am just saying that that's another
10 issue. Based off the testimony -- and I appreciate that
11 it may not be an issue that's been brought up or has
12 been contemplated by the order. But I don't think it's
13 something that can be neglected.

14 If it is determined that the timeline was
15 changed, then I think the commission does need to take
16 into consideration, how would that 30 day objection be,
17 you know, administered if, you know, the parties of
18 interest didn't realize that the August 27th meeting was
19 the one --

20 JUDGE JONSSON: I see.

21 MR. HOGELIN: Because not everybody, not all
22 the property owners were involved, from my
23 understanding, in these e-mails that were saying that
24 this August 27th meeting was okay.

25 JUDGE JONSSON: Okay. I understand.

1 MR. LONG: I -- perhaps you can clarify for
2 me. I'm not sure I understand. Is it an issue that
3 Ms. Seamons would have requested review or rehearing of
4 the commission's September 10th order had some date been
5 different?

6 JUDGE JONSSON: Well, I -- the question is, if
7 a customer had read that order and had interpreted it as
8 requiring a meeting to be held between September 30th
9 and October 30th; or is that right?

10 MR. HOGELIN: 10th.

11 JUDGE JONSSON: September 10th and October
12 10th and saw no meeting scheduled or held there, would
13 that customer reasonably have assumed that there was no
14 need to request rehearing or reconsideration because the
15 stipulation had not been complied with, and the order
16 had not been complied with?

17 MR. HOGELIN: Thank you. You put it very
18 succinctly.

19 MR. LONG: I do have one evidentiary point.
20 Everyone has this very large binder of exhibits from the
21 district.

22 JUDGE JONSSON: Yes.

23 MR. LONG: Can that be admitted into evidence?
24 I believe Mr. Shortreed spoke to each of those in his
25 prepared statement.

1 JUDGE JONSSON: Any objection, Mr. Hogelin?

2 MR. HOGELIN: Can I use that post briefing?

3 And the reason being is, Mr. Shortreed did use them, but
4 he did go through them rather quickly. It was hard to
5 keep up and review the exhibits as he was going through
6 them.

7 JUDGE JONSSON: Okay. So let's do this in a
8 couple of stages then.

9 MR. HOGELIN: Also, I think there are a couple
10 that are duplicative so --

11 JUDGE JONSSON: I'm sure there are. So let me
12 give you a very short deadline to give me any objection.

13 MR. HOGELIN: Okay. Fair enough.

14 JUDGE JONSSON: Just like a couple of days.

15 MR. HOGELIN: Sure.

16 JUDGE JONSSON: Okay?

17 MR. HOGELIN: Yes.

18 JUDGE JONSSON: So I don't imagine there will
19 be one. I haven't looked at every one, but it looks to
20 me like they are pretty much --

21 MR. HOGELIN: I would agree.

22 JUDGE JONSSON: -- records that would come in.

23 MR. HOGELIN: I just want to do due diligence.
24 That's all.

25 JUDGE JONSSON: Yes. That's fine. So, and

1 can you get back to me by Friday end of business with
2 any objection to any exhibit?

3 MR. HOGELIN: Yep.

4 JUDGE JONSSON: Okay. All right. And then 30
5 days from now for final briefing, including oral
6 argument and addressing of these questions related to
7 the 13-T02 docket as well as the 15-T01 docket.

8 MR. HOGELIN: Is the commission going to make
9 available the order today?

10 JUDGE JONSSON: Well, I will write the order
11 today.

12 MR. HOGELIN: Okay.

13 JUDGE JONSSON: But it has to go to the
14 commissioners, and they have to approve it. So that
15 might happen today or it might not.

16 MR. HOGELIN: Okay.

17 MR. LONG: And I believe you said oral
18 argument. I think you meant closing argument.

19 JUDGE JONSSON: I'm sorry, yes, closing
20 argument.

21 MR. LONG: Just making sure we're clear.

22 JUDGE JONSSON: Closing argument, and if you
23 can give me documentary evidence as to the notices that
24 went out to the consumers, you are welcome to do that.

25 MR. LONG: Noted.

1 JUDGE JONSSON: All right. With that I
2 believe we can close this hearing. Thank you all very
3 much.

4 MR. HOGELIN: Thank you.

5

6 (The hearing adjourned at 12:47 p.m.)

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C E R T I F I C A T E


STATE OF UTAH)
COUNTY OF SALT LAKE)

THIS IS TO CERTIFY that the foregoing proceedings were taken before me, Teri Hansen Cronenwett, Certified Realtime Reporter, Registered Merit Reporter and Notary Public in and for the State of Utah.

That the proceedings were reported by me in Stenotype, and thereafter transcribed by computer under my supervision, and that a full, true, and correct transcription is set forth in the foregoing pages, numbered 3 through 173 inclusive.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

WITNESS MY HAND and official seal at Salt Lake City, Utah, this 8th day of August, 2016.


Teri Hansen Cronenwett, CRR, RMR
License No. 91-109812-7801

My commission expires:
January 19, 2019

<hr/> \$ <hr/>	120:10 121:11, 24 130:14,15	95:3 105:22 106:4 107:6 108:4,14,15 156:23	17B-2A-406 105:21,25	53:22 55:8 56:10,12,15
\$1,000 131:21, 23	1000 28:23 29:4 34:9,16 35:12 36:20 43:6 55:12,13	13-2508-T02 95:10 96:13,23 97:17 99:20 109:18 110:2,4 114:5,17 116:6	18 103:11	2013 15:24 21:6,9,15 24:16 26:1 28:9 32:11,22 33:16 37:4,8, 13,15,17,22 38:1 40:25 41:4 50:13 51:14,19 52:1 54:11 55:14 57:24 58:4 62:12,20 64:10 76:7 77:18 80:1,4,10 89:3, 19,22 99:18,20 106:10 107:8, 10 108:1,6 109:16,21,23, 24,25 116:12, 16,20,22,23,25 117:2,4,10,13 118:2 119:11, 16,24,25 120:1,13 121:11,24 126:9 127:9,15 139:6 145:20, 23 148:22 156:6,11 161:9
\$1213.49 41:12,14 48:19 52:18	1002 55:19 56:2	13-T02 114:19 117:19 172:7	18th 83:2 107:14 155:14	
\$1875 80:6	10:21 71:24	14th 108:6	1978 46:23	
\$1946.25 35:20	10:30 71:23	15 20:13 65:8, 23 104:7,9	19th 109:21 117:2 121:24	
\$75 148:7	10:32 71:24	15-2058-T01 104:6	1st 24:16 26:1 28:9,13,20 37:17 40:25 82:2 86:25 87:1 105:14 109:15,23,24 116:23 139:8, 17,20	
\$750 63:1	10th 17:12 19:19,23 20:7, 14 102:20 103:6 167:4,5 169:4 170:4, 10,11,12	15-2508-01 6:9		
<hr/> 0 <hr/>	11 107:7 158:17 159:10	15-2508-T01 19:1 20:13,25 21:22 95:3 102:17 105:23 106:11 131:22	<hr/> 2 <hr/>	
0 56:2	1115 36:6,12, 17,19 138:8	15-day 104:14	2 25:5,10,11 27:22,23 29:22 30:1 41:10 43:6 54:15 55:19 56:19,21 57:12,22 58:2, 8 60:10 89:12 90:1 98:1,4 104:5	
0009 108:12	1131 45:9,15, 19 50:1	15-T01 165:10 172:7	20 64:4 159:13	2013-0008 108:2
001 54:5	1132 49:15 50:9	15th 38:5 77:18 116:16 117:25 118:1	2000 48:9 54:4 80:4 89:22 134:12	2013-0009 108:3
002 54:5	1133 50:23 51:6,9 55:13	16 65:19 73:15, 16	2006 48:12	2013-0017 24:19 116:21 117:14
003 43:10	11:35 120:11	16-2508-T01 105:15	2008 34:4 35:6	2013-008 108:10
004 43:10	11:46 120:11	16th 16:24 116:25	2009 54:4 126:25	2013-009 108:11
005 28:25 34:14,17 35:5 43:7	11th 64:10 107:19 119:22, 24	17 6:1	2010 126:25	2013-T02
<hr/> 1 <hr/>	124 122:13	17B 121:10	2012 30:8 31:17 32:5,18	
1 25:5 26:17 27:4 53:13 54:15 55:19 56:18,21 57:11,22 58:2, 8 60:10 89:12 90:1 102:16	12:47 173:6	17B-1-1032J 101:13		
10 19:15,24 20:7 54:4 71:22 82:10 102:19 118:19	13 89:6 95:8 123:12,13			

<p>164:19</p> <p>2014 24:12 35:16,22 36:2 41:11,15,20 48:17,19 49:1 52:16,19 53:2 58:5 61:16,25 63:6,13,17 64:11 66:15 80:5,11 81:22 89:4 91:16,22 108:16 147:18, 19</p> <p>2014-0011 66:3</p> <p>2014-005 66:4</p> <p>2015 17:12 19:15,23,24 20:7,14 22:2,4, 6 37:2 73:2,12, 13 97:8,10 102:19,20,23 103:2,6,11,23 105:12 119:20, 21,22,23 129:8 131:15 132:20, 23 133:5 152:6 168:18</p> <p>2015-0019 103:21</p> <p>2016 6:1,4 14:16 79:21 81:25 85:7,10 101:9 102:6 105:14,17,19 119:18,19</p> <p>20th 73:2,13 84:8 102:23 105:17 119:20, 23,24</p> <p>21 159:13</p> <p>21st 63:13,17 64:11 105:11</p>	<p>108:16 109:8, 10,11 134:11</p> <p>23rd 119:21</p> <p>24 97:23 98:2</p> <p>25th 107:14 134:11</p> <p>27 103:2,23</p> <p>27th 6:4 104:2, 4 166:23 167:15 168:8 169:18,24</p> <p>28th 79:18 81:25 119:19</p> <p>29 108:1 116:20 117:13</p> <p>29th 107:10,21, 23 108:9 116:22 118:2 119:11,15 120:1,13 121:11,24 168:18</p> <p>2nd 82:2 87:3</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3 15:24 25:24 36:5,6,13,18 37:6 43:9 47:24 54:25 74:18,21 75:5 105:20</p> <p>30 17:11 19:22 102:18 153:18 165:25 167:10, 17 168:13,16, 17 169:1,5,16 172:4</p> <p>30th 19:15,20 105:17 106:10</p>	<p>170:8,9</p> <p>31st 30:8 31:17 32:5,18 37:16, 22 105:19</p> <p>35 126:23</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4 36:5,6,13,18 37:6 45:1 47:24 49:13 50:21 55:2,3 68:25 74:18,21 75:5 109:12</p> <p>4-21 41:15 48:19 52:19</p> <p>4-21-2014 35:21</p> <p>40 144:4 153:14,18</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>5 29:6 33:25 47:24 48:2 49:7 56:19 57:1 70:12 71:12 110:5</p> <p>505 54:24</p> <p>5051 54:24 55:5 56:1,21</p> <p>5052 55:5 57:3</p> <p>5054 55:5 56:5 57:7</p> <p>5th 19:7 20:1</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 14:16 50:16</p>	<p>71:12 99:19 101:9 102:6 112:17 119:18</p> <p>60 100:24 122:17,24</p> <p>6th 109:22 117:3 119:19</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 42:16 45:7,8, 22 49:19,25 53:6 113:8 159:2</p> <p>758.06 30:11 31:5</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8 42:16 45:7,8, 22 49:13,18, 19,25 50:1,9 128:6 137:9</p> <p>8.02 128:7 150:16</p> <p>80-some 121:18</p> <p>80-some-odd 122:7,8</p> <p>8th 116:12 117:10</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>9-30 51:3</p> <p>9-30-2012 31:3</p> <p>9-30-2013 45:21</p>	<p>9-9-2013 32:24</p> <p>92 56:8,9,13</p> <p>93 56:8,9,13</p> <p>930 30:22</p> <p>98 50:23 51:8, 17</p> <p>9:00 6:1</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p>a.m. 6:1 71:24 120:11</p> <p>abandon 62:24 106:14 138:18 148:14 149:2</p> <p>abandoned 147:17</p> <p>abandonment 66:5 108:18 147:22,23 148:1,3,9,19, 21 149:8,12, 17,21 160:13 161:1,3</p> <p>abandons 160:15</p> <p>ability 106:13 112:15 165:2</p> <p>able 8:6 71:4 86:4 93:13 123:18 124:23 126:19 127:2, 4,7,18 128:20 153:24 163:15</p> <p>absolutely 11:22 27:15 118:25 152:22</p> <p>abuse 7:22</p>
--	---	---	---	--

accept 60:8	acknowledged 162:15 168:15	admitted 102:13 113:22 138:6 170:23	agenda 104:3 107:19 109:9
acceptable 99:4 116:7	99:19,25 109:22 117:3	Adam 6:14	ago 76:23
accessibility 163:15	acknowledgem ent 108:13 110:3 117:16	add 38:12	agree 10:7 23:21 171:21
accommodate 18:20	acknowledging 105:18 108:5	added 112:12	agreed 105:13 106:20,22 130:10
accordance 11:16 110:9,16 125:15 136:3 144:11 152:3	across 18:19	addition 117:5	agreeing 130:5
according 45:8 101:6 141:12	Act 36:25 105:4 121:7 152:4 153:3	address 8:3 9:11,19 10:9 13:17 15:14 16:23 61:4 62:18 63:4 68:15 95:17 96:21,22 101:25 102:8 114:14 115:1 166:19,20	agrees 151:13
account 28:23 29:3,4 34:9,12, 16 36:6,10,17, 19,20 43:6 44:25 45:9,14 49:15,25 50:1, 9,22,23 51:7,8, 17 54:24 55:1, 12,19,22 56:6, 7,18,19 57:9 107:3 137:19 139:11,14 140:20,25 144:9,18,21 149:3,4 158:23 159:10,17,20, 22 160:3,11 161:17	Act's 121:4	addressed 11:8 62:13,22 63:11 66:13 67:11,13,14 68:23 71:11 84:12 121:2 152:15 156:11 166:19	ahead 6:9 16:2 17:19,24 18:9 22:25 23:4 26:16 29:18 33:14 45:5 57:21 61:12 62:9 64:23 65:20,23,25 67:3 86:5 94:20 98:14,22 102:2 115:5 116:10 118:19 120:12 121:12 139:2 145:17 158:3,5 168:6
accounts 43:15 46:8 106:25 138:5 144:7 158:18, 21	Acted 76:7	addresses 112:22	akin 12:18
accrue 161:24	acting 155:10	addressing 114:15,16 172:6	alert 90:24
accrued 162:7	action 14:2 20:17 84:20 85:22 86:7 97:17 98:5 103:7 106:10, 16 137:6,10 160:7,10,11	adjudicated 7:18,20 8:20 9:4	alerted 21:9
acknowledge 105:16 109:20 117:1 118:15	actions 86:11 90:20	adjudication 7:18,20 8:20 9:4	alerts 91:12,14
	active 100:18 122:14	administered 169:17	all 6:16,22 7:6 9:17,22 12:3,4 13:9,22 14:1, 11 17:6,24 21:4 24:6 25:15 26:21 28:9 31:10 34:24 42:21 43:19 44:19,21 45:1,4 55:4,24 57:21 58:3 60:19 61:3
	actively 90:6 100:12	administrative 143:2	
	actual 22:18 103:8 109:3		
	actually 16:11 18:3 24:14 32:8 39:20 46:6 48:12 55:2 60:11 64:5 90:23 112:3 115:15 128:13 138:10 139:13 149:11, 15 154:17		

62:9 65:23 67:21 68:9,16 71:10,12,25 77:9 78:8,14, 24 91:19,23 92:2,9,24 94:17,18 97:25 98:11 99:13 100:5 105:8 114:21 116:2, 13 117:7 118:23 120:12 121:3 124:1,20 125:8,9,25 126:2 127:14, 25 129:21 132:2 134:13 138:9,24 139:24 145:16 147:9,17 150:13 154:18 157:11,15 158:18 164:7, 11,14 166:14 167:18 169:21 171:24 172:4 173:1,2	allowed 128:25 149:2 allowing 13:16 allows 101:13 110:11 140:19 147:22 alluded 94:25 almost 122:18 along 105:11 113:4 114:7 already 53:9 59:16 63:15, 16,19 85:16 95:21 102:14 104:12 113:2, 22 130:21 156:1,2 also 6:15 10:8 11:12 12:1,10 15:18 18:15 20:24 39:16 40:10 44:6 45:9 49:13 50:1,23 54:23 56:1,19 69:14 85:10 97:8 99:14 102:24 104:6 105:10 113:17 115:7, 18 116:1 117:6 119:8 127:5 129:19 134:6 138:1 139:25 152:8 159:12 160:13 164:23 165:9 168:1 171:9 alternative 94:4,8,12 although 10:7 97:7 100:4 103:4	always 131:21 Amended 26:18 amends 66:4 among 100:11 amount 12:7 62:25 133:18 159:4,10 amounts 112:7,16 and/or 25:16 28:10 34:1 37:7 45:23 51:18 angle 40:7 annual 113:20 115:10 152:13 153:1 another 20:20 39:3 70:6 125:1 169:9 answering 88:15 117:8 answers 88:15 anticipate 167:22 anybody 154:20 anyone 6:23, 24 83:4 155:10 anything 8:24 21:5 47:15 59:12 65:14 77:11 78:18 83:25 85:23 86:11,19,20 87:17 88:9,24 91:14 95:18 114:4 119:25	135:7 166:17, 18 168:15 anyways 48:7 anywhere 35:23 apologize 19:22 127:13 144:22 145:10 164:17 appeal 33:7 Appeals 7:22 appear 9:21 32:21 appearances 6:10 appears 31:22 applicable 159:12 application 140:5 142:14 147:24 148:1, 5,6 149:8,21 160:14 161:1,3 162:24 applied 140:4 141:14 142:5,8 applies 147:23 apply 141:8 142:12 143:1 150:22 applying 141:19 appointment 151:22 155:6, 21,24 appreciate 13:15 169:10	approach 26:15 approval 160:2 approve 103:3, 9 149:8,12,19, 21 151:17 172:14 approved 25:19 101:11 102:16 106:21 108:2,3 130:17 142:20 147:24 167:24 approving 17:12 103:6, 16,21 129:11 167:2 approximately 122:13 147:10 April 64:10 79:18 81:25 85:7 86:14 91:13 105:17 107:7,10,13, 19,21,23,25 108:9 119:21, 24 156:6 164:4 argue 8:8 argued 169:4 argument 126:6 157:19, 21 165:22 167:15 172:6, 18,20,22 argumentative 15:2 around 12:14, 15 150:13 arrangements 137:15
---	--	--	---	--

arrived 83:3	103:2,23		basis 23:2 33:7	171:3
ascertain 20:17	104:1,3 105:11	B	60:19 95:18	believe 12:15
aside 10:9	109:15 116:12, 15,20,22	back 39:19	140:6 150:9	17:13 19:19
aspects 99:13	117:10,13,24, 25 118:1,2	43:22 45:2	bear 16:7	22:12 57:17
100:5	119:11,15	46:19 47:22	become 26:1	59:2,16 63:15
assess 14:23	120:1,13	48:2,3 64:4	31:21	64:14 68:23
assessed 10:21	121:11,24	71:23,25 80:8	bedroom 75:14	70:11 71:11
associated 143:9 148:9	152:6 166:23	81:21 82:21,23	before 6:18	95:14 114:2
162:11	167:15 168:8	86:6 88:6	9:19 11:24	118:23 123:10
assume 70:8	169:18,24	114:21 124:21	13:11 31:7,11	128:6 131:1
assumed 116:6 140:13	authority 151:16	133:22 138:4	40:25 48:23	132:2 136:24
170:13	authorized 25:19 100:16	140:23 148:12, 13 155:18	57:14,18 89:18	145:3 148:23
attached 63:16	availability 155:15	156:17 162:5	91:9 100:1	152:17 164:5
attendance 109:1,2,4	available 47:9	164:1 172:1	121:24 126:9	170:24 172:17
attorney 18:5	64:7 92:23	background 30:12 106:1	135:20 168:17	173:2
44:22 103:12, 15,25	93:1 100:13,25	backwards 14:15	began 24:15	believes 111:19
attorneys 103:12	101:1,5 113:3	balance 30:9, 10,13,14,18,23	27:14 32:24	ben 16:7
audit 28:23	115:19,23,25	31:4,6 32:14, 20 57:4	109:13,24	beneficial 8:22
29:11 30:6	116:2 125:20	balances 31:10	138:1	benefit 89:1
33:25 35:11,23	154:17 155:10	barely 73:17, 18 126:18	begin 109:12	92:1 101:6
36:19 41:2,25	172:9	barren 101:3	beginning 30:23 32:18	benefits 16:8, 21
45:13 49:5	avoid 39:8	Barring 119:6	41:3 51:3 69:2	besides 143:8
51:4,13 52:16, 23 139:14	aware 18:25	base 80:20	97:1 131:22	best 18:21 61:1
158:25 159:5, 16,24,25	19:8,13,24	based 11:1	133:8	81:8 98:11
163:7,10	20:6,11 21:12	34:13 47:23	begins 32:16, 17	122:20 126:20
August 30:8	39:15 46:16	49:11 96:8	behalf 18:7	156:18
37:13,14,17,25	47:7 65:18	115:20 128:13	22:17 23:23	better 121:2
38:1 77:18	69:7 72:25	150:25 154:3	155:11	165:13
80:5,10,11	91:4,5,10	167:10 169:10	being 11:2,4, 10 12:4,8 15:2	between 19:14
81:22 102:23	110:17 153:10	basic 116:2	24:9 27:23,24	20:6 46:3
	163:25	basically 7:19	28:16 33:18,24	79:23 89:2
	away 71:3	36:20	40:15,21	92:20 103:25
	111:3,11		59:22,24 60:11	133:1 167:4,16
	163:24		62:1,10 67:18, 23 74:8 79:15	170:8
			83:13 91:10	beyond 16:25
			129:7 158:19	78:19,20 84:10
			167:16,17	145:23 154:2
				bill 30:15 59:25

60:19 61:19, 21,22 67:12 89:7 92:1 136:8 158:22 159:14,18,21, 23	Bitter 152:12 block 35:16,19 blocked 96:18 blunt 126:12 board 17:11 19:13,24 20:1, 6,10 84:5 99:10 102:18 103:3,7,8,13 104:5,10,11,25 107:7,8,15,18 108:7,16,17, 22,25 116:12, 17 117:25 127:1 129:15, 16,17,21 130:17,18 138:13 140:3 142:16,19 151:13,15,16, 18,20,22,24 152:1,7,9,13, 19,21 153:7 167:3,23 168:1	brand-new 131:15 break 42:23 43:2 71:20,22 83:22 breakdown 60:8 brief 96:7 97:2 100:7 157:25 briefing 98:13 157:21 171:2 172:5 briefings 153:20 briefly 116:5 briefs 17:2 145:12 165:24 bring 13:21 27:16 46:7 125:12 bringing 11:24 66:17 Broadbent 7:7, 11 18:4,10 22:17,20 146:19 155:15 164:10 165:5,7 brochures 117:7 brought 90:18 130:22 161:17 166:21 168:23 169:3,11 budget 113:2 153:24 build 153:24 building 124:3, 11,12	built 89:25 123:3,6,24 124:1 bulletin 107:15,18 108:22,24 116:17 burden 9:10 10:21 17:7,10, 13 118:23 119:1,2 burdens 11:4 buried 93:7 business 77:4 81:4 172:1 button 72:14	capable 93:19 capacity 160:23 captures 44:8 care 17:25 66:19 carefully 128:2 carried 11:2 30:18 32:8 carried-over 32:14 carries 69:10 carry 70:3 carryover 32:17 case 16:17 17:7 38:20 60:22 92:22 104:15 106:1 110:12 121:13 124:6 125:25 147:4 case-by-case 140:6 cases 158:15 163:17 cause 134:2 CD 65:5 certain 11:4,14 106:11,23 159:4 certainly 17:4 46:10 89:17 120:8 145:14 150:6 157:18 certification 123:11
billed 59:24 62:1,11 122:14 139:7,17,20 158:19 billing 32:11 36:21 37:3 41:11 45:20 52:2,4,8,11 55:20 58:8,24 59:1,23 60:15, 22 62:2 66:14 68:15 91:23,25 96:18 99:12 139:8,16 158:13,16,19 159:8 161:8 billings 58:23 60:9,12 92:3 bills 31:10 58:17 59:10 60:18 62:6,19 63:2 89:12,21 91:19 111:12 112:12,23 128:23 158:9, 11 164:25 165:4 binder 64:25 65:9,15 97:16 98:20 102:11 154:18 170:20 binders 64:21 bit 44:10 74:12 85:3 92:19 115:1 125:1 131:17 140:16 150:2	body 25:8 both 16:2 18:9 31:21 74:25 75:5,6 78:9 98:18 100:17 105:22 162:24 bottom 12:25 30:23 32:23 35:18 41:13 52:17 67:5 bought 48:12 bound 23:1 boundaries 8:9 bounds 114:3, 5 116:7 box 87:11	bring 13:21 27:16 46:7 125:12 bringing 11:24 66:17 Broadbent 7:7, 11 18:4,10 22:17,20 146:19 155:15 164:10 165:5,7 brochures 117:7 brought 90:18 130:22 161:17 166:21 168:23 169:3,11 budget 113:2 153:24 build 153:24 building 124:3, 11,12	built 89:25 123:3,6,24 124:1 bulletin 107:15,18 108:22,24 116:17 burden 9:10 10:21 17:7,10, 13 118:23 119:1,2 burdens 11:4 buried 93:7 business 77:4 81:4 172:1 button 72:14	capable 93:19 capacity 160:23 captures 44:8 care 17:25 66:19 carefully 128:2 carried 11:2 30:18 32:8 carried-over 32:14 carries 69:10 carry 70:3 carryover 32:17 case 16:17 17:7 38:20 60:22 92:22 104:15 106:1 110:12 121:13 124:6 125:25 147:4 case-by-case 140:6 cases 158:15 163:17 cause 134:2 CD 65:5 certain 11:4,14 106:11,23 159:4 certainly 17:4 46:10 89:17 120:8 145:14 150:6 157:18 certification 123:11
C				
billings 58:23 60:9,12 92:3 bills 31:10 58:17 59:10 60:18 62:6,19 63:2 89:12,21 91:19 111:12 112:12,23 128:23 158:9, 11 164:25 165:4 binder 64:25 65:9,15 97:16 98:20 102:11 154:18 170:20 binders 64:21 bit 44:10 74:12 85:3 92:19 115:1 125:1 131:17 140:16 150:2	body 25:8 both 16:2 18:9 31:21 74:25 75:5,6 78:9 98:18 100:17 105:22 162:24 bottom 12:25 30:23 32:23 35:18 41:13 52:17 67:5 bought 48:12 bound 23:1 boundaries 8:9 bounds 114:3, 5 116:7 box 87:11	bring 13:21 27:16 46:7 125:12 bringing 11:24 66:17 Broadbent 7:7, 11 18:4,10 22:17,20 146:19 155:15 164:10 165:5,7 brochures 117:7 brought 90:18 130:22 161:17 166:21 168:23 169:3,11 budget 113:2 153:24 build 153:24 building 124:3, 11,12	built 89:25 123:3,6,24 124:1 bulletin 107:15,18 108:22,24 116:17 burden 9:10 10:21 17:7,10, 13 118:23 119:1,2 burdens 11:4 buried 93:7 business 77:4 81:4 172:1 button 72:14	capable 93:19 capacity 160:23 captures 44:8 care 17:25 66:19 carefully 128:2 carried 11:2 30:18 32:8 carried-over 32:14 carries 69:10 carry 70:3 carryover 32:17 case 16:17 17:7 38:20 60:22 92:22 104:15 106:1 110:12 121:13 124:6 125:25 147:4 case-by-case 140:6 cases 158:15 163:17 cause 134:2 CD 65:5 certain 11:4,14 106:11,23 159:4 certainly 17:4 46:10 89:17 120:8 145:14 150:6 157:18 certification 123:11

certified 112:25	33:18,21,24 36:2 41:3,6 48:7,13,17 51:13 52:2,13 58:24 59:1,3 69:3 71:4 85:13 92:2 101:14 106:24 109:24 159:18	clarifying 106:25 165:11	combined 31:11 49:25 56:18 58:24,25 59:13 91:23,25 92:15	10,20 102:6, 10,16 103:5,9 104:7,9,12,14 105:16,18 106:2,4,21 108:5,8 109:18,20,22 112:19 113:25 116:8,25 117:1,2 118:17 120:8 129:10 132:5,18 133:12 150:6 151:23 154:19 156:1 165:16 166:23 167:9, 23,24 168:7, 17,23 169:15 172:8
change 8:24 117:12 132:3 137:23 141:11	charging 89:3 109:13 138:1	class 14:2	combining 92:11	commission's 9:6,14 10:8 12:15 14:15 16:23 17:8,11 31:14 47:25 78:19 84:10 91:5,12 92:1 95:2 96:5 98:19 102:12 108:13 110:3 113:19 115:9, 12 116:3 117:16 132:10 135:20 154:3, 24 170:4
changed 96:19 106:11 131:6 150:6 160:9 169:15	check 87:7,20 103:13 131:13 133:23 138:4 155:18	clean 29:18	come 71:22 80:20 95:1 98:8 111:18 123:2 130:19 136:11,12 138:20 143:16, 22 154:14 155:3,7,22 171:22	comment 128:14
changes 8:25 10:17 25:20 32:20 96:16 97:20 99:18,24 103:14,16,21 104:18,22 105:5,8,13,15, 17,18 106:2,3, 9,15,17,23 107:8,10 108:1,3,4,17 109:17,19,21, 22,23 116:14 119:12 129:25 130:2,3 132:4 133:6,10 144:16	Chip 6:14 26:5 98:23 99:6	clear 27:1 60:6 107:1 141:9 151:9,12 167:9 172:21	comes 90:7 124:16	coming 12:19 44:7 119:4 126:24 153:6
changing 83:7	chronically 64:10	clerkal 25:20	comment 128:14	comments 108:7 156:15
charge 83:6 100:16 101:14 108:19 109:12 124:8,10 130:12 131:2 165:12,15	chronological y 64:11	client 8:12 34:13 69:6	commercial 147:9	commission 7:22 8:2,8 10:5,7,9,10 11:7,10,25 12:10 13:11, 13,16,23 15:6 17:16 20:12,20 29:15 64:9,25 65:5 68:24 71:13 94:23 95:4,12,21 96:1,8 97:4,16 98:17 99:19, 20,22,24,25 100:5 101:7,9,
charged 11:19 22:22 24:9,14 28:3 63:5 67:18,23 80:10 94:16 99:17 100:14 101:19 112:12 138:16 147:16	circumstance 136:14 162:14	client's 22:13	commissioners 172:14	common 117:8
charges 24:15 27:14 32:5,8	circumstances 84:18 113:10 159:12	clients 34:18 71:16	commodities 101:15	communication 60:7
	cited 136:14	close 44:4 173:2	community 46:23 100:23	
	claim 89:2 90:19	closed 68:12		
	claims 104:23	closely 153:12		
	clarification 38:13 89:10 90:16 97:3 139:24 156:21 166:6	closing 157:19,21 165:22 172:18, 19,22		
	clarified 106:13	code 101:13 105:21,25		
	clarify 15:3 74:11 92:21 93:3 170:1	coldest 83:13		
		collect 111:4,6, 13,16 112:15		
		collected 14:21		
		collecting 111:1,9		
		collection 59:25		

107:15,17 108:22,24 116:17	compound 142:7	connect 124:23	contention 130:23	19 49:22 64:7 137:9
company 126:7	computer 42:5 123:1	connected 25:16 27:24 28:2,10,13,19 34:1 37:7 39:2 45:23 51:18	contents 119:7	copy 29:16,18 36:18 42:17 72:19 118:4,9 121:17 134:10 137:1 144:23
complainant 8:17 9:22 18:12	concern 130:23 167:25 168:4	connection 38:19 84:22,24 108:19 125:4	contest 60:13	corner 51:12
Complainant's 26:17 29:22 30:1 45:1 137:8	concerned 38:25 121:6,9 130:2 160:17	connections 38:16 92:20 106:24 113:13	contiguous 28:17 50:6,7,8	correct 14:18 15:10,13 29:12,13 30:19 31:7,8,23,24 32:4,19 33:19 34:18 35:3 36:14,15 40:9, 12,16 48:1,7 49:1,2,20,21 50:14,25 52:14,21 53:17 54:6,9 55:15 57:12 61:23,24 62:7 63:14 66:16 69:19 70:4,10 71:1 73:11 78:7,11, 14,15,16 80:14 81:22,23 83:23 84:25 85:2,8, 15 86:8,9,15, 16,17 89:10 90:8,13,17 95:9 97:6,9 101:10 109:15 114:22 120:19, 21,25 122:13 125:7 127:23 129:17 132:21, 22 133:3,4 137:12 138:2 141:1 142:13 145:20 146:6 148:12 149:4 150:16,23,24 151:3 152:16 153:22,23
complainants 14:8	concerning 10:20 21:21 62:19 73:3 167:12	consider 8:23 33:6 65:16 123:17 136:5 149:2 150:7 168:2	contiguous 28:17 50:6,7,8	
complaint 6:7 7:14 8:21 11:1 12:17 14:2 34:22,23 59:19 63:20,21 64:6 100:6 168:19 169:8	concerns 13:17,19 66:11 67:16 68:3,6 69:25 128:14, 19	consideration 69:21 110:7 169:16	continued 52:13 161:24	
complaints 7:16 14:3	conclusion 102:13 132:13	considerations 70:6	continuing 126:9	
complete 96:7	conditions 150:22 151:11	considered 7:13 28:16	continuously 11:19	
completed 104:17	conduct 7:19 10:23	constructed 124:17	contract 70:3,9 89:20 128:3 129:1 143:18, 23	
completely 11:5 73:7 111:14	conducted 7:17	consultation 169:6	contracts 12:6 69:8,10,16 70:1 110:5,10	
compliance 11:11 96:22 105:3	confident 103:9	consumers 172:24	convert 7:23 8:1 9:7	
complied 11:9 121:6,10 132:2 135:22 170:15, 16	confirm 140:17	contact 83:8 87:14	converting 8:10 9:8	
comply 25:21 95:24 102:20 135:19	conflict 139:14,16	contacted 76:13	cooperation 11:22	
	confuse 26:20	contains 91:6	cooperative 68:16	
	confused 85:3 91:9,17	contemplated 104:12 169:12	coordinates 34:14	
	confusing 75:3		copies 34:20 42:24 43:3,14,	
	confusion 38:15			

154:22 157:8 158:24 160:25 correction 56:4 correctly 8:8 72:6 correlates 34:13 correspondence 87:2 103:25 corresponding 43:16 55:1 99:18 cost 111:8 costs 16:7,15, 21 100:10 111:24 160:22 counsel 7:13 60:8,25 114:9 157:22 count 54:1 county 22:9, 10,11 123:11 148:2 151:23 couple 10:9 13:25 27:5 137:9 158:1 171:8,9,14 course 89:18 110:20 121:21 162:10 165:21 court 6:21 7:21,24,25 8:5, 7 9:1 18:1 22:1 44:6 45:3 75:2 cover 111:17 covered 113:18 115:8	created 46:23 96:1,11 151:21,22 creating 10:24 creation 10:16, 22 critical 121:13 cross-examination 88:14,18 138:25 139:3 142:25 cross-examine 46:7 current 14:20 58:20 92:7,8 93:11 113:5,6 160:12 161:17 165:7 currently 15:18 55:6 104:24 customer 25:16 72:2,4,5, 7,19 99:13,15 111:16,17 112:7,17,20 113:3,20 114:16 115:10 117:20 118:24 124:22 125:4, 16,17 127:5 129:6,24 135:20 136:15 145:5 147:22 149:18,22 159:8,14,17 163:20 170:7, 13 customer's 136:10 162:18 customers	95:25 96:19 99:23 100:11, 18 105:21 106:6 107:11 108:20 110:13 111:18,20,21, 25 116:13 117:7 121:11, 18 122:7,13 126:4,11 127:4 130:14,18 131:11 134:3 137:19 143:4 144:12 157:11 158:15,16 163:9,17,19 164:22,24 165:15 <hr/> D <hr/> date 6:5 30:6 37:25 38:3 86:24 117:19, 23 118:19 121:12 126:2 139:16 156:2, 4,9 159:4 167:24 170:4 dated 102:6 106:10 109:21 dates 19:14 37:20 85:4 159:3 daughter 18:4, 10 19:2,5,10, 12,16 20:1,8, 15,19 21:2,5,8, 11,15,17,23 22:3,6 23:7,12, 15,18,21 24:2, 5,11,15,23 25:1,3,5,7,11, 14,25 26:3,5	27:23 28:5,8, 12,15,21 29:1, 4,6,9,13 30:7, 10,14,19,22 31:1,3,5,8 32:23 33:20,22 34:3,21 35:7, 12,14,17,20,25 36:3,7,22,25 37:5,9,12,16, 21,23 38:1,4,7 39:18,22 40:2, 9,13,16,19,22 41:1,5,7,12,14, 18,21 42:2,4,7, 10 43:12 44:13,16,23 45:10,13,15, 18,21,25 46:15,19,22,25 47:4,8,12 48:2, 8,11,15,18 49:16,20 50:3, 7,11,14,24 51:3,6,8,15,20, 23 52:3,5,7,10, 12,15,18,24 53:3,11,18,21, 24 54:2,6,10, 14,17,20,22 55:7,10,15,25 56:4,7,10,20, 23 57:1,3,6,13, 17,20 58:1,7, 12 59:15 60:4 62:14,16 63:20 64:3,13 66:2 67:6 68:18 69:9,12,15,18, 22 70:2,8,18, 20,23 71:2,6 72:7,11,13,15 73:1,7,13,15, 17,21 74:17,25 75:9,11,20 76:4,6 77:5,13, 17,23 78:1,5,9,	15,25 79:8,17, 21,25 80:4,12, 17,19,25 81:3, 7,10,15,23,25 82:8,11,14,19, 23 83:2,10,22 84:2 85:1,17 86:9,13,16,21, 25 87:3,7,10, 14,19,23 88:1, 22 89:5,13,15, 18 90:2,8,10, 13,23 91:2,4,8, 20,22 92:3,7, 10,14,18 93:2, 4,9,12,16,20, 22 94:6,9,15 98:5,8 155:15 daughters 68:20 day 15:12 68:11 79:2 103:15 108:1 117:21 130:10, 11 131:3,8,25 167:10 168:13, 16,17 169:16 day-to-day 99:10 days 17:11 19:22 20:13 82:1,10,12,13, 18 86:15 102:18 104:8, 10,16 118:19 121:12,24 130:14,15 137:13 159:13 165:25 167:18 169:2,5 171:14 172:5 de 7:25 deadline
--	--	--	--	---

167:10,11 171:12	delivery 112:24	141:7 169:14	disagreed 106:18	dismissed 15:6 100:5 101:20
deal 14:4 27:6 104:19 114:19 120:14 121:25 145:13	demand 12:10 127:3	determines 141:5	disagreement 132:9	disposes 14:16
dealing 85:13 128:4	demonstrate 17:10 118:23 121:23	determining 160:6	disconnect 78:8	dispute 133:1
dealt 126:20 165:18	denied 161:3	developed 101:1	disconnected 77:1,8,9,10,11, 16,22,24 78:4, 13,14,24 79:4 110:14 161:23	disputed 97:8
December 31:17 32:5,18 64:6 83:14 99:19 109:22 117:3 168:18	depending 153:14	development 127:6,7 146:16,18,24 147:14	discontinuance 161:16	distinction 15:19
decide 144:2	derail 8:22	device 44:7	discontinuatio n 165:19	district 6:8,15 7:25 8:7,19 10:15,22,23 11:3,13,18,23 12:9,22 13:4, 20 16:5,9,13, 15,22 24:18 25:9,19,20,23 28:7,24 31:12 34:15 37:1,13, 17 38:9,18,25 39:5,8,23 46:22 57:6,16 66:7 70:3 76:23 84:3 87:15 89:3,20 90:20 91:6 92:21 95:1 98:1,19,25 99:7,8 100:17 101:14,16 115:21 119:9 120:23 126:17, 18,24 132:2,8, 17 133:2,7,9, 11 134:14 140:21 141:6 143:12 145:6 149:25 150:7, 12,21 151:11, 14 152:5 153:6,23 156:24 160:6, 8,10,16,17,21 161:3,19
decided 119:1	derailing 8:24	difference 46:3 92:19	discontinue 76:12,16 84:20	
decision 161:20	describe 79:14 93:11 158:8,9 159:5	different 56:18, 19 57:9 90:18 96:17 106:5,7 124:18 125:1 127:16 156:24 170:5	discontinued 76:20 137:25 161:19	
decline 149:21	described 106:9 161:8	difficult 67:10 111:2 124:16	discretion 7:23 9:14 141:18,19 150:21 151:1, 10 160:6	
decreased 109:6	describes 66:8 97:20	difficulties 23:6	discuss 7:13 8:12 94:22 110:20 116:5	
dedicated 134:24	describing 106:17	difficulty 44:3 118:14	discussed 46:3 92:19 105:9 107:8 119:13 156:2, 23	
deems 25:21	description 160:19	diligence 171:23	discussing 167:22	
defer 133:19	desert 101:3	direct 18:22,24 123:23	discussion 8:16 16:25 43:4,24 65:4 70:15 133:17 145:25 152:24 158:1	
defined 143:11	designed 106:5	directly 23:3 70:1 110:10 112:6 162:17		
defines 38:19	designer 147:13	disadvantage 105:7		
definition 92:21 134:22	details 104:20 131:18	disagree 17:14,15 23:21		
definitions 106:12	determination 9:7 141:10 150:24			
delinquent 149:3	determine 7:20			
deliver 40:21 123:18 125:13 127:3,18	determined			

162:17 164:2 170:21	dockets 15:21 16:2 95:3,5 106:3	drafted 130:6	125:22 157:12 158:20 159:18 170:24	156:25
district's 31:13 96:22 133:13 134:1 160:23 161:20	document 24:22 26:8 28:22,25 32:16 33:11 45:11	drag 161:12	earlier 46:4 94:25 109:7	electrical 39:16,18 46:17 79:3 86:19 87:6 91:7 92:22,25 93:6, 15 94:5,13,14 96:19 136:6
districts 31:11 91:15	documentary 27:17 34:25 172:23	dramatically 126:17	easement 40:1,2 47:3 48:3 123:22 124:3 135:1,5	electricity 16:11 31:22 32:6,17 38:21 40:11,15 85:19,23 87:17 122:10 125:14 136:12
division 7:15 97:19 102:23, 24 103:10,12, 20 105:10,15 106:18,20 109:19 116:25 117:15 129:9 130:11 131:6 132:5,8,14 133:2 168:22	documents 37:1 102:13 113:5	drive 42:10 107:16	economic 127:6,7	electronic 65:1,6 120:23
division's 106:9,16 110:1	dollar 83:5	drop 38:21 123:23 124:11 125:19 134:20, 23,24 135:5,12	economical 12:21,23	electronically 155:1
docket 6:9 14:16 15:22,25 19:1 20:13,25 21:21 22:1,4 42:7 95:8,10, 14 96:1,11,23 97:17 99:20,21 101:9 102:5,17 104:6 105:15, 22,23 106:4, 11,18 107:6 108:4,8,13,15 109:18 110:1,3 114:4,17,19, 22,24 117:19 119:4 129:8 130:7,22 131:15,22 132:20,23 133:5,7,8,9 148:22 156:23, 24 164:18,19, 20 165:10,12 172:7	dollars 111:7, 23 130:10,11 131:2,7 132:21 134:3	due 12:11 35:21 41:15 48:19 52:19 112:7 159:4, 10,11,20,22 167:17 171:23	edge 92:23 93:1	elementary 163:14
	done 14:24 60:1 87:17 133:6 142:6 150:9 162:24 169:7	duly 18:13 98:25	edit 150:3 151:8	eliminated 91:12
	double-check 156:17	duplicative 171:10	effect 60:18 104:23 116:22 138:7	else's 81:6
	double-wide 28:13 57:2 58:15 75:9,10, 12	during 80:7 83:11,17,20 84:2 89:18 107:6 108:15 129:11 130:22 153:15 163:7, 10	effective 26:1 109:23 111:8 132:18 133:14 134:10	employee 99:14 115:22
	down 12:20 13:22 30:22 37:20 38:4 48:16 63:7 77:18 79:17 81:3 82:1 83:12 84:19 90:3 130:11 152:12	e-mail 82:3 87:4 103:24 162:24	effort 127:4	enacted 19:6
		E	eight 28:8,10 55:11,16 92:2, 11,14 158:17 159:9	end 13:3 64:3 101:16 111:11 172:1
		e-mailed 103:12	either 11:17 24:3 44:17 74:7 90:11 92:13 122:9 158:14 165:1	enforce 15:1
		e-mails 167:16 169:23	electric 25:17 32:2 77:8 78:19 80:23 106:5 107:9 124:20 126:24 135:2,3 153:6	enforceable 15:19
		each 29:14 46:19 57:9 60:19 102:8		enforced 12:4 136:2
				enforcement 12:2
				enforcing 10:24

enough 23:19 126:18 171:13	estimate 122:11,16 153:12	exactly 60:15	54:25 55:2,3 63:23 65:19 79:9 97:23 98:1,2 103:18, 20,22,24 104:1,3,4 106:11,17 107:4,20,22,23 108:10,11,12, 14 109:9,10,11 110:2,4 113:7 117:10,12,13, 14,16,17 132:12 137:9 159:2 172:2	140:17 165:15
enrollment 106:7	even 16:12 22:17 78:12 79:3 88:1 110:13 111:7,8 116:6 121:19 122:11 124:11 157:3	EXAMINATION 18:22 94:2 158:6		explained 164:22
ensuing 104:7	eventually 106:19 111:24	examined 18:13 99:1		explaining 34:19 117:7
ensure 127:3, 18 128:21	every 47:1,3 52:13 112:21 115:11,16 124:6,9 125:24 158:9,23 171:19	example 129:5 159:1 160:22		expressed 66:11
enter 29:25	everybody 140:12 144:3 169:21	excellent 15:16 31:15		extend 14:8 66:7 125:17
entered 129:9 158:12	everyone 46:11 164:18 170:20	except 125:24		extends 38:22, 24 132:10
entertain 14:2	everything 6:20 27:3 68:19 126:19	exception 110:13,19,20 128:8,11,13,20 139:25 140:2, 4,7,9,11,18 141:8,21 142:5,8,13,15, 16,17,20 143:8 144:13 145:4,7	exhibits 26:21 64:17 97:16 98:21 102:11 118:11 129:16 138:6 139:10 170:20 171:5	extent 16:24 122:5 165:17
entire 8:21 98:20	evicted 128:22	exceptions 110:11 141:14 150:17		extraordinary 159:19
entirety 14:17	evidence 14:7 23:2 27:17 30:1 33:9 34:25 41:25 71:13,15 102:13 121:20 122:3 165:23 170:23 172:23	excuse 40:7 55:3 56:11 65:22 71:16 101:4 102:21 109:15 110:7,9 129:14	exist 48:4 148:15	eyesight 44:17
entitled 69:20 110:6	evidentiary 27:6 65:17 170:19	excuse 40:7 55:3 56:11 65:22 71:16 101:4 102:21 109:15 110:7,9 129:14	existed 54:10 57:14,18 144:17	
entity 111:14	exact 38:3	executive 152:11	existence 126:25	<hr/> F <hr/>
entry 159:5,24		executor 18:5	existing 110:12 128:21	
envelopes 121:19		exemption 118:17 121:17 141:24	exorbitant 62:25	facilities 99:11 101:15
epilog 139:5		exhibit 26:11, 17 27:4 29:22 30:1 43:6 45:1 49:7,13 50:16, 21 53:6,13	expect 158:4	facility 101:18
equivalent 134:20			expense 39:6,8 112:13 113:1	fact 13:7 15:16 62:18 81:14 100:24 105:6 113:22 121:20 136:21 152:10
Erika 20:20			expenses 101:4,6 111:15	factually 130:20
error 7:22 33:7 56:4 164:18			expensive 66:9	failed 104:17 105:6
especially 13:8			expert 153:6	fair 61:18 70:5 111:19,20 150:2 160:18 171:13
essential 10:19			explain 57:16	fairly 16:6,20 100:11
essentially 10:12 16:14 31:6 93:18 96:18 97:20 132:13 140:19 148:14 160:15				
estates 124:25				

falls 138:4	27:7,8 32:24	25:19 42:7	132:21,24	foot 39:19,24
familiar 90:20	33:22 41:7	97:1 104:6,9,	133:17 145:1	48:2
family 12:19	48:25 53:2	15,17 105:6,13	166:2,3 171:25	Footnote
far 6:20 38:24	57:14,18 58:4	112:22 133:11	first 14:1 15:25	102:14
39:14 91:6	59:9 60:12	165:24	18:13 22:13,21	footnotes
96:23 110:17	61:15,19,21,23	filed 6:6 11:1	24:9,11,13	105:1,2
132:9 160:16	62:1,5,11,20,	20:12 64:9,13	27:7,8 30:5,7	forced 100:19
farther 168:4	24 63:5 66:9,	95:12 99:19	38:8 75:16,17	foreclosed
father 29:10	10,14 67:15,	102:24 105:10	84:22 89:3	123:14
feasibility 13:5	16,21 69:3	106:2,3 109:17	95:8 96:2,11	form 31:11
February 73:2,	80:7,10 89:2,4,	116:24 132:4	97:14 98:25	76:10
9,12,13 82:22,	6,22 92:18	154:19 166:1	109:12,13	formal 6:7
24,25 83:2,24	94:14 95:6,8,	168:20	126:2 152:10,	7:13,18,19
84:7,8 85:9	12,19,22,24	files 121:20	14	8:20,21 9:3
86:7,10	96:2,12 97:4,	filing 20:22	Fischer 26:6	34:22,23
119:17,19	25 99:17,18,25	21:6 64:4,5	fit 110:20	63:20,21 64:6
155:14 163:8	100:6,8,9,14,	96:7 97:21	144:13 166:24	169:8
fee 14:17 28:4	16,18 101:5,8,	121:3 132:18	five 39:19,24	formally 142:6,
48:13 67:11	10,11,14,21,24	filings 42:5	55:23 147:10	8,10
80:6 83:6	104:19 109:5,	84:14 91:6,14	151:25	format 119:6
94:16 95:11	13,14,16,24	115:3 116:2	fix 127:17	formation
101:18 124:10	111:1,4,8,23	filled 139:22	fixed 66:12	10:15
130:9,16	114:17 116:11,	final 161:7	127:18	former 111:1,5,
131:10,20,22,	20,21 117:6,8,	172:5	fixing 82:15	6
24 132:16,17,	9 119:12 123:9	finances 99:12	127:17	forward 22:14
20 147:21	126:3,5,6,16,	126:21	flick 123:1	130:7
148:4,5,6,8	19 138:1,6,13,	financial 10:21	flip 136:11	found 22:9
163:24	15 139:6,13,21	11:4 12:21,22	flowing 16:12	110:25 163:25
feel 13:18 16:5	147:16,25	find 11:23	follow 11:13	foundation
61:7 97:2	148:12,15	13:21 22:4,9	61:7 110:8	33:3,6
166:18 168:1	149:7,13,22	63:25 65:14	134:7 151:17	four 55:10
feeling 67:12	156:11 161:25	141:16 142:4	follow-up 94:1	74:17 75:3,14
feelings 66:25	162:7,11,15	findings 163:9,	following	82:1,7,8,12,13,
feels 12:18	164:21 165:18	17	117:25 133:10	18 90:14
96:8	felt 11:2 13:12	fine 17:18 18:8,	138:15 151:11	147:10
fees 11:14,15,	few 7:4 14:14	17 33:8 42:8,	158:20 164:4	frank 126:13
16 14:19,20,23	66:7 88:13	10 46:5,12	follows 18:14	frankly 150:9
15:7,17,22,25	90:18 102:8	48:13 60:17,23	25:9 99:1	
16:4,20 22:22	111:7,21,22	61:6 67:1		
24:10,14 25:15	121:19	71:21 99:3		
	Fifteen 65:21	131:14,16		
	figure 96:3,10			
	118:21 120:14			
	file 12:17 17:1			

<p>Friday 172:1</p> <p>front 128:6,8 131:8 144:23 148:24</p> <p>frozen 83:15</p> <p>fuel 126:19</p> <p>fulfilled 168:8</p> <p>full 98:20 100:23 153:11</p> <p>full-time 90:3 99:14 115:22 153:17</p> <p>fully 106:14</p> <p>function 126:10</p> <p>functioning 126:8</p> <p>funds 111:17</p> <p>further 93:24 101:13,25 161:11,13</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>game 13:3</p> <p>garbage 67:24</p> <p>Garfield 22:10, 11 123:11 148:2 151:23</p> <p>gave 140:11</p> <p>general 15:7 101:21 110:16</p> <p>generally 14:19 39:6 57:25 110:10, 24 111:8</p>	<p>generate 159:24</p> <p>generator 16:18 75:22 77:20 84:23 93:23</p> <p>generators 94:5 160:23</p> <p>getting 32:3 59:9 127:21</p> <p>give 7:4 46:8 61:8 84:15 88:16 123:4 157:19 171:12 172:23</p> <p>given 13:7 20:25 21:20, 23,25 59:24 74:8 83:25 86:7,10 87:12 104:25 112:4 126:21 137:14 151:16 159:17</p> <p>giving 33:2 105:4</p> <p>goes 7:21,24 15:11 16:25 30:22 64:10 152:1 168:4</p> <p>gone 7:14 83:13 88:6 119:25</p> <p>good 6:16 99:6 110:13 143:12 145:6 149:5 150:3</p> <p>governmental 111:13,14</p> <p>GRAMA 33:12 36:25 76:7</p>	<p>granted 110:14 139:25 140:1, 7,9 141:20 143:8</p> <p>grants 14:6</p> <p>great 29:20 44:17 54:19 114:20 120:9 131:19</p> <p>grounds 136:9</p> <p>group 60:19,22 158:16,19</p> <p>guess 88:14 96:17 102:15 122:17,20 145:18 160:7 161:7</p> <p>guidance 99:9</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>half 122:18,19 152:11,14,15 158:17 159:9</p> <p>hand 18:2</p> <p>handful 88:20</p> <p>handing 45:11</p> <p>handle 121:21</p> <p>handled 126:23</p> <p>hands 18:9</p> <p>hang 7:3 37:19</p> <p>happen 44:19 127:8 141:17 155:18 167:4 172:15</p> <p>happened 20:18 42:22</p>	<p>74:4 79:23 104:12 138:12 161:22</p> <p>happens 8:24 155:5</p> <p>happy 145:14 157:24</p> <p>hard 71:15 150:3 171:4</p> <p>hardship 9:9</p> <p>harsh 128:22</p> <p>hate 114:20 128:22</p> <p>having 8:7 12:5,18,19 16:11 18:13 39:7 44:3 70:1 75:2 92:22 98:25 131:8 148:23 164:6</p> <p>head 120:22 121:2 132:1</p> <p>headed 154:4</p> <p>health 126:6</p> <p>hear 7:8 23:3, 11,17,19 24:4 49:23 58:11,12 68:4 72:6 86:3 88:23 115:5</p> <p>hearing 6:5 7:17 15:12 17:3 18:16 44:1,3 68:25 78:20 84:11,14 91:18 99:21 102:7 107:9, 14,25 114:2,20 116:7,14,15,19 117:12 121:25 154:2,8 173:2,</p>	<p>6</p> <p>hearsay 23:2 66:21 76:21 81:5</p> <p>hectic 91:18</p> <p>held 14:22 19:14,25 20:2, 6 21:9,13 22:1 89:20 103:13 104:5 107:25 108:16 116:20 129:12,14 164:21 165:14 167:23 170:8, 12</p> <p>help 7:16 24:4 43:10 44:9 59:7 120:12 161:21 164:19</p> <p>helpful 27:17 44:5 46:6 64:1, 20,24 65:1 97:15 120:7 122:11 164:24 166:11</p> <p>helping 68:18</p> <p>here 8:25 9:4, 25 10:2 12:16 13:4,16 14:6 23:2 24:18 29:18 30:25 44:8 54:23,24 60:6 63:23 64:25 67:3 76:22 84:9 95:18 99:2 114:19 118:6 119:17,25 120:5,17 130:18 131:8 133:15 135:1, 4,5 143:13 151:1</p>
---	---	---	---	--

here's 118:14	49:6,11,24	170:10,17	housekeeping 9:18	implied 160:5
herself 108:7	50:15,20 53:5,9,12,15,16	171:1,2,9,13,15,17,21,23	however 7:16	importance 8:4
high 66:9	54:13,16,19,21,23 55:3,5	172:3,8,12,16	12:22 17:15	important 13:12 61:10
Hill 7:1 76:7	57:11,22 59:6,8,16,21 61:9,13 62:10	173:4	53:16 59:23	99:22
94:10		Hogelin's 14:13	69:16 106:19	impose 163:23
Hills 137:5,16	63:19,21,24	hold 14:23	111:22	imposed 14:20
138:11 161:15,23	64:8 65:7,12,21,24 67:2	17:10 22:14	hundred 111:7	15:25 96:2
histories 139:15	68:23 69:2,5,7	43:1 102:18	130:11 131:7	126:3
history 28:23	70:11,14,16	105:20 118:19	husband 20:3	imposing 108:18
29:12 35:23	71:11,17,19	129:19	29:10	impossible 12:23 13:1,2
36:19 41:2,25	72:3,14,18,25	holder 146:16,18,25 147:14	hyphen 104:21	111:10 154:20
45:13 49:5	73:19 74:14,16,23 75:4,15	home 28:13	hypothetical 67:7	improve 127:4
51:4,13 52:17,23 158:25	76:10,25 77:6	47:6 56:23	hypothetically 140:22	improvement 6:7 24:18 25:9
159:5,17,24,25	78:22,23	57:2 58:15	I	28:24 31:12
Hit 72:14	79:10,12 80:1,3,9,22 81:8,18	75:8,9,10,11,12,14 79:18		34:15 57:16
Hogelin 6:11,17 8:12,17	82:21 84:13,16	82:14 84:6	idea 64:1	98:25 99:8
9:20,24 10:3,5	85:25 86:6	88:4 124:18,23	identified 8:8	100:17 126:18,24
14:10 17:15,	88:10,11 89:9	125:5,7,9,12,14,17,24	129:16 144:12	inappropriately 11:20
20,23 18:3,15,	92:17 94:3,17	154:15	identifier 34:8	incentive 12:13
18,23 19:18,	97:3,7,12 98:2,3,7,10 102:1	Honor 84:13	imagine 171:18	incident 75:16
21,23 21:10,	113:21 114:9	88:11 98:3	immediate 125:16	79:7,13,15
20,25 22:12,	125:10 134:9	113:21 138:5	immediately 117:25	81:18 85:4
16,20 24:8,21	137:1,3 138:5	151:7	implementatio	131:2,7,21,23
26:9,15,18,20,	139:1,4 141:4,13,16 142:2,	hooked 148:13	n 11:15 12:4	132:21
24 27:2,9,12,	22,24 143:6,7	hookup 47:9	32:25 95:6	incidents 75:6
15,18,20,21	145:17,18	hope 98:18	97:25 126:16	inclination 8:1
29:15,20 30:5	146:14,17,21,	hopefully 13:21	implemented	include 130:8
31:18 32:3,7,	22 149:13	hoping 23:18	11:16 15:22	148:4
10,15,19,22	150:14,15,19,	hours 31:21	33:24 89:23	included 97:8,
33:1,16 34:9,	20 153:1,10	house 16:10,	109:17 132:24	10 119:12
12,18,23 35:3,	154:5,6,11,12	12 82:1,18,19	140:24 144:17	133:16 142:4
10 36:12,15,17	155:9 157:1,6,	89:12,24,25	156:24	
37:15 40:12,	15 160:1,5	90:5 153:21		
18,24 42:1,3,6,	161:2 164:15,			
9,15,17,19,21,	16 165:3,6,8			
25 43:8,14,21	166:3,13,20			
44:20 45:4,6	167:3,7,14,20			
47:22 48:6	168:4,7,11,18,			
	22 169:1,21			

includes 95:23	164:20,23 166:10	interrupt 55:22 116:4	69:6 70:12 73:23 75:5 82:25 94:23 99:16 101:24 104:24 110:21 111:22,23 114:10 121:13 159:20 168:15 169:10,11 170:2	8:14,18,23 9:5, 15,17,21 10:1, 4 13:24 14:11, 18 15:4,10,13, 16,23 17:4,6, 18,21,24 18:8, 17,20 19:18 21:4 22:15,25 23:4,7,10,13, 25 24:3,6,20 26:8,10,13,16, 19,22,25 27:3, 11,13,16,19 29:17,21,25 30:4 31:15,20, 25 32:4,9,13, 16,20 33:4,10, 14,17 34:6,11, 16,24 35:4,9 36:10,13,16 37:14,19,22,24 38:2,6,11,14, 17 39:1,4,10, 14,21 40:6,10, 15,20,23 41:24 42:12,14,20,23 43:1,5,9,17,19, 22,25 44:15, 18,21,24 45:4 46:5,12,16,21, 24 47:2,5,11, 16,19 48:5 49:4,8,10 50:17,19 53:7, 14,25 54:5,7, 12 55:2,4,21 56:3,6,12,15, 17,22,25 57:5, 8,15,19,21 58:10,14,17,21 59:2,7,19 60:2, 5,17,23 61:3,6, 12 62:9 63:18, 22,25 64:18,23 65:10,13,22 66:24 69:1,4 70:13 71:21,25
including 95:11 99:11 105:13 106:23 143:4,5 145:24 172:5	informed 21:17 22:10 77:17,19 78:12 83:18 84:3,5	intervene 168:24		
income 13:9	infrastructure 16:19 100:11 124:17	into 25:16 28:19 30:1 34:21 41:25 45:23 51:18 54:3,20 60:8 94:4 97:6	issued 14:6 101:8 104:13 105:18 108:5 129:10	
incomes 66:12	infrastructured 46:23	102:13 116:22 126:24,25 129:9 149:23 154:14 157:24 158:12 165:20 169:16 170:23	issues 8:2,6 10:6,10 13:21 14:4 31:13 32:2 65:17 90:18 106:19 114:12,13 157:25 167:11	
increase 116:15	initial 132:3 133:6	introduce 64:17 98:20	issuing 166:8	
increased 108:18 131:23	injustice 11:2	introduced 66:3 95:8 97:5, 14 132:12 159:1 164:22 165:12	item 7:12 48:17 71:12 159:3	
increases 112:2,15 134:2	inspection 115:23,25 154:17 163:7, 10,20	introduction 119:12	itemize 158:20	
incur 160:22	inspections 163:15	involve 95:3,5 108:7	items 9:18	
incurs 16:15 101:4	instance 18:12 98:24	involved 21:2 79:13 99:8 127:15,16 169:22	<hr/> J <hr/>	
index 65:8	instead 106:13	irrelevant 112:7	January 83:14 119:19 161:9	
individualize 158:20	instituted 128:13	issuance 103:5,8 169:2	Jetter 103:11, 15,25 130:6	
individually 68:2,5	instituting 130:3	issue 11:22 12:7,21,23 14:17 16:4 17:7 31:18 39:3 62:10 66:18 68:24	Jim 76:6 137:5	
individuals 167:17	intended 66:10 154:2		joint 18:25 102:16 152:18	
inform 76:11 77:15 78:2	interest 8:4 9:9 167:20 169:18		Jon 6:11	
informal 7:14, 23 8:1,11	interested 94:8 105:5 165:9, 11,13		JONSSON 6:3, 13,16,19,22 7:1,6,9,12	
informally 142:6,9,11	interject 64:15			
information 12:8 22:8 71:18 72:2,4,5, 8 112:17,20 113:3,5,20 114:16,18 115:10,14 116:1 117:6	Internet 22:8			
	interpreted 170:7			

73:12,14,16	16,21 144:1,6,	36:10,13,16	13,18 115:5	169:20,25
74:11,15,18,20	14 145:1,8,11,	37:14,19,22,24	116:10 117:18,	170:6,11,22
75:7,10,12	16 146:11	38:2,6,11,14,	23 118:1,4,14	171:1,7,11,14,
76:24 78:21	149:1,6,10,18	17 39:1,4,10,	119:10 120:5,	16,18,22,25
79:20,22 80:2,	150:2,11,14,18	14,21 40:6,10,	9,12,19,21,25	172:4,10,13,
16,21 81:14	153:4,9 154:4,	15,20,23 41:24	121:5,9 122:2,	19,22 173:1
82:6,9,13,17	10 155:3,8	42:12,14,20,23	6,15,18,22	
84:17 85:3,7,9,	157:5,17	43:1,5,9,17,19,	123:7,13,16,20	judgment
12,18,21 86:2	158:3,5 161:12	22,25 44:15,	124:2,6,8,10,	111:5,6,9
87:16,21,25	162:1,4,6,9,13,	18,21,24 45:4	14,24 125:6,	July 6:4 14:16
88:9,12,17	16,20,22,25	46:5,12,16,21,	11,19,22	16:24 37:16,22
93:25 94:18,	163:4,13,22	24 47:2,5,11,	126:1,14	101:9 102:6
20,24 95:7,13,	164:7,11,14,17	16,19 48:5	127:12,14,25	134:11
21 96:10,14	165:9 166:1,4,	49:4,8,10	128:10,15,18,	
97:6,10,13,18,	7,11,14,17	50:17,19 53:7,	25 129:4,8,14,	June 108:6
22,24 98:11,22	167:1,6,13,19,	14,25 54:5,7,	19,23 130:4,8,	119:22
99:3,5 100:3	21 168:6,10,	12 55:2,4,21	24 131:4,12,	jurisdiction 8:9
102:2,4 114:1,	14,21,24	56:3,6,12,15,	19,25 132:6,	31:14 78:20
13,18 115:5	169:20,25	17,22,25 57:5,	15,19,23	132:10
116:10 117:18,	170:6,11,22	8,15,19,21	133:1,15,24	
23 118:1,4,14	171:1,7,11,14,	58:10,12,14,	134:4,8,13,24	justification
119:10 120:5,	16,18,22,25	17,21 59:2,7,	135:3,9,11,14,	16:6
9,12,19,21,25	172:4,10,13,	19 60:2,5,17,	16,19 136:1,5,	Justin 26:6
121:5,9 122:2,	19,22 173:1	23 61:3,6,12	9,18,20,22	103:11
6,15,18,22		62:9 63:18,22,	137:2,6,18,21,	
123:7,13,16,20	judge 6:3,13,	25 64:18,23	24 138:9,17,	
124:2,6,8,10,	16,19,22 7:1,6,	65:10,13,22	22,24 139:2	
14,24 125:6,	9,12 8:14,18,	66:24 69:1,4	140:14 141:15,	
11,19,22	23 9:5,15,17,	70:13 71:21,25	22 143:1,13,	keep 8:19 9:3
126:1,14	21 10:1,4	73:12,14,16	16,21 144:1,6,	16:18 22:15
127:12,14,25	13:24 14:11,18	74:11,15,18,20	14 145:1,8,11,	43:11 63:2
128:10,15,18,	15:4,10,13,16,	75:7,10,12	16 146:11	101:5 121:19
25 129:4,8,14,	23 17:4,6,18,	76:24 78:21	149:1,6,10,18	144:9 160:2,11
19,23 130:4,8,	21,24 18:8,17,	79:20,22 80:2,	150:2,11,14,18	171:5
24 131:4,12,	20 19:18 21:4	16,21 81:14	153:4,9 154:4,	
19,25 132:6,	22:15,25 23:4,	82:6,9,13,17	10 155:3,8	keeping
15,19,23	7,10,13,25	84:17 85:3,7,9,	157:5,17	100:10
133:1,15,24	24:3,6,20 26:8,	12,18,21 86:2	158:3,5 161:12	keeps 127:10
134:4,8,13,24	10,13,16,19,	87:16,21,25	162:1,4,6,9,13,	kept 58:19
135:3,9,11,14,	22,25 27:3,11,	88:9,12,17	16,20,22,25	154:17
16,19 136:1,5,	13,16,19	93:25 94:18,	163:4,13,22	
9,18,20,22	29:17,21,25	20,24 95:7,13,	164:7,11,14,17	kilowatt 31:21
137:2,6,18,21,	30:4 31:15,20,	21 96:10,14	165:9 166:1,4,	kind 71:14
24 138:9,17,	25 32:4,9,13,	97:6,10,13,18,	7,11,14,17	140:12 153:21
22,24 139:2	16,20 33:4,10,	22,24 98:11,22	167:1,6,13,19,	
140:14 141:15,	14,17 34:6,11,	99:3,5 100:3	21 168:6,10,	knew 88:2
22 143:1,13,	16,24 35:4,9	102:2,4 114:1,	14,21,24	

knock 155:3	later 50:3 102:19 109:6 110:14 119:4 129:10 161:18	88:25 92:3 96:10 117:18 138:5 142:7 171:11	20	live 44:1 144:5
knocking 127:10			likelihood 112:2	lived 54:4,22
knowledge 17:17 22:19 77:14 115:21 152:20,21	lateral 40:4	letter 34:19 43:15 44:25 45:8 49:12 50:21 54:25 105:18 108:5, 13 109:21 110:1,3 117:17 137:4,7,11 161:15	likely 13:14 14:8 112:11	living 21:11 54:3
known 20:24 45:9 49:13 50:23 69:14 119:4	laterals 113:15		limit 168:13	local 101:13 107:13 111:13
	latter 120:16		limitations 10:20	locate 91:9
	law 25:22		limited 150:8	located 22:10 90:1 107:15 155:2
	leading 140:16 142:21,24		line 6:23 12:19, 25 25:4,6 30:5 31:17 38:20, 21,22,23 39:16,18 40:3, 20 46:17 47:5, 7 52:17 92:23 113:16 114:8 123:21,23 124:2,11 125:3,19 134:20,23,24 135:4,6,8,12 159:3,21	location 105:3
	lease 67:9,10 146:16,18,19, 25 147:14	liened 11:4 123:8,13		long 6:14 7:4 8:15,19 9:2,12, 13,16 12:19 14:11,13 15:2, 5,11,14,20 16:4 17:5 22:23 23:1,6,9 26:12,14 29:23,24 30:3 31:9,24 32:1 33:2,8,11 38:12,15,18,23 39:2,5,13 42:12,13,17 43:18 46:2,10 49:8,9 50:18 53:8 60:3,14, 18 61:4 64:15, 20,25 65:5,7 66:21 72:24 76:21 78:18 81:5 84:9,14 88:12,13,19 93:24 94:19, 22,25 95:10,16 96:5,13,16 97:15,19,23 98:15 99:2,4 114:2,25 116:4 118:9 119:3 120:3,7,16,20, 22 121:1,8
	least 26:25 31:22 74:5 84:15 118:19 121:11,23 126:10 137:13 143:5	liens 123:13		
	leave 9:13 65:13 70:9 157:22,24	lifted 128:4		
	leeway 66:6	light 90:9 131:18 169:3		
lack 10:24 153:8		lights 90:9 123:2		
lady 13:9		like 11:12 13:4 14:15 15:20 17:16,21 18:3 22:23,24 29:15 31:21 47:10 50:15 53:5 59:11 61:7 65:8 67:4,17, 20 69:5,6 71:14 73:23 76:21 94:22 95:4 96:6 97:1 98:16 99:2 114:23 120:6 121:16 122:12 128:12 140:16 141:24 149:20 150:6 154:1 156:21 157:18 163:15,16 166:9,18,20 168:1 171:14,		
land 101:3 146:10			light 90:9 131:18 169:3	
landlord 106:25 110:15 112:6,10 140:24	left 72:1 82:2 86:23 90:14		lines 16:17 46:25 47:2 92:25 124:20 125:2 159:19	
landlord's 107:2	legal 14:19 15:17 95:22 100:14 101:8, 10		list 15:11 113:19 115:9	
landlords 106:12 112:1, 9,13	legality 15:7,8 95:19 101:21, 22		listed 52:22 53:22 56:1 102:6	
lands 69:13 146:12	legislative 25:8		listening 44:1	
language 128:2 145:9	Legrand 152:12		little 18:16 42:23 44:7,10 74:12 75:3 85:3 91:17 92:19 115:1 125:1 131:17 140:15	
large 110:24 114:3 170:20	let 13:12 23:5 27:5 34:6 37:19 40:6 49:22 60:2,25			
larger 111:21				
last 48:17 73:23 90:23 115:1 123:10				

<p>122:1,3 125:13 127:20 131:17, 20 132:1,7,16, 22,25 133:4, 19,25 140:15 141:9 142:21 144:15 145:4, 14 149:24 150:5,12,21 152:25 153:5 154:1 156:21 157:24 158:4,7 161:11 163:4 165:23,25 166:2,5,8,12, 16 170:1,19,23 172:17,21,25</p> <p>long-term 110:12,19 128:4 129:1 140:1 143:3,7, 10,12,17,22 144:2,9 145:5 160:8</p> <p>long-time 129:6</p> <p>longer 40:11 91:13 94:13 147:25</p> <p>longtime 160:2</p> <p>looked 67:17 94:4 133:20 171:19</p> <p>looking 16:2 19:22 36:18 41:2 44:9 120:3,17 131:18 159:2</p> <p>looks 31:21 65:7 67:4 149:20 171:19</p> <p>lot 16:13 28:24</p>	<p>29:5,6,12 33:5, 25 34:17 35:5 36:5,6 37:10 42:16 43:7 44:25 45:8,22 49:13,18,19 50:1,9,22,23 51:8,11,12,17 54:15 55:18 56:5,19,21 57:1,11,22 58:2,8,14 74:16 89:12,24 90:1 123:18 125:5,24</p> <p>lots 36:13,18 37:6 41:25 43:10,13,16 45:7 46:8,13 47:24 54:5 55:1 56:7,13, 18 57:23 58:4 59:1,8 60:10, 11,20 74:18, 21,23,24 75:4, 5,6,8 79:16 92:2,24 101:2 122:8 123:3,6 125:3 126:4</p> <p>loud 7:9 23:19 24:7</p> <p>louder 88:25</p> <p>loudly 44:4</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>made 10:6 95:13,16 96:16 97:21 105:8 106:15 107:1 108:17,23 118:10 126:5 136:19 137:15</p>	<p>138:13 141:9, 11 157:1 167:9,16 169:6</p> <p>mail 107:12 108:21 112:25 118:18 133:16 134:1</p> <p>mailboxes 107:16</p> <p>mailed 107:16 108:23 112:17, 20,21 113:20 115:10 116:13, 18 117:6,20 118:2,12,22,25 119:7 121:10, 14,20,23 129:23 156:7</p> <p>mailing 112:25 122:4 157:9</p> <p>mailings 112:24 157:7</p> <p>main 87:11 123:21 134:25 135:1,8</p> <p>maintain 16:17,18</p> <p>maintaining 100:10</p> <p>maintenance 99:12</p> <p>major 99:16</p> <p>majority 123:5, 7</p> <p>make 13:17,25 20:16 23:10 34:6,20 35:1 43:3 46:10 65:18 71:14 83:14 100:6</p>	<p>106:23 110:23 137:8 154:13 155:9,21 156:21 157:2 160:22 163:24 167:7 172:8</p> <p>makes 112:10 150:24 151:18, 20 154:8</p> <p>making 12:22, 23,25 13:1 112:1 113:24 126:18 172:21</p> <p>manager 6:15 11:18 25:19,21 99:7 115:21 141:6</p> <p>mandated 166:25</p> <p>many 28:6,18 43:2 74:4 111:20 122:8, 9,24 123:2,8 127:16 151:24 153:11,13,14</p> <p>March 6:1 24:12 35:16,22 36:2 41:11,20 48:17 49:1 52:16 53:2 58:5,9 59:18 61:16,25 63:6, 13,17 64:11 66:15 89:4,8 91:16,22 105:14,17,19 108:16 109:8, 9,11 134:11 156:5</p> <p>Marian 6:6 18:11</p> <p>mark 26:17</p>	<p>27:3 29:18,22 30:1 44:25</p> <p>marked 26:23 49:5,7 63:18, 22 64:5 65:16 103:18,20,22, 24 104:1,3,4 106:10,17 107:4,20,22,23 108:10,11,12, 14 109:9,10,11 110:2,4 113:6 117:12,13,14, 15,17 118:10 159:2</p> <p>Mary 18:4,10, 24 68:18 72:25 77:12,14 79:10,13 98:10 146:21 155:15</p> <p>master 146:15, 18,24 147:12, 14</p> <p>material 104:23</p> <p>matter 6:6 7:21 16:6 42:4 111:22 136:21 152:10</p> <p>matters 113:18 115:8</p> <p>may 8:12 14:20 18:18 64:15 82:2 86:25 87:1,3 101:18 102:3 106:10 107:2 110:20 111:21 114:6, 25 116:4 119:20,23 120:16 121:2 122:1 125:4 127:20 128:7</p>
---	--	--	---	--

<p>169:11</p> <p>maybe 7:4 48:11 57:15 90:5 91:17 93:5 121:19 125:24 126:3 131:17 140:16 157:21 166:5</p> <p>mean 7:17 15:18 19:19 39:11 47:10 59:3 114:10 121:15 123:17, 20,22 142:10 147:19 150:7 151:19 155:17, 20</p> <p>meaning 150:22</p> <p>means 66:7 100:25 101:23 159:6</p> <p>meant 172:18</p> <p>mechanism 14:1</p> <p>meet 68:2,5,8, 10 104:13 106:5</p> <p>meeting 16:1 17:11 19:9,14, 25 20:2,5,10 21:6 63:7,8,9, 12,13,16,17 64:9,12,16 66:21 79:17 83:3,6,17,18, 24 84:2 85:9, 12 90:24 102:18 103:3, 13,17,23 104:2,4,5,10, 11,25 105:3</p>	<p>107:7,11,20, 21,23 108:9, 16,20 109:2,4, 6,8,10,11 116:12,19 117:10,13,25 118:2,20 119:11,16,18, 20,22 120:2,13 121:4,11 129:12,15,16, 17,20,24 130:14,15,18 133:16 140:14 152:7,8,11,19 155:16,19 156:6,11,12, 16,22 164:21, 23 165:14 166:23 167:3, 10,15,16,23 168:1,2 169:18,24 170:8,12</p> <p>meetings 14:22 19:6 21:1,8,9,12,18, 21 22:1,8,11 105:4,20,24 108:8 120:24 121:7 129:21 152:4 153:3</p> <p>members 84:5 127:24 151:24 152:21 153:7</p> <p>memorandum 168:19</p> <p>memory 131:1, 21 145:2</p> <p>mentioned 109:7 160:4 161:13</p> <p>merits 8:7</p>	<p>met 161:4</p> <p>meter 38:22 39:2,7 40:4 46:17 47:19 56:14 73:4,8 80:7 82:4 85:22 87:4,5,6, 13 135:10,17, 21 137:25 158:12 163:15 164:3,5</p> <p>meters 27:25 34:3 37:12,18 38:10,16 39:6, 9,10,15,23 40:8 46:3 48:4 55:17 63:2 74:2,8 75:18, 21,23 78:9 79:15 80:5,8,9, 12 81:11,21 83:4,9,11 84:4, 19 85:14,18 86:8,12,19 87:4 92:20 134:14 163:8, 11</p> <p>method 100:9 113:1</p> <p>mic 6:17</p> <p>microphone 10:2 23:25</p> <p>mics 44:4</p> <p>might 14:7 44:9 64:22 66:7 122:23 123:24 124:1 172:15</p> <p>miles 100:24</p> <p>mind 134:12, 20 164:11</p>	<p>minimum 25:12,15 149:7</p> <p>mining 12:19 46:22</p> <p>minor 104:19 113:18 115:8</p> <p>minute 19:18 31:16 43:1 56:12 120:6</p> <p>minutes 7:5 63:16 64:9,12, 16 66:22 71:22 102:8 103:17, 23 107:19 108:9 109:3,8 117:10,13 120:10 129:17 140:14 155:19</p> <p>miscommunica tion 96:25 114:7</p> <p>missed 166:17</p> <p>missing 120:2</p> <p>mistake 95:14 114:23</p> <p>mistakenly 104:17 105:6</p> <p>mobile 124:18 125:7,9,12,14, 24</p> <p>mom 24:4 77:15</p> <p>moment 55:21 124:13</p> <p>moment's 16:14</p> <p>money 62:25 63:3 126:18</p>	<p>month 21:8 30:20,21 31:2, 7 38:5,9 52:14 63:1 77:18 138:15 139:9, 17 158:9,23</p> <p>monthly 48:14 57:25 58:1,3, 17,23 59:9,23, 25 60:9,12 61:19 62:2 63:8 64:14 112:23 159:18, 23 164:25 165:3</p> <p>months 41:16 48:21 52:23 60:1 61:23 62:6 66:14 83:12,13</p> <p>months' 58:24</p> <p>moot 169:8</p> <p>more 8:5 10:23 11:18 12:7,12 21:24 44:10 61:9 88:9 90:5 101:2 111:20 140:16 145:5 158:1</p> <p>morning 6:5, 23,24 99:6</p> <p>Most 150:8</p> <p>motel 69:9</p> <p>mother 18:11, 25 21:3,7,16, 19 22:17,18,21 23:11,17,20,24 24:9 27:8 28:6 35:8 36:1,4,9 40:17 41:19,22 44:14,22 47:14,17,21</p>
---	---	---	--	--

48:22 49:2,14, 21,23 50:25 51:11,16,21,25 52:21,25 53:4 54:3,9 56:9,14, 16 57:2 58:6, 13,16,19,25 59:5,11,13 61:14,17,20,24 62:3,7,22 63:7, 11,14 66:16,23 67:15,17,20,23 68:1,4,7,10,17 69:19,23 70:4, 10 71:7,9 72:6, 9,12,17,21 73:10,22 74:3, 5,10,19,22,24 75:14,17,21 76:1,3,5,8,13, 17 77:2 78:2,7, 11,16 79:1,5, 11 80:14,18 81:16,20 82:7 83:23 85:2,6,8, 11,16,20 86:17,22 88:6 89:7,14 90:17 92:5,9,12	166:13 171:20 173:3 multiple 61:23 62:6 107:1 113:12 must 66:9 111:17,24 112:4 144:24 <hr/> N <hr/> name 20:21 29:7 45:16 99:6 nature 136:8 Nearly 64:3 necessarily 7:17 8:3 14:25 15:18 39:11 111:18 154:23 necessary 25:21 96:8 97:2 126:6 necessity 100:7 117:7 need 33:4 34:25 43:2,19 61:7 64:7 74:11 79:22 86:3 88:24 98:12 114:18 121:22 123:16 143:3 151:8 158:1 160:10 164:1,19,20,23 169:15 170:14 needed 104:15 127:17 168:2 needs 7:17 16:5 23:7	84:12 106:6 133:20 150:1 166:18 neglected 169:13 neither 19:2 95:5 never 47:12, 14,17 48:22,25 66:10 68:12 70:19 85:20 89:7 118:24 134:12 135:11, 14 142:19 164:11 new 25:13,14, 25 73:8,12 80:19 82:15 84:25 95:11 130:12,16 140:23 144:19 newspaper 22:10,11 107:13 116:14 118:10,16 next 30:20,21 31:2 43:6 68:11 145:18 155:5 nice 24:6 night 90:23,25 nine 6:4 no-win 13:13 nobody 59:4 127:21 none 64:5 93:12 110:17 128:21 169:2 nonetheless 9:3	nonpaying 111:21 nonpayment 67:7 noon 157:17 normally 10:18 Nos 54:24 note 22:23,24 34:7 71:14 76:21 99:23 104:11 109:4 113:13 noted 9:16 16:22 66:9 67:8 86:3 107:4 109:2,16 172:25 nothing 19:12 40:14 47:12 71:15 73:5 123:3,6 160:9 164:16 notice 7:1 12:8 14:23 16:1,15 20:25 21:20,25 24:9,11,13 27:8 35:20,24 36:1 41:14 44:2 48:18,25 52:18 53:1 55:19 57:24 58:3,5 59:9,13, 17,25 61:15 62:19 63:6 74:8 78:23 79:2 87:12 89:2,6 90:19, 21 91:13 95:19,25 99:23 104:1,2,25 105:1,4 107:12,13,14,	17,20,21,23 108:21,22,24 109:3,10 115:20,23 116:13,14,16 117:11 118:2, 5,10,12,13,16, 18,22 119:22 120:4,20,23 121:10,13,17, 23 122:25 129:24 130:14 131:9,11 132:2 133:16 134:1 135:20 137:13 154:16 159:3, 7,13,19 168:16 noticed 10:3 14:22 103:3 108:16 119:16 130:13 136:4 164:24 165:14 168:3 notices 41:17, 19 72:22 107:17 108:23 112:25 116:18 117:5,20,22 119:7,14 156:2,5 163:9 172:23 notified 22:21 94:7 105:24 107:11 108:20 163:16,20 notifies 159:8 notify 75:25 76:2 164:2 notifying 159:14 noting 127:20 November
---	---	---	--	--

83:13 91:2 103:11 109:21 117:2 119:24 novo 7:25 number 29:3 34:8,10,12,17 36:10 45:14 51:7 65:2 95:14 96:11 98:5 99:9 100:22 110:24 114:11,23 123:5 133:2 139:10 145:22 163:8 164:18, 19 numbers 44:25 45:1 50:22 55:1,12,22 56:18,19 57:9 <hr/> <p style="text-align: center;">O</p> <hr/> object 31:9 65:14 84:9 141:9 142:21 objection 8:10, 17 9:5,16 22:23,24 26:11 27:6 29:23 30:2,3 42:12, 13 43:17,18 49:8,9 50:17, 18 53:7,8 65:11,12 76:22 78:18 84:16 86:2 98:2,3 102:1 113:21, 23 114:8 169:16 171:1, 12 172:2 objections 132:5	obligation 149:19 160:17 obtain 111:5 112:24 obtained 111:9 obviously 10:5,17 12:3 39:5 71:14 162:18 occasion 84:22,23 occasions 84:21 occupant 56:23 occupied 16:10 56:24 90:1,12 104:21 occurred 119:18 October 19:5, 6,11,15,24 20:1,7,13 37:1 102:19 109:15, 24 112:23 116:25 139:6, 8,17,20 167:5 170:9,11 off 8:16 11:1 34:13 43:4,23, 24 47:6,23 49:12 65:4 70:15 71:22 72:1 83:12,19 85:14,18 86:20 87:10 112:14 120:10,22 121:1 132:1 136:17 137:14, 16 152:24 153:15 154:6	159:15 163:12 164:6 169:10 off-the-grid 93:19 offer 68:8 113:17 115:7 146:15 office 20:20 68:11,13 115:19,20,24 139:12 153:21, 24 154:14 155:2 often 111:2,9 Offentimes 126:20 once 39:22 40:4 75:1,3 111:3,8 147:23 161:19 one 7:12 13:19 14:5 19:3 20:20 21:24 22:18 24:3 28:13,15,16 29:13 30:7 42:22,25 43:20 46:20 54:2,15 55:13,18 56:1 61:9 64:16 66:2 70:14 74:15 89:23,24 90:8 92:1 94:22 98:8,9 103:11 114:10 118:7,10,25 125:23,24 142:19 144:8 145:5 147:10 150:24 155:2 158:18,21 159:2 160:4 161:7 163:2	166:21 167:8 169:19 170:19 171:19 one-year 145:3 ones 42:21 53:18 55:16 56:5 58:8 59:22,23 90:11 92:7,8 165:7 ongoing 126:7 online 154:24 only 12:25 13:19 28:13 55:13,16 56:5 57:23 62:5,25 78:13 89:24 100:23 111:4 118:16 125:16 148:8 Open 105:3 121:4,7 152:4 153:2,3 opened 154:11 opening 9:19, 23 14:12,14 16:3 operating 126:16 operations 99:11,12 126:7,25 opinion 31:13 93:13 opportunity 17:1 61:8 84:15 96:6 97:1 option 17:4 65:14	oral 172:5,17 order 14:6,16, 23 15:5 16:24 17:12 27:1 64:14 80:8 101:8 102:5,20 103:5,8 104:13,16 127:2 129:10 145:12 154:3 158:10 161:18 165:19 166:9 167:1 168:23 169:12 170:4, 7,15 172:9,10 ordered 102:18 104:6 organization 146:10 original 42:1,2, 5 43:12 131:2 137:3 168:19 ostensibly 33:12 others 13:2 142:3 otherwise 108:7 outside 11:5 31:14 113:24 114:3,5,11 115:4 116:6 124:2 over 30:18 32:8 60:5 82:15 83:15,17 120:6 overall 96:16 oversight 104:8 118:18
--	---	---	--	--

<p>owe 30:15</p> <p>owed 31:10 57:4 58:3 112:16</p> <p>own 11:11,13 12:14 23:23 28:7 38:18 46:7 53:16 55:6 58:22 75:22 92:2,24 115:21 120:18, 24 126:4 141:19 144:7 146:9,10,22 147:6,9</p> <p>owned 60:20 146:6,8 147:15</p> <p>owner 60:20 69:11 70:2,7 129:1 138:1, 21,22 140:1 143:21 144:20 149:1 161:4</p> <p>owner's 162:19</p> <p>owners 12:5 13:15,22 16:7 100:13,19 106:14 109:14 153:11 169:22</p> <p>owns 10:13 39:5 146:12</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>p.m. 173:6</p> <p>pages 64:4,5 158:20</p> <p>paid 62:23 63:2 110:23 111:24 127:21,24</p>	<p>134:3 162:8,15</p> <p>pamphlet 72:2, 4,5,8,23,24 73:1,3 84:6 112:18,21 113:3,6,20 114:16 115:14, 16</p> <p>pamphlets 71:18 73:19 112:21 115:10, 16</p> <p>paper 158:17 159:9</p> <p>paragraph 25:10,24 27:22 66:1 67:3 128:9,11</p> <p>paragraphs 67:4</p> <p>parallel 125:2</p> <p>parentheses 43:10</p> <p>parenthesis 43:7</p> <p>park 124:18 125:9</p> <p>part 9:6 10:6 33:12 106:22 109:6 112:6 114:3 128:23 130:7 138:13, 14 152:15 157:21</p> <p>participate 44:10</p> <p>particular 11:3, 18 35:5 60:20 88:14 93:15 95:3 107:3</p>	<p>113:14 130:21, 22 136:14 144:24 147:4 160:7 162:14 163:1</p> <p>particularly 11:14 26:25 114:4</p> <p>parties 7:16, 20,24 8:4,6 9:18 17:14 102:11 105:5 165:11,21 169:17</p> <p>party 9:10 165:1 169:3</p> <p>pass 64:21</p> <p>passed 129:12</p> <p>past 159:10,11, 20,22</p> <p>past-due 111:1</p> <p>patience 18:16</p> <p>pause 55:21</p> <p>pay 71:7,8,9 80:6,16 89:20 96:19 111:15, 16,20 112:4,11 126:19 148:11, 14 149:7,22 159:14</p> <p>paying 111:12 126:5,11 147:25</p> <p>payment 25:15 112:3 136:8</p> <p>pays 112:5</p> <p>ped 124:22,23 125:18,23</p>	<p>pedestal 135:2,4,10</p> <p>pedestals 93:7</p> <p>penalty 108:19 130:9</p> <p>pending 105:5</p> <p>people 43:25 75:3 143:11 144:4 145:21 154:14 167:20</p> <p>per-day 131:23 132:21,24 133:17 165:12, 15</p> <p>perceived 151:4</p> <p>perhaps 15:3 95:13 96:25 115:3 118:11 119:5 121:25 133:4,20,25 140:15 142:22 144:15 150:1 170:1</p> <p>perimeter 124:21</p> <p>period 106:7 129:11</p> <p>periodically 60:1 62:6</p> <p>permanently 138:18</p> <p>Permission 26:15</p> <p>perpetual 66:10</p> <p>perpetuity 149:23</p>	<p>person 88:15 112:10 160:14</p> <p>personal 66:25 115:21</p> <p>personally 82:9 107:16 108:23 116:18</p> <p>perspective 46:9 104:22 133:14</p> <p>phone 6:24 7:3 68:12 76:3</p> <p>photocopy 121:19 122:4</p> <p>photographs 163:18,19</p> <p>physical 113:13</p> <p>physically 113:11</p> <p>pick 88:6</p> <p>piece 159:9</p> <p>pipes 83:15,22</p> <p>place 16:19 119:21 124:22 128:20 129:7 130:21 131:16</p> <p>plan 11:8 12:10</p> <p>planning 166:8</p> <p>plat 34:17 35:5</p> <p>platted 101:2 125:1</p> <p>plus 131:23</p> <p>point 14:15 15:20,24 23:22 31:15 38:12 46:2,11 86:4</p>
--	---	--	--	--

<p>88:2 95:4 97:3 114:2 123:23, 25 127:21 130:23 132:3 133:13 136:10 141:23 142:2 144:15 154:1 166:5 168:3 170:19</p> <p>pointed 151:7</p> <p>points 13:25 132:13</p> <p>policies 13:5 15:8 66:4 101:23</p> <p>policy 112:14 128:24 134:1</p> <p>poses 9:9</p> <p>position 8:25 96:6</p> <p>possibly 139:12</p> <p>post 119:17, 19,20,23,24 171:2</p> <p>post-hearing 17:2</p> <p>postcards 158:14</p> <p>posted 104:2 105:2 107:17, 21 115:20,24 116:16</p> <p>posthearing 96:7 97:2 98:13 145:12 157:20,25</p> <p>posting 22:7 107:12,14 108:21,23</p>	<p>posts 116:1</p> <p>potential 124:3,12</p> <p>potentially 8:4 17:6 142:1</p> <p>power 10:17 16:17 18:5 38:23 40:17 47:18 67:24 75:24 76:18 77:3,20,23 78:3,8,10,13 81:17 87:10,11 88:1 93:17 113:15 146:5</p> <p>powered 146:2,3</p> <p>practice 98:17 119:8</p> <p>Precisely 39:13</p> <p>predictable 106:6</p> <p>prefer 9:3,24 23:3 157:23</p> <p>prefers 8:19</p> <p>preliminary 95:18</p> <p>premise 11:2</p> <p>premises 122:25 138:12</p> <p>premium 112:12</p> <p>preparation 96:24</p> <p>prepare 84:24</p> <p>prepared 15:14 16:23 29:25</p>	<p>95:1,17 96:21 98:16 116:8 170:25</p> <p>preparing 88:4</p> <p>presence 38:19 154:21</p> <p>present 6:12, 15 156:19 160:9 165:14</p> <p>presented 10:6 113:25 142:16</p> <p>presently 69:8</p> <p>pretty 121:5 151:9 153:12 171:20</p> <p>previous 30:10,13,14,17 52:23 57:3 105:2 160:3</p> <p>previously 16:22 107:4 109:16 119:21 156:23 163:11 164:6</p> <p>primarily 124:18 128:16</p> <p>printed 26:5 35:20,24 41:14,17 42:9 48:18 52:18 158:14 159:3</p> <p>printout 119:14 120:5, 17</p> <p>prior 10:14 19:12 33:24 35:22 36:2 37:4,8 41:19 48:6 50:12 51:13,19 52:3,</p>	<p>10 53:2 57:4, 24 58:8 61:16 62:12 73:20 74:8 87:12 89:21 91:4 103:4,7 117:5, 24 119:18 126:2,15,23 129:6 130:15 131:16 132:20 137:23 147:19 152:19 167:24</p> <p>probably 122:17 132:8 145:12</p> <p>problem 142:1 163:25</p> <p>problems 126:20 132:14</p> <p>procedures 119:9</p> <p>proceed 102:3</p> <p>proceeding 7:24 8:11 95:5 143:2</p> <p>proceedings 99:16</p> <p>process 7:14 8:21 12:11 60:16 140:5 142:14,23 148:3 158:8,10 161:2,8 167:17</p> <p>processed 147:24</p> <p>product 11:24</p> <p>proffered 71:13</p> <p>promising 95:16</p>	<p>promote 127:6</p> <p>proof 17:7 112:24 119:1</p> <p>properly 14:22 76:9 103:3 105:24 108:16 136:4</p> <p>properties 28:3,6,10,18 46:18 47:18,23 48:9 53:17 54:1 55:6,13, 23,24 57:9 58:22 62:1,5, 11,24 70:17 74:25 90:12 91:19,24 92:9 93:14,18 100:20,23,25 104:20,21 106:15 107:1 110:18 111:2 113:9,12 122:10 123:14 124:19 125:8 126:1 128:17 147:11 160:24</p> <p>property 10:14 11:3 12:20,24 13:1,2,14,22 16:7 28:15 29:14 33:19,23 34:8 38:20,24 39:7,16,19,20, 23,24,25 40:3, 5 45:25 46:14, 15 47:1,3,15 48:3 51:24 60:20 69:11 70:2,6,17 71:1, 4 73:25 74:1,2, 12 80:24 84:24 86:15,18,24 87:5,22 89:19</p>
---	---	---	---	---

<p>92:16,23,24 93:1 100:13 106:14 107:3 109:14 112:4 113:9,14,16 123:22,24,25 124:4,19,21,22 125:3,13 134:15 135:1, 5,8 137:17 138:21,22 143:21 146:20, 23 147:5,9,15 148:2 149:1 153:11 160:16 161:4,24 162:19 163:2,7 169:22</p> <p>proposed 99:24 102:23 107:8 108:1 109:19 116:11, 13,15,19 117:11 119:13 130:9</p> <p>provide 14:9 16:14 71:15 100:21 106:6 108:6 120:23 146:5 150:17 156:15 160:18 165:6,22</p> <p>provided 10:10 11:8 12:8 16:8, 19 25:17 33:12 34:15 40:14,15 48:20 68:24 78:23 95:20 97:25 99:23 101:15,16 102:10 109:3 139:11,15 152:13 163:19 165:23</p>	<p>provides 110:24 112:3</p> <p>provision 141:23 165:17</p> <p>public 7:15 9:9 13:17 16:1 21:1,21 22:1 90:21 91:11 97:19 100:17 104:2 105:1,4, 20,24 107:9, 12,21,25 108:15,21,24 115:23 116:19 117:12 118:20, 22 119:11,14, 22 120:3,20,24 121:4,7 128:13 129:12,19,22, 24 130:14,15, 18 133:16 152:4,8 153:3 154:24 155:16 156:12 164:21 165:14 168:2</p> <p>publication 107:13</p> <p>publicly 103:2 115:19</p> <p>published 107:22 116:14 117:11,22 118:9</p> <p>pull 23:25 44:4</p> <p>pulled 63:2 75:21,23 135:12,14,16 137:25</p> <p>pulling 135:21</p> <p>purchase 93:22</p>	<p>purchased 48:8 126:2</p> <p>purpose 49:25 83:19,21 96:14 110:22</p> <p>purposes 30:12</p> <p>pursuant 105:24 148:21</p> <p>put 6:10 33:19 35:24 41:24 43:6,10 47:9 64:21 79:8 80:8 81:21 98:13 129:7 137:7 149:19 170:17</p> <p>putting 128:20 130:16</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>qualifies 118:17</p> <p>qualify 110:18 145:6 150:22 151:2</p> <p>question 14:21 15:24 47:25 61:5 67:7 76:9 77:21 87:16 95:22,24 97:13 102:22 126:8 130:13 133:15 138:11 140:16 142:7,21 143:14 145:19 154:9 161:7 170:6</p> <p>questions 13:23,25</p>	<p>15:11,15,21 16:23,25 17:8 18:19,24 22:13 27:5 30:25 44:11 84:10 88:13,21,22 93:24 95:2 96:9 98:19 102:7,8,12 113:19 114:4,6 115:4,9 117:8, 19 122:7 142:24 157:15 158:2 160:1 161:2,11,14 166:9 172:6</p> <p>quick 8:13</p> <p>quickly 171:4</p> <p>quite 122:19 167:14</p> <p>quo 140:19</p> <p>quote 101:14, 16,17 113:13</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>raise 13:16 14:4 18:2,9</p> <p>raised 115:2</p> <p>raising 114:10</p> <p>rate 96:17 108:1 115:24 116:13,15,22 117:11 130:3, 21 132:11 133:8 134:2 156:25 162:21</p> <p>rates 15:8,17 25:25 73:9,12 83:7 101:22 107:9</p>	<p>rather 8:7 12:16,17 59:25 171:4</p> <p>reach 19:17</p> <p>read 25:4,10, 24 29:2 35:15 44:14 65:25 67:2,3,4 73:7 98:17 128:1 129:15 134:16 149:20 163:16 170:7</p> <p>readily 118:7</p> <p>reading 15:5 50:4 160:5</p> <p>readings 96:8 158:12,13</p> <p>ready 16:14 88:3,12 100:21 122:9 123:17</p> <p>real 8:13 151:12</p> <p>realities 16:16</p> <p>realize 169:18</p> <p>realized 127:1</p> <p>really 13:3 17:13 26:22 27:1 46:6 60:6 93:6 112:7 121:12 142:20</p> <p>rear 40:4 47:1</p> <p>reason 171:3</p> <p>reasonable 25:21 100:15</p> <p>reasonably 170:13</p> <p>recall 24:17 155:14,17,20,</p>
--	--	---	--	---

<p>21,23,25 156:12 157:7, 9,12</p> <p>recap 75:4</p> <p>receive 16:8,21 36:1 41:19 53:1 55:19 57:24 58:5,7, 17,22,23 59:17 61:15,18,21,22 62:2,5 72:4,7, 24 73:19 87:2 89:23 91:23 112:3 158:16</p> <p>received 14:3 24:23 27:8 29:13 34:19 37:1 44:2 48:25 58:2,25 62:19,25 63:3, 5 64:14 71:17 72:3,19,22 73:1 82:3 84:6 87:3 89:23 90:24 111:17 115:13,15</p> <p>receives 159:17</p> <p>receiving 16:11 24:17 25:16 27:23 28:2,10,18 34:1 37:7 39:7 40:11 45:23 51:17 59:23 70:6 76:17 89:11,21 90:6 91:18 100:12 137:7,10</p> <p>recent 131:20</p> <p>recently 79:11</p> <p>recess 71:20,</p>	<p>24 120:11</p> <p>recognize 9:2 10:8 24:21 25:1 28:25 150:12</p> <p>recollect 157:3</p> <p>recollection 131:10 156:18</p> <p>recommendati on 110:1 117:15</p> <p>recommended 105:16 109:20 117:1</p> <p>reconnected 110:15</p> <p>reconsideratio n 170:14</p> <p>record 6:3,10 8:16 9:6 14:1 17:17 26:10 43:4,23,24 45:2 60:9 61:1, 11 65:4 70:15 71:22 72:1 100:7 119:14 120:10 134:9 136:22,23 137:8 152:24 168:15</p> <p>recorded 148:1 164:6</p> <p>records 59:2,3 131:13 133:23 148:2 156:18 171:22</p> <p>recross 94:18 164:14</p> <p>red 126:17</p>	<p>red-lined 103:19</p> <p>redirect 94:2 158:2,3,6</p> <p>redlined 134:11</p> <p>reduced 132:16</p> <p>reducing 106:23</p> <p>reduction 131:10</p> <p>Reed 63:4</p> <p>reestablish 161:18</p> <p>refer 10:18</p> <p>reference 27:24 28:24</p> <p>referenced 15:21</p> <p>referred 79:7 90:21</p> <p>referring 10:16 50:20 54:25 57:11 98:4 153:1</p> <p>reflect 66:22 102:25</p> <p>reflects 139:13</p> <p>refused 155:9, 13</p> <p>regard 91:7 129:24</p> <p>regarding 20:24 21:1,21 22:5 25:11,14 67:16 69:25 73:24 82:25</p>	<p>95:19 104:20 108:17 114:4 167:8</p> <p>regards 10:17, 22 11:7,10,11 12:2,5,11,14 13:6 20:11 50:21 68:25 69:2,25 71:12 73:5 79:15 83:7 86:12 87:15 91:14 94:14 98:4 127:10 167:11 169:6</p> <p>regular 107:6 116:12 159:23</p> <p>regularly 101:11</p> <p>regulate 165:16</p> <p>regulated 101:12</p> <p>regulations 11:10 25:22 125:16</p> <p>rehearing 167:11 168:13, 17 169:1 170:3,14</p> <p>rehooked 148:12</p> <p>reinitiated 148:17</p> <p>reinstate 162:3</p> <p>reinstated 79:24 162:18</p> <p>reiterate 46:13</p> <p>reject 151:2 155:24</p>	<p>rejecting 155:21</p> <p>relate 114:17</p> <p>related 108:8 172:6</p> <p>relates 100:6</p> <p>relations 99:13 127:5</p> <p>relatively 104:19</p> <p>relevant 66:25 86:4 102:11 141:23 164:16</p> <p>reliable 127:3</p> <p>relief 14:7,9</p> <p>relies 111:14</p> <p>relieves 160:17</p> <p>relieving 160:21</p> <p>rely 44:22</p> <p>relying 63:1</p> <p>remaining 111:18,24</p> <p>remember 76:7 128:7</p> <p>reminded 161:14</p> <p>removal 73:24 87:13</p> <p>remove 39:22</p> <p>removed 34:3 35:6 37:12,17, 25 38:10 39:11,12,15,17 40:8 74:1,9,21 75:18 79:16</p>
---	--	---	---	---

80:7,9,13,23 82:3 84:18,19 87:4,5,6 113:8, 10,11 134:14, 18 148:19 rent 88:7 93:14 112:6 rental 63:2,3 107:1 111:1 134:15 rented 88:8 89:19 renter 75:18 80:20 129:5 renters 38:7 75:25 80:5 82:16 87:21 88:3 rents 63:3 repeat 6:18 29:24 62:16 rephrase 58:10 142:7 replace 167:15 replaced 80:5 replied 103:15 report 40:10 75:2 reported 38:9 40:8 reporter 6:21 18:1 44:6 45:3 reports 158:25 163:20 represent 55:23 representation 49:12	represented 166:22 represents 41:11 request 8:15 16:20 18:4,6 33:13 78:3 96:6 97:17 100:14,22,25 106:16 107:2 136:19,23 154:13 155:21, 24 162:19 168:13,17 169:5 170:14 requested 36:25 77:19 80:23 103:10 113:25 135:24 136:16 138:18 169:2 170:3 requesting 76:12 155:15 161:15 require 33:5 144:16 149:22 required 25:18 80:6 99:23 101:11 103:13 105:21 106:12 110:8 112:18 115:11,17,20 117:5 120:23 127:19 133:11 141:10,11 143:19,22,25 152:3 153:2 160:7 requirement 95:25 104:14 149:11 166:24 168:8	requirements 96:22 121:4 132:3 133:11 149:17 161:4 requires 121:10 134:5 requiring 112:9,13 170:8 reside 10:13 153:11 resided 70:23 89:24 residence 54:3,7,14,17 56:20 resident 10:12 99:15 140:1 residential 147:11 residents 90:3 110:25 140:8 153:17 resolution 11:17 24:19 53:12 66:3,4 103:16,21 108:2,3,10,11 116:21 117:14 138:14 resolve 7:16 11:21,23 13:21,22 68:3, 6 resolved 25:8 106:20 resolves 70:11,12 resort 69:9 145:24 146:2, 11 147:8	resources 150:8 respect 10:7 respond 21:3 84:15,16 response 17:3 66:17 69:24 95:15 97:17 102:21 105:2 106:10,16 114:1 138:19 167:8 responses 22:13 98:19 responsibilities 72:20 73:6 responsibility 127:6 responsible 99:10 106:12 110:15 112:1, 9,13 128:23 140:25 144:20 147:25 rest 86:3 88:11 restate 88:24 restriction 128:3 restroom 71:20 results 68:21 retired 13:9 returning 82:2 84:6 returns 160:15 revenue 106:6 revenues 111:14	review 169:1 170:3 171:5 reviewed 7:22 105:15 109:19 revised 20:12 102:24 103:4, 19 104:7,9,15 105:7 116:24 117:1,3 150:1 revisions 154:18 Rick 68:18 rights 72:20 73:6 ring 154:18 rough 122:16 roughshod 12:14 rule 110:16,22 112:19 129:7 136:3 137:23 140:9 144:11, 16,17 145:7 147:22 rules 12:10,15 23:2 25:11,13, 14,20,22 26:1 107:9 108:17 115:12 125:15 135:20,23 136:3 137:13 138:21 140:18, 24 141:1,12,13 143:1 150:25 151:17 ruling 10:6,8 run 42:24 77:20 124:20 125:2 137:9
--	--	--	---	--

<p>running 12:14 47:2 121:15 123:21 153:6</p> <p>runs 47:6 134:25 135:4</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>said 12:5 19:19 20:22 46:14 62:23 66:19 67:9 68:11 75:19 77:2 85:4 131:8 132:19 134:17 141:13 144:7 145:4 154:12 156:14 172:17</p> <p>same 8:15 31:6 32:11 36:20,22 39:9 43:9 46:8, 11 47:25 49:18 57:6 64:16 69:21 70:6 74:23,24 103:15 108:1 112:8 117:21 118:12 134:20 140:8,19 153:22 161:9</p> <p>Saturday 102:19</p> <p>save 64:22</p> <p>saw 170:12</p> <p>say 10:15 14:19 21:23 23:7,8 30:21 35:18 41:13 45:12 48:17 50:4 54:24 55:23 59:4 61:18 64:4</p>	<p>84:7 91:13 93:16 98:6 100:1 115:6 122:17 123:5 128:12 130:1 136:1 141:25 143:17,22 144:24 148:24 155:4 160:22 161:9</p> <p>saying 39:12 44:12 84:19 118:24,25 130:15 135:2 159:20 169:9, 23</p> <p>says 14:18 15:6 28:22 31:2 35:12 66:2 98:8,9 128:2 141:25 151:1,14 159:3,22 168:7</p> <p>schedule 98:13 155:6 162:21 164:2</p> <p>scheduled 107:9 116:20 170:12</p> <p>schedules 96:18 106:5,8 115:24 156:25</p> <p>School 69:12</p> <p>scope 11:5 78:20 84:10,11 113:24 114:11 154:2</p> <p>screening 112:11</p> <p>seal 26:6</p> <p>sealed 26:7</p>	<p>Seamons 6:6, 10,11 9:22 10:12,22 11:1, 19,21 12:16,24 13:8,14,18 14:7,21 17:9 18:6,11,16 23:3 29:9 44:9, 12 45:18 51:4 58:11 60:7,21 61:7,13 66:6, 11,13 67:6 73:25 88:20 105:8,23 108:6 109:1,3,14 110:19 112:18, 21 115:3,13, 15,18 125:11 136:14,16 139:12,15 155:10 156:14, 15 157:10 159:1 161:17 165:1 168:12 170:3</p> <p>Seamons' 12:11 15:6 17:17 18:7 73:25 100:5 101:20 104:23 109:13 110:6, 18 113:9,12 124:19 125:25 134:14 155:11, 14 169:7</p> <p>Searched 22:8</p> <p>season 153:15</p> <p>seasonal 88:4 110:25</p> <p>seasonally 90:4</p> <p>second 18:18 25:2 35:11,13</p>	<p>65:25 70:14 79:6,13,14 81:18 84:23 85:4 125:23 152:15</p> <p>secretary 26:6</p> <p>section 125:1 128:6 144:24 150:16</p> <p>Security 63:1</p> <p>seem 11:5 13:4 38:15 151:7</p> <p>seemed 134:16</p> <p>seems 8:22 12:1 14:14 114:8 151:9</p> <p>selecting 112:11</p> <p>sell 13:2</p> <p>send 115:16 129:23 158:10, 22</p> <p>sending 60:9, 12 131:10 158:9 159:23</p> <p>sense 112:10 131:14</p> <p>sent 60:18,19 103:15 119:5 130:7,14 131:9 156:2,5 163:8 164:25 165:4</p> <p>sentimental 12:20</p> <p>separate 50:1 92:11,13,15,16 106:25 133:5 159:9</p>	<p>September 17:12 19:5,9, 15,19,20,23 20:7 22:6 24:15 26:1 28:9,12,20 32:11,22 33:16 37:4,8 40:25 41:3 50:13 51:14,19 52:1, 3,4,7 54:11 55:14 57:24 58:4 62:12,20 66:15 89:3,19 102:19 103:6 109:23 112:23 116:23 139:9, 13,17,22,23 167:4 169:4 170:4,8,11</p> <p>serious 111:22,23</p> <p>serve 91:14 122:9 160:24</p> <p>serves 131:1 145:2</p> <p>service 16:8, 11,14,19 31:13 32:2 39:7 40:23 41:8 44:2 78:3,19 79:23 81:4,11 84:20 90:6 91:7 92:22,23, 25 93:14,15 96:20 100:12, 13,21,23 104:20 106:5,7 110:14 113:14, 15 123:18 125:17 127:3, 19 135:8,23,24 136:6,16 137:15,16,25</p>
--	---	--	---	--

<p>138:18 152:5 154:24 156:25 159:15 160:18 161:16,18,24 162:3,18 164:1,2 165:18,19</p> <p>services 25:15, 17 34:2 45:24 51:19 67:18 91:11 94:5,8, 13 97:25 100:24 101:1, 5,15 110:16,23 111:15,17 112:2,3,5,8 122:14 124:1 139:23 140:21</p> <p>servicing 122:9</p> <p>session 152:11</p> <p>set 6:5 10:9 11:7,17 15:8 16:23 17:8 68:24 96:17 98:18 101:23 104:14 106:4,7 144:12 152:11 159:18 161:4</p> <p>sets 141:24 167:10</p> <p>setting 11:11 166:9</p> <p>settled 130:25</p> <p>settlement 19:1 102:17, 22,24 103:1,3, 6,7,10,14,18 105:9,11,14 106:21 109:6 130:6 131:5 132:11 152:18 165:10</p>	<p>seven 15:11,15 92:11,14 98:19 102:6 114:4 115:4</p> <p>several 58:24 106:19 113:18 115:8 158:15</p> <p>severe 153:7</p> <p>sewer 67:24 113:15</p> <p>share 111:20</p> <p>Sharon 29:9 45:18 51:4</p> <p>shed 131:17</p> <p>sheet 116:24</p> <p>sheets 102:25 103:4,19 105:7,10 117:2,3 158:17</p> <p>Shhh 165:8</p> <p>short 71:19 116:8 158:4 171:12</p> <p>Shortly 164:4</p> <p>Shortreed 6:14 20:3 26:6 38:22 60:15, 21,24 61:2,4 62:23 63:12 65:2 66:3,8 67:8 68:20 84:4 94:10,21 98:15,23 99:2, 7 114:14 115:1,6 116:4, 8 118:11 119:6 133:19,25 139:5 140:17 141:2,18 142:3,22</p>	<p>150:9,15 152:25 153:10 158:8 170:24 171:3</p> <p>Shortreed's 156:22</p> <p>shot 61:9</p> <p>should 24:4 64:13 104:16 137:4 169:5</p> <p>shouldn't 11:25</p> <p>show 11:8,12 12:10 27:10,12 30:9 32:10,17 34:7 41:17 51:13 59:3,21 138:6 164:5</p> <p>showing 43:13</p> <p>shown 37:4 105:10 109:4</p> <p>shows 30:10 32:24 35:23 43:13,15 44:7 54:23,24 72:15</p> <p>shut 81:3 84:19</p> <p>sic 11:12 63:4</p> <p>side 124:21</p> <p>side-bar 100:1</p> <p>signed 26:2</p> <p>Silence 6:25</p> <p>similar 14:4 110:6 112:25 116:16</p> <p>similarly 27:13</p> <p>simple 16:16</p>	<p>simply 8:7,25 16:6,18,20 32:1 89:1 97:1 101:5 110:22 111:12 112:15 123:20 134:17 141:10 142:22 149:20 153:1 159:19</p> <p>simultaneously 166:1</p> <p>since 68:14,17 70:24 91:16 111:13 157:20 161:9</p> <p>single 74:12</p> <p>sir 139:7,16,23 146:5,9 147:14 148:5,10,13 151:19 153:19</p> <p>sit 131:8</p> <p>site 47:7 124:3, 11,12 125:12</p> <p>sites 125:7</p> <p>SITLA 48:12 69:10,15,17 128:16,21,22 129:2 143:5,9 145:19,22 146:6,16 147:2,7,15,17</p> <p>SITLA'S 69:17, 21</p> <p>situation 13:14 67:7 124:16 132:7 141:20 144:17 150:13</p> <p>six 28:21 53:25 55:11,12,16</p> <p>slash 154:15</p>	<p>small 121:15</p> <p>Social 63:1</p> <p>software 159:8</p> <p>solar 93:17,19 94:5</p> <p>sold 53:21 55:7,24 56:5, 10,13 89:19</p> <p>sole 99:14 115:22 150:21 151:1,10 160:6</p> <p>solely 12:22</p> <p>solid 25:18</p> <p>someone 76:22 81:6</p> <p>something 47:9 74:20 122:4 123:1 127:2 133:20 136:7 140:12 151:12,13,14 169:13</p> <p>sometime 129:10 161:18 164:4</p> <p>somewhere 114:7</p> <p>sorry 21:24 29:24 54:13 55:22 56:7 57:21 61:2 62:17 70:14 72:11,16 73:15 75:2 79:19 90:5 98:4 104:21 108:12 113:23 124:9, 15 134:11,12 143:15 147:12 156:8 161:12</p>
--	--	--	---	---

172:19	standards 9:11	stands 100:21	134:17 151:10	95:14
sort 14:2 17:2 38:23 84:20 91:18 96:7 119:5	standby 11:15, 16 14:17,19, 20,23 15:7,22, 25 16:4,20 22:22 24:10,14 25:15 27:7,8 28:4 32:24 33:22 41:7 48:13 52:12 57:14,18 58:4 59:9,24 60:12 61:15,19,21,23 62:1,5,11,20 63:5 66:10,14 67:11,15,20 69:3 80:7,10 89:2,4,6,22 94:16 95:6,8, 11,19,22,23 96:2,12 97:4, 25 99:17,25 100:6,8,9,14, 16,18 101:5,8, 10,11,18,21,24 109:13,14,16, 24 114:16 116:11,20,21 117:6,8,9 119:12 122:10, 14 123:9 124:10 126:3, 5,10,16 138:1, 6,13,15 139:6, 13,21 147:16, 20,25 149:7, 13,22 156:11 161:24 164:21 165:18	start 45:20 58:4 72:1 started 22:7,9 52:8 89:3 91:23 127:17 133:9 138:15 139:6,13 164:5 168:12 starting 62:20 starts 64:8,10 state 48:11 51:1 52:17 57:4 65:25 67:10,13 69:12 81:1 114:21 118:7 128:8 137:13 149:11 150:20 160:16 stated 53:19 79:18 83:4 95:22 101:7,9 110:22 139:5 153:21 statement 9:23 14:14 48:20 72:19 98:16,18 100:7 101:25 115:2 116:9 129:15 134:16 141:1 157:2 167:7 170:25 statements 9:19 48:23 91:23,25 102:14 113:24 157:2 states 30:15 59:20 stating 113:23 114:10 115:24	status 107:2 140:19 148:19, 21 statute 9:8 101:17 118:15 134:5 statutory 95:25 stay 9:25 77:3 80:23 81:11 140:19 153:14 stayed 82:1,9, 11,14 121:16 stays 140:20, 21 160:12 step 102:21 steps 14:14 still 35:12 40:3 71:15 82:6 94:15 132:9 150:23 151:2 160:9 stipulate 128:12 149:16 stipulated 102:21,22,25 103:7,14,18 105:9,11,14 stipulation 17:12 19:1 102:17,24 106:22 107:4 109:7 129:9,11 130:6 131:6 132:11 145:3 152:18 167:1, 2,25 170:15 stop 71:4 straight 43:11	strain 113:2 streaming 44:2 strongly 13:18 structure 96:17 123:24 124:1 structures 13:5 122:24 subject 165:10 submit 49:17 53:9 145:12 submitted 34:21 64:7 102:22 103:19 108:4 139:11 subscribe 91:11 subscribed 91:1 subsequent 14:8 subsequently 7:20 subsidize 100:19 substantially 118:12 substantive 16:5 succinctly 10:11 170:18 such 25:20 94:5 110:13 113:14 131:11 136:8 163:10 sue 111:4
source 134:25				
south 114:21				
speak 23:13, 16,18,22 24:6 44:4 60:25 88:25 120:4				
speaker 7:7 20:4				
speaking 61:5 152:17				
special 104:13 152:5				
specific 15:8, 17 17:8 101:17,22 113:19 115:9 123:5 142:17 156:9 162:21				
specifically 12:12 33:25 50:2 60:21 140:10,11 157:9				
specify 89:13				
speed 121:3,5				
spend 33:5				
spoke 20:19 94:9 170:24				
staff 127:24	standbys 122:22			
stages 171:8	standing 110:13 122:9 143:12 145:6 149:5			
stand 13:20				
standard 9:7 119:8				

sufficient 93:10 160:23	systems 93:19	talks 120:1	104:7,9,16,18 105:7,9,10 106:2,3,23 108:2,4,6,13 109:17,20 110:8,9,11 112:18 115:11, 17,18,22 116:2,24 117:2,3 118:18 128:1 129:25 130:2,12,16 131:15 133:5, 6,12,14 134:10 138:14 141:12, 23,25 144:23 145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	144:8,9,10,18, 19 145:4 160:8,9 163:2
suggest 84:12 165:25	T	tampering 73:4,8 83:5,6,7 85:13 104:19 106:24 108:19 109:5 130:9,21 131:14,16,20, 24 132:16,17, 20 133:17 163:17,24 165:12,15	131:15 133:5, 6,12,14 134:10 138:14 141:12, 23,25 144:23 145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	tenant's 140:20 160:3, 11
Suing 111:6	T-u-i-d 76:4,5, 14	tap 38:24 39:3 90:7 92:21 101:18 134:19 135:6,7,14	138:14 141:12, 23,25 144:23 145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	tenant-occupied 104:20
summaries 139:11	T01 96:15,16	tapped 25:16 27:24 28:2,10, 19 33:23 34:1 37:7 45:23 51:18 54:2,20	145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	tenants 12:3,5 40:7 69:6,7,20, 25 70:16,19, 20,21,25 71:3 76:11 77:1,2, 14 78:12 80:15,19,20,22 84:25 90:13 93:11 106:13 107:2 110:5,6, 11,12,17,19 111:1 112:11, 14 128:21 137:18 143:4, 8,10,12,16,23 144:2 145:19, 22 160:2,4 161:15 162:15
summarily 128:22	take 7:21,24 8:6 9:5 17:25 18:18 20:16 29:18 42:23 43:2 65:10 71:19,21 86:11 88:15 102:8 125:13 130:11 137:7,10 138:7 160:10,11 163:18 169:15	taps 12:12 35:5,6 37:14, 24 38:8,16,19 39:8,9,11 46:3 54:10 73:24 74:1,8 75:17 79:15 84:18,19 92:20 106:14 108:18 113:8, 10,12,13 134:18 147:17, 23 148:14,15, 17 160:15	145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	term 101:17
summarize 159:16	taken 14:14 40:4,13 84:20 140:5	tariff 10:24 11:6,11,12,13, 17 12:2,4,9 15:9 20:12,22, 24 21:1,6,10 22:2,5 50:4 73:5,6 95:11, 23 96:3 97:4,6, 8,11,21 99:18 101:23 102:25 103:4,19,21	145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	terminate 67:9
summarizes 158:18	takes 23:14 98:12	taxes 92:16	145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	terminated 135:24 136:12
Sunday 82:2	taking 85:22 90:20	technically 114:5	145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	terminating 67:9 113:16 135:23
supply 123:21, 23 134:25 135:4	talk 31:16 68:20 74:6 75:15 79:12 125:6 130:19	Tedder 20:20	145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	termination 136:2,6,10 159:13
support 127:7	talked 20:2 47:23 100:2 160:13	temporary 110:25	145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	terms 102:25
suppose 151:4	talking 35:2 45:6 55:18 72:2 74:12,13, 16 75:1,3 76:22 80:1 154:7 155:1 164:7 168:16, 25	tenant 69:10, 17,18 84:23 104:21 111:3, 5,6,11 112:4,5 125:12 128:3,4 129:1 135:25 136:15 138:17 140:18,20,22, 23 143:17,23	145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	testified 18:13 59:17 81:21 86:14 89:11
supposed 167:4 168:9,12	talk 31:16 68:20 74:6 75:15 79:12 125:6 130:19		145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	
supposedly 166:24	talked 20:2 47:23 100:2 160:13		145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	
Sustained 102:2	talk 31:16 68:20 74:6 75:15 79:12 125:6 130:19		145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	
switch 123:2 136:11	talked 20:2 47:23 100:2 160:13		145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	
switches 90:9	talked 20:2 47:23 100:2 160:13		145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	
sworn 17:22 18:2,6,13 60:24 98:22 99:1	talk 31:16 68:20 74:6 75:15 79:12 125:6 130:19		145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	
system 158:13	talked 20:2 47:23 100:2 160:13		145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	
system-generated 159:7	talked 20:2 47:23 100:2 160:13		145:9 148:22 149:11,16,20 150:3,16 151:8 152:16,20,22 154:8,13,14, 16,17,21,24 155:4,7,10,16, 22 160:5 161:5 167:12 169:6	

<p>99:1 139:25 141:20 142:3 152:7 154:7 156:10 157:6</p> <p>testify 18:7 22:17 23:23 60:15 77:12 118:11 119:6,8</p> <p>testimony 34:13 35:4 36:6 42:15 46:13 48:24 49:11,18 50:22 55:9 60:6 62:4 71:16 86:1 89:1 113:17 115:8 118:24 134:14 139:14 141:13 142:12 154:12 156:22 158:22 160:3 161:16,21 165:17,22 169:10</p> <p>text 44:8</p> <p>than 8:7 53:20 101:2 102:19 111:20 129:1 140:16 168:5</p> <p>their 13:2 26:6 39:24 66:17 70:9 71:16 75:22 76:17 77:23 81:3 84:24 85:22 88:7 91:12 106:14 111:12, 20 112:12 128:24 137:25 140:13 145:19 146:9,10 147:23 149:4 152:13 159:10, 15 160:15</p>	<p>164:1</p> <p>Themselves 146:9</p> <p>thereby 160:21</p> <p>therefore 25:7</p> <p>thereof 10:25</p> <p>thing 43:10 118:16 134:21 166:21</p> <p>things 13:10 44:18 88:7 127:16,17 145:13 150:5 151:8 161:13 163:10,16 167:22</p> <p>third 65:24 126:4,10</p> <p>Thirteen 123:13</p> <p>Thirty 153:14</p> <p>thousand 83:5 111:7,23 130:10 131:2,7 132:21</p> <p>three 22:13 25:25 55:22 74:17 82:7,8, 12 86:15 90:14 119:4 137:13 147:10 154:18</p> <p>three-by-five 158:14</p> <p>three-plus 76:23</p> <p>through 7:14 8:21 37:14,22 44:1,17 46:8 47:3 53:25</p>	<p>65:15 69:17,18 72:23 73:8 104:8 119:25 123:21 126:19 128:1 131:5 132:23 134:25 135:4 144:7 152:2 158:10 171:4,5</p> <p>throw 150:4</p> <p>Thursday 79:18</p> <p>Ticaboo 6:7,13 10:13,14 12:18 13:15,22 15:14 24:18 25:8 28:23 30:15 31:12 34:15 45:8 53:17 57:16 63:8 66:8 70:7 82:3 83:1 84:15,20 92:25 98:24 99:7,15 100:20,23,25 101:2 107:16 110:24 111:3 124:15 125:2 126:23,24 129:6 144:4 145:22 153:11</p> <p>Ticaboo's 17:13 120:18</p> <p>tie-in 85:24</p> <p>ties 44:25</p> <p>tight 113:2</p> <p>time 6:5 19:3,4 21:3,24 28:12, 20 33:6 37:5 57:23 64:22 68:14 75:17 79:3 80:6</p>	<p>85:19 88:3 89:25 104:13 116:5 126:22 127:1,24 129:11 136:15 137:20,21 138:11,12 140:8 144:18 153:11 157:19 159:15 162:2, 15 168:13</p> <p>timeline 138:3 169:14</p> <p>times 74:4,7</p> <p>today 6:3 10:9 11:8,13 12:10, 16 13:12,16 16:2,25 17:3 27:4 44:8 63:23 96:4 100:2 101:24 113:25 120:14 139:11 154:7 165:18,23 166:15 172:9, 11,15</p> <p>together 36:14 64:21 98:13</p> <p>told 20:4 81:10 94:11</p> <p>Tom 7:1 94:10</p> <p>tomorrow 90:24</p> <p>took 78:9 95:14 103:7 119:21</p> <p>top 25:4,6 29:7 45:12,16 51:2 96:24 120:22 121:1 132:1</p> <p>topic 15:12</p>	<p>99:21</p> <p>topics 114:25 115:2</p> <p>total 28:8</p> <p>touch 83:11</p> <p>touched 83:4</p> <p>tough 150:13</p> <p>towards 22:8</p> <p>town 126:23 127:18</p> <p>trackable 119:5</p> <p>trailer 47:15 75:11,12</p> <p>train 153:6</p> <p>trained 152:14, 23</p> <p>training 152:1, 3,8,13,25 153:2</p> <p>transcription 44:7</p> <p>treasurer 123:11</p> <p>treated 12:3</p> <p>trial 7:25 65:8, 9</p> <p>tried 11:21 68:10,15,19,20 91:8,11</p> <p>tries 39:8</p> <p>trouble 75:2</p> <p>troubling 10:23</p> <p>true 15:2 122:1</p>
---	--	---	--	--

134:17	103:2,7 104:5, 8,15,16 105:6, 13,20 106:6, 18,20,22 107:7,17 108:3,7,17,22 109:12,13 110:5,8,9,10, 12,17,20,23,25 111:4,12,13, 14,16,18,19,22 112:2,6,15,17, 20,22,23 113:4,8,11,19 115:9,14,19,22 116:1,12,16, 21,24 117:6 146:2,3 166:21	TUID-009 107:22 TUID-010 107:24 TUID-011 108:10 TUID-012 108:11 TUID-013 108:12 TUID-014 108:14 TUID-015 109:9 TUID-016 109:10 TUID-017 109:11 TUID-018 110:2 TUID-019 110:4 TUID-020 117:11 TUID-021 117:12 TUID-022 117:14 TUID-023 117:15 TUID-024 117:16 TUID-025 117:17 TUID-026 106:11 TUID-027	106:17 TUID-028 113:7 tumultuous 127:9 turn 7:7 25:2 35:10 41:9,10 60:16 85:18 90:6 102:9 128:1 137:16 148:1 162:5 turn-off 162:11 turn-on 162:11 164:2 turned 83:12, 14,16 84:4 85:14 87:10 136:17 159:15 163:3,11 164:1,6 turning 83:19 86:20 137:14 twice 74:5,20 134:15 two 28:16 31:11 41:25 43:3 47:23 53:19,21 54:2, 15 55:10 56:1, 18,19 57:8 67:4 74:6,15 84:21 89:24 90:8 98:9 104:16 106:3 124:17 125:24 133:5 147:10 149:13 type 28:19 72:23 typically 98:17 159:13	typo 96:25 114:7 typos 95:17 <hr/> U <hr/> U.S. 107:12 108:21 UAPA 7:18 UASD 152:12 uh-huh 6:21 18:1 34:11 37:23 38:6 45:3 46:21,24 54:6,16 56:22 67:16 80:2 82:20 94:24 99:5 102:4 124:14,24 128:15 132:15, 25 166:7 167:13 168:10, 21 unable 111:12, 16 unauthorized 106:24 108:19 under 7:18 9:8 22:11 30:16 48:16 52:22 65:8 73:6 84:18 105:21 112:18 113:10 118:15 129:1 140:9 150:16 151:11 162:21 understand 15:23 18:17 23:1 35:1 44:18,24 47:16 55:25 56:25
--------	---	--	--	--

58:6 59:5 76:8 84:11,17 88:25 96:5 100:3 106:2 114:6 123:16 142:10 160:14 161:22 167:14 169:25 170:2	33:6 121:3 149:7 unnecessary 113:1 unneded 113:1 unpaid 111:7, 23 123:8 150:9 162:15 until 24:12 32:4,11,21 46:11 48:25 58:5,9 59:17 60:24 63:6 80:5,10 89:6,7 149:7 update 104:18 usage 30:23 50:12 51:3 126:19 164:5 use 52:12 65:17 68:1 83:16 87:23 94:12 101:17 150:3 171:2,3 used 14:7 40:21 47:18 54:14 59:22 60:11 useful 8:5 106:1 133:4 uses 7:15 using 31:19 55:14 57:23 59:4 62:12 94:4,8 Utah 25:22 67:10 69:12 90:21 101:13 105:3,21,25	153:2,3 utilities 7:15 10:19 12:12 13:6 28:11 37:7 40:18,19 47:3 50:12 51:18 52:12 55:14 57:23,25 58:18 59:4 60:10 62:12 66:5,8 70:9 71:5 78:14,24 81:12 83:1 89:21 97:20 101:12 106:13 107:3 111:21 112:10,14 126:22 utility 6:7 16:11,17 24:18 25:8,17 28:19, 24 31:12 34:2, 15 38:19 40:23 41:7 45:24 57:16 76:11,15 77:7,15 79:3, 23 92:18,22 93:14,16 98:25 99:8 100:10, 12,17,21,24 101:1 110:16 111:12,15 112:1,4 121:15 123:21 124:1, 3,20 126:17 128:23 140:21, 25 158:9,11,12 160:3,15,18 utility's 46:9	47:18 50:10 51:11,22,23,25 58:22 59:1 60:11 123:3,5, 7,8,18 125:4 126:4 vacated 137:17 138:12 163:2,6 Val 76:6 Valerie 137:5 valid 14:25 95:23 96:3 variance 39:19,24 48:3 variety 106:4 113:4 116:1 various 90:19 115:3 158:25 verbally 62:22 verbatim 144:25 version 113:5, 6 versions 65:1, 6 versus 38:16 39:9 123:2 via 112:25 viable 88:2 view 136:10 155:22 violation 12:11 visible 154:8, 14,16 visit 90:2,4 visited 86:14	visiting 86:18 voice 20:4 39:25 127:11 <hr/> W <hr/> wait 132:19 waived 128:3 want 6:18 9:11, 19 22:14 26:8, 20 35:1 43:12 49:4 64:18 65:17 77:8,9, 11,24 91:12 94:20 100:6 114:13 126:12 134:19 141:23 143:6,17,18,23 145:8 151:12 155:4 157:19 165:24 166:19 167:7 171:23 wanted 7:12 46:10 77:1,7, 15,20,22 78:13 97:12 154:9 162:2 163:24 warning 83:25 84:5 86:7,11 163:21 waste 25:18 water 10:18 16:12 25:17,18 31:10,13,18,22 32:5 40:16 47:18 67:24 75:23 76:18 77:3,9,24 78:10 81:16 83:16 85:14, 16,22 86:20 87:4,24 90:7
---	--	---	--	--

<p>113:15 164:8 165:17,18,19</p> <p>way 11:25 24:3 33:2 47:24,25 64:14 89:9 90:15 96:19 111:4 126:21 140:13 150:1 151:4</p> <p>ways 22:7 124:18</p> <p>website 90:22 91:5 104:2 105:1 107:12, 22 108:21,24 113:4 116:2,3 118:16 119:14, 15 120:1,4,18, 20,24 154:25</p> <p>Wednesday 6:4</p> <p>welcome 165:21 172:24</p> <p>went 38:4 63:7, 8 68:11 77:17 79:17 82:1 83:15,17,24 85:13 91:8 116:22 139:8 140:12 144:7 172:24</p> <p>whatever 14:6 32:2,7 86:20 121:22 133:17</p> <p>wherewithal 13:20</p> <p>whether 8:8 9:7,8,9 14:21 15:24 16:10 17:10 20:17 39:2,15 47:5 86:19 95:23</p>	<p>97:13 112:5 115:15 121:6, 9,13 130:13 165:11,13 167:23,25 168:1</p> <p>while 86:18 101:16 115:14 127:5 166:16</p> <p>whoever 88:15</p> <p>whole 64:21</p> <p>whopping 144:4</p> <p>will 14:4 17:16, 24 18:20 25:18 44:19 60:14 62:14,16 65:13 71:15 88:15 94:13 98:18 101:24 102:7 110:15,20 112:2 137:9 146:15 148:20 150:6 159:12, 15,21 165:19 171:18 172:10</p> <p>willing 123:18</p> <p>winter 83:11, 20</p> <p>wish 113:17 115:7</p> <p>withdraw 134:12</p> <p>within 17:11 20:13 23:22 25:21 91:10 100:24 102:18 104:7,9,16 121:17 125:9 130:13,15 159:15</p>	<p>without 15:2 93:14 100:18 101:1 111:11 120:3 126:9 131:18 148:23 154:21 167:17</p> <p>witness 18:10, 11 19:2,5,10, 12,16 20:1,8, 15,19 21:2,5,7, 8,11,14,15,16, 17,19,23 22:3, 6 23:12,15,17, 18,20,21,24 24:2,5,11,15, 23 25:1,3,5,7, 11,14,25 26:3, 5 27:23 28:5,8, 12,15,21 29:1, 4,6,9,13 30:7, 10,14,19,22 31:1,3,5,8 32:23 33:20,22 34:3,21 35:7,8, 12,14,17,20,25 36:3,4,7,9,22, 25 37:5,9,12, 16,21,23 38:1, 4,7 39:18,22 40:2,9,13,16, 17,19,22 41:1, 5,7,12,14,18, 21,22 42:2,4,7, 10 43:12 44:13,14,16,22 45:10,13,15, 18,21,25 46:7, 15,19,22,25 47:4,8,12,14, 17,21 48:2,8, 11,15,18,22 49:2,14,16,20, 21,23 50:3,7, 11,14,24,25 51:3,6,8,11,15, 16,20,21,23,25</p>	<p>52:3,5,7,10,12, 15,18,21,24,25 53:3,4,11,18, 21,24 54:2,6,9, 10,14,17,20,22 55:7,10,15,25 56:4,7,9,10,14, 16,20,23 57:1, 2,3,6,13,17,20 58:1,6,7,12,13, 16,19,25 59:5, 11,13,15 60:4 61:14,17,20,24 62:3,7,14,16, 22 63:7,11,14, 20 64:3,13 66:2,16,23 67:6,15,17,20, 23 68:1,4,7,10, 17 69:9,12,15, 18,19,22,23 70:2,4,8,10,18, 20,23 71:2,6,7, 9 72:6,7,9,11, 12,13,15,17,21 73:1,7,10,13, 15,17,21,22 74:3,5,10,17, 19,22,24,25 75:9,11,14,17, 20,21 76:1,3,4, 5,6,8,13,17 77:2,5,13,17, 23 78:1,5,7,9, 11,15,16,25 79:1,5,8,11,17, 21,25 80:4,12, 14,17,18,19,25 81:3,7,10,15, 16,20,23,25 82:7,8,11,14, 19,23 83:2,10, 22,23 84:2 85:1,2,6,8,11, 16,17,20 86:9, 13,16,17,21, 22,25 87:3,7,</p>	<p>10,14,19,23 88:1,6,22 89:5, 7,13,14,15,18 90:2,8,10,13, 17,23 91:2,4,8, 20,22 92:3,5,7, 9,10,12,14,18 93:2,4,9,12,16, 20,22 94:6,9, 15 98:5,8,24 99:6 100:4 102:3,5 114:15 115:7 116:11 117:21,24 118:3,6 122:12,16,20 123:4,10,15, 19,25 124:5,7, 9,13,15,25 125:15,21,23 126:12,15 127:13,15,23 128:5,11,16,19 129:3,5,13,18, 21 130:1,5,20, 25 131:5 133:22 134:6, 22 135:2,7,10, 13,15,18,22 136:2,7,13,19, 21,24 137:4, 12,20,22 138:3,8,10,20, 23 141:3 143:15,20,25 144:3,11,22 145:2,10 146:13 149:4, 9,15 155:6 161:23 162:2, 5,7,10,14,17, 21,23 163:1,5, 14,23 164:9,13</p> <p>witnessed 163:18</p>
---	---	---	--	--

<p>witnesses 18:12</p> <p>words 38:18 169:3</p> <p>work 72:13 127:22</p> <p>worked 82:18, 19</p> <p>workers 88:4</p> <p>working 150:7</p> <p>works 60:16 141:25</p> <p>world 168:11</p> <p>worse 112:14</p> <p>worth 58:24 101:2 127:20</p> <p>wrap 157:18</p> <p>write 172:10</p> <p>writing 136:16</p> <p>written 98:16 100:1 114:6 121:3 136:23 149:25</p> <p>wrong 89:11 125:8 137:12 150:23</p> <p>wrote 43:5</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>year 73:15 79:19,20 80:7, 24 85:5,10 112:22 115:11, 16 127:9,15 145:5 157:13 163:6,8</p>	<p>year-round 153:17</p> <p>years 76:23 99:9 119:4 126:23 145:23 149:14 150:10</p> <p>yet 30:15 126:5</p> <p>yet-to-be-developed 100:22</p> <p>yourself 141:7 142:4 143:4,9 157:7</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>zero 11:22</p> <p>zip 42:10,11</p>	
---	--	--