

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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In the Matter of the Request ) Docket No.  
of Sherwood Water Company ) 09-075-01  
for Approval of a Rate )  
Increase. ) Administrative Law  
 ) Judge:  
 ) Ruben Arredondo

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TRANSCRIPT OF HEARING PROCEEDINGS

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TAKEN AT: Public Service Commission  
160 East 300 South  
Salt Lake City, Utah

DATE: March 30, 2010

TIME: 10:00 a.m.

REPORTED BY: Kelly L. Wilburn, CSR, RPR

(March 30, 2010 - Sherwood Water - 09-075-01)

1 APPEARANCES

2 For the Division:

3 PATRICIA E. SCHMID, ESQ.  
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7 For the Company:

8 Scott Johnson  
9 Peggey Bryner

10 -oOo-

11 WITNESSES

12 MARK ALAN LONG	Page
13 Direct by Ms. Schmid	5

14 -oOo-

15 PUBLIC WITNESSES

16 NAME	Page
17 Meriem Robins	30
18 Roy Peterson	39

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(March 30, 2010 - Sherwood Water - 09-075-01)

EXHIBITS		
No.	Description	Page
3	DPU 1.0	8
4	to 1.8	
	Memorandum In the Matter of the Request of Sherwood Company for Approval of a Rate Increase, with Exhibits 1.1 through 1.8	

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(The previous exhibits and related testimony were prefiled and are part of the PSC record and filed at the Commission.)

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EXHIBITS, CONTINUED		
No.	Description	Page
11	DPU 1.9	8
	Customer Impact	

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 MARCH 30, 2010 10:00 A.M.

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

3 THE COURT: Okay, we're here to -- this is  
4 the Hearing in the Matter of The Request of Sherwood  
5 Water Company for the -- we're going to start now,  
6 ladies and gentlemen, thank you -- Request of Sherwood  
7 Water Company For Approval of a Rate Increase. Docket  
8 No. 09-05-01 (sic.)

9 Let's go ahead and take appearances,  
10 beginning with the Division, please.

11 MS. SCHMID: Good morning. Patricia E.  
12 Schmid with the Attorney General's Office on behalf of  
13 the Division of Public Utilities.

14 THE COURT: Thank you.

15 MS. SCHMID: And with me is Mr. Mark Long  
16 with the Division of Public Utilities.

17 THE COURT: Thank you.

18 And then I assume, sir, you're with the  
19 Company; is that correct?

20 MR. JOHNSON: Yes. I'm Scott Johnson. I'm  
21 Mark Johnson's son.

22 THE COURT: Okay.

23 MR. JOHNSON: Mark Johnson is -- he was the  
24 owner and then he passed away about 15 months ago.

25 THE COURT: Okay. And what's your position

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 with the Company?

2 MR. JOHNSON: I'm the operator and manager of  
3 the water system.

4 THE COURT: Okay, thank you.

5 And ma'am?

6 MS. BRYNER: I'm Peggey Bryner and I'm the  
7 secretary/treasurer of the Company.

8 THE COURT REPORTER: What was your last name  
9 again?

10 MR. LONG: B-r-y-n-e-r.

11 MS. BRYNER: Peggey Bryner.

12 THE COURT: All right, thank you.

13 Then let's go ahead and begin with the  
14 Division first. Mr. Long, if you could raise your  
15 right hand for me.

16 (Mr. Long was sworn.)

17 THE COURT: All right, thank you. Go ahead.

18 MARK A. LONG,

19 called as a witness, having been duly sworn,

20 was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MS. SCHMID:

23 Q. Good morning.

24 A. Morning.

25 Q. Could you please state your name, by whom you

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 are employed, your position, and your business  
2 address?

3 A. Yes. My name is Mark Alan Long, A-l-a-n.  
4 I'm employed by the Division of Public Utilities as a  
5 utility analyst. And the address is 160 East 300  
6 South, Heber M. Wells Building, Salt Lake, 84114.

7 Q. Thank you. Have you been involved in the  
8 Sherwood rate case before the Commission?

9 A. Yes, I have.

10 Q. And you've participated on behalf of the  
11 Division in this process, correct?

12 A. That's correct.

13 Q. Do you -- is -- did you cause to be filed a  
14 memorandum called: In the Re -- "In the Matter of the  
15 Request of Sherwood Company for Approval of a Rate  
16 Increase," dated February 22, 2010, consisting of nine  
17 pages of narrative, with Exhibits through 1.8?

18 A. Yes, I did.

19 Q. Do you have any changes or corrections to  
20 that filing that you would like to make?

21 A. Yes.

22 Q. Okay. Can you wait just one moment and I'll  
23 pass out a couple of copies.

24 (Pause.)

25 Q. (By Ms. Schmid) Okay Mr. Long, turning to

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 this filed memorandum, which has been marked  
2 Exhibit 1.0 with its attached exhibits, could you  
3 please describe the corrections to this?

4 A. Yes. Exhibit 1.9 was added. And it's  
5 titled: "Customer Impact."

6 Q. And that consists of one page of narrative,  
7 with an associated table?

8 A. That's correct.

9 Q. Okay. Do you have any other changes or  
10 additions to the memorandum?

11 A. Yes, I have just a couple quick housekeeping  
12 items to take care of. The first one is on  
13 Exhibit 1.0, page 4, Item No. 2.

14 Q. What is the title of Item No. 2, please? Is  
15 it: "Services - Billing, Accounting, Office"?

16 A. That's correct.

17 Q. Please describe your correction.

18 A. The very last sentence, it says:

19 "Based on the number of hours spent  
20 last year in performing the office  
21 duties, 30 hours per week is a  
22 conservative time estimate."

23 That should read: "30 hours per month."

24 Q. Thank you. Do you have any other changes?

25 A. Yes. On, on Exhibit 1.0, page 8.

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 Q. And so we're all on the same place --

2 A. Maybe it's page --

3 Q. -- is this the table, is this the table  
4 entitled: "Rate changes"?

5 A. Yes. And actually it shows Page 7. Well no,  
6 I'm sorry. It is page -- it is on --

7 Q. It's on page 7 and page 8?

8 A. Right. And on page 8, in the chart there it  
9 has: "Transfer of ownership fee." I had a typo and  
10 put that as 500. That really should be \$50.

11 Q. Thank you. Do you have any other changes or  
12 corrections?

13 A. Not at this time.

14 Q. Thank you.

15 MS. SCHMID: So with that the Division  
16 requests that DPU Exhibit 1.0, which would be the  
17 February 22nd Memorandum, with its addition --  
18 additional Exhibit 1.9, be admitted.

19 THE COURT: Okay. We'll admit the Division's  
20 recommendation, and also the amended exhibit, which is  
21 marked as Exhibit 1.9.

22 (Exhibit Nos. DPU 1.0 through 1.9 were  
23 admitted.)

24 THE COURT: Can you also make sure that this  
25 Exhibit 1.9 is filed today with the Commission,

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 please?

2 THE WITNESS: Yes.

3 THE COURT: Thank you.

4 Q. (By Ms. Schmid) What is the purpose of your  
5 testimony today?

6 A. Purpose of my testimony today is to provide a  
7 brief summary of the Division's analysis and  
8 recommendation in response to the request by Sherwood  
9 Water for a rate increase in order to cover increased  
10 operating expenses and to earn an adequate rate of  
11 return to cover their cost of debt.

12 Q. Do you have a brief summary that you would  
13 like to present today?

14 A. Yes, I do.

15 Q. Please proceed.

16 A. Okay. First of all I'll give you a little  
17 background on Sherwood Water. They're located  
18 approximately two and one-half miles west of Delta,  
19 Utah, on the Gunnison Bend Reservoir.

20 The subdivision consists of a mixture of  
21 permanent structures, trailers, and mobile homes,  
22 which include full-time residents as well as seasonal  
23 users.

24 On March 31, 1983, the Commission granted  
25 Sherwood a Certificate of Convenience and Necessity

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 and approved its tariff. Sherwood Water was owned and  
2 operated by Mrs. Flora Wood until July 1st, '98, at  
3 which time Mark Johnson purchased the Company and  
4 operated it as its president until he passed away on  
5 December 31, 2008.

6 Mark Johnson's wife, Beth Johnson, became the  
7 president, with each of their six children becoming  
8 vice presidents. One of their six children, Mr. Scott  
9 Johnson, is also the operations manager for the water  
10 company.

11 In addition to being president of Sherwood  
12 Water Beth Johnson is also the president of Mark's  
13 Backhoe Service, which is now also ran by Mr. Scott  
14 Johnson.

15 Since Mark Johnson purchased Sherwood in '98,  
16 Mark's Backhoe Service regularly paid for many of  
17 Sherwood's expenses. Additionally, Mark's Backhoe  
18 donated many hours of labor annually to Sherwood  
19 Water.

20 I'd like to make mention that during the  
21 audit the Division worked primarily with Peggey Bryner  
22 and Breanne Johnson, who ran the office and the  
23 day-to-day business transactions. The Division would  
24 like to make mention that they were very helpful  
25 during our analysis, and eager to learn more about the

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 accounting requirements and office management of  
2 Sherwood.

3           When we initially started our analysis  
4 Sherwood and Mark's Backhoe expenses were  
5 intermingled, so in order to obtain an accurate  
6 accounting of Sherwood's expenses the Division  
7 requested Ms. Peggey Bryner to go back through the  
8 records of Sherwood and Mark's Backhoe for 2009 and  
9 assign the expenses to the appropriate company.

10           An accurate accounting of the expenses,  
11 reviewed by the Division, showed a loss of over  
12 \$40,000 for Sherwood Water in 2009. Using the expense  
13 figures for 2009, and after many adjustments, the  
14 expenses were projected for 2010 to obtain rates that  
15 covered Sherwood expenses and their cost of debt.

16           A few of the major expenses and adjustments  
17 that we would like to make mention of here are as  
18 follows:

19           The first one is on Exhibit 1.2. If you'd  
20 like to turn to that. Then it's on line 14.  
21 Basically in 2006 a new 136,000-gallon water storage  
22 system was built to provide adequate water supply to  
23 replace other obsolete tanks.

24           Mark's Backhoe built and financed the new  
25 water tank. The documented expenses associated with

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 the construction came to \$156,354.

2           Division review of the financial transactions  
3 regarding the tank revealed that additional  
4 significant labor and materials were donated by Mark's  
5 Backhoe, although an exact amount could not be  
6 determined, and therefore not considered in the rate  
7 base in this case.

8           In 2007 Mark's Backhoe financed the amount of  
9 136,000 which was still owed by Sherwood for 10 years  
10 at 18 percent simple interest. Since it would have  
11 been virtually impossible for Sherwood to obtain  
12 financing elsewhere, the terms of this loan were  
13 considered proper.

14           In going through the expenses with Sherwood,  
15 in order to keep the monthly water rates as low as  
16 possible for the ratepayers Mark's Backhoe volunteered  
17 to refinance Sherwood's remaining loan balance, which  
18 at this time now was \$126,197.92, over 20 years at  
19 6 percent simple interest.

20           This 18,556 adjustment that you see on this  
21 schedule represents the annual savings based on the  
22 new terms of this loan.

23           The next item I'd like to make mention of is  
24 Services - Billing, Accounting, Office, which is  
25 Exhibit 1.2, line 17. Peggey Bryner and Breanne

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 Johnson are willing to be paid for combined hours --  
2 for a combined 30 hours per month at \$10 per hour,  
3 with no benefits, in order to perform these office  
4 duties.

5           Based on the number of hours spent in  
6 performing the office duties, 30 hours per month is a  
7 very conservative time estimate.

8           Going to the next item is Water Master  
9 Duties, which I believe is on line 19. This includes  
10 all the functions of keeping the water company running  
11 smoothly, efficiently, and in accordance with all  
12 state and federal regulations.

13           Five thousand four hundred dollars is based  
14 on the time Scott Johnson spent last year on the  
15 above-mentioned duties at \$20 an hour. As in the  
16 past, as well as going forward, Mrs. -- Mr. Johnson is  
17 paying for all his own transportation expenses, such  
18 as wear and tear on his vehicle, gas, automobile  
19 insurance, as well as various field tools and  
20 instruments.

21           The Division determined that \$5,400 is  
22 reasonable. Although, in order to help keep rates  
23 affordable, Scott Johnson has agreed to perform the  
24 same duties at the same level of care for a thousand  
25 dollars less per year, which the adjustment's shown

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 there for a total of \$4,400.

2 Another item we'd like to make mention are  
3 Repairs, which are on line 25. During 2009, 11,229  
4 was spent on repairs and replacements for Sherwood's  
5 aging infrastructure. Much of this was paid for  
6 through Mark's Backhoe and not charged to Sherwood.

7 Scott Johnson volunteered to charge Sherwood  
8 no more than \$7,500 for repairs in the upcoming year.  
9 Any additional repair expenses, within reason, will be  
10 donated by either Scott Johnson or Mark's Backhoe.

11 Another item of concern was the liability  
12 insurance, or lack of liability insurance, on line 28.  
13 Sherwood presently has no liability insurance. This  
14 \$2,500 adjustment is an estimation of the annual  
15 amount needed in purchasing liability insurance, for  
16 which Breanne Johnson is currently seeking bids.

17 Going on, the Division is concerned about the  
18 water company's lack of financial reserves. Setting  
19 aside reserves is critical to developing and  
20 maintaining financial stability, and can mean the  
21 difference between a system that is self-sustaining  
22 and one that may fall victim to disrepair or become  
23 financially unstable during even a relatively small  
24 emergency.

25 In the past several rate case orders of other

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 water companies the Commission has approved funding of  
2 a reserve account in an amount equal to the annual  
3 depreciation expense, plus the annual amortized  
4 contribution in aid of construction, using the same  
5 service life as if it had been depreciated.

6           Following the same practice in Sherwood's  
7 case significantly underest -- understates the amount  
8 that would typically be set aside as capital reserves  
9 because the water company was purchased for  
10 approximately 15 thou -- \$50,000 by Mark Johnson in  
11 1999, with no records or an accounting of the value of  
12 the original infrastructure.

13           Based on the best information available, the  
14 annual depreciation expense of \$4,813 and annual  
15 amortized contribution in aid of construction of \$421,  
16 for a total of \$5,234, is the amount to be set aside  
17 to fund the capital reserve account. This is  
18 significantly less than what is likely needed to  
19 replace and repair its 30-year-old infrastructure.

20           In a recent rate case of another water  
21 company with a similar number of connections and aging  
22 infrastructure the Division recommended that 27,496 be  
23 set aside annually to fund their capital reserve  
24 account.

25           The Division believes that this amount would

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 be appropriate in this case as well, but calculations  
2 show that an additional \$19 per month per connection  
3 would be required to fund this.

4           In the interest of keeping water prices  
5 affordable for the ratepayers, Mark's Backhoe and  
6 Scott Johnson have verbally agreed to donate  
7 significant labor and some materials in systematically  
8 replacing the old infrastructure over the next several  
9 years, as their schedule and funds allow.

10           In light of this the Division, with  
11 reservations, agrees to recommend that 5,234 fund the  
12 capital reserve account for this rate case.

13           Further, because capital reserves are funded  
14 through rates by the water customers, they should be  
15 maintained in a protected account and allowed to  
16 accumulate or used for qualifying expenses as the need  
17 arises.

18           In past cases the reserve amount informally  
19 consisted of the amounts recorded to an accumulated  
20 depreciation account, with no oversight as to its use.  
21 The Division therefore recommends the following  
22 guidelines regarding reserves:

23           Capital reserve amounts generated from rates  
24 shall be deposited into a restricted account, such as  
25 a separate escrow account, within 30 days from the

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 receipt of these payments. Withdrawals shall be made  
2 from the capital reserve account for capital  
3 replacements and improvements only.

4 In accordance with Utah Administrative  
5 Rule R746-401-3A, expenditures in excess of 5 percent  
6 of total utility plant in service, shall require the  
7 water company to file a report with the Commission at  
8 least 30 days before the purchase or acquisition of  
9 the asset or project, and to obtain written Commission  
10 approval before transacting such acquisitions.

11 At the present time Sherwood Water shall  
12 contact the Commission for expenditures over \$11,934.  
13 Sherwood shall provide an annual accounting of the  
14 capital reserve account with its annual report and at  
15 any such time as the Commission requests.

16 The annual accounting shall be in the form of  
17 a bank statement encompassing the entire calendar  
18 year, showing a series of deposits made within 30 days  
19 from the receipt of rate payments for each billing  
20 cycle and withdrawals that meet the requirements of  
21 the aforementioned criteria above. The balance of the  
22 reserve account shall be clearly identified in the  
23 financial statements as a restricted account.

24 In identifying a qualifying expenditure for  
25 replacement or improvements that may be made from the

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 capital reserve account the Company shall consider the  
2 following guidelines:

3 Capital improvements are typically high-cost  
4 items with long service lives, including for example  
5 the distribution pipe main lines, storage reservoirs,  
6 wells and surface water intakes, et cetera.

7 Expenditures that qualify as capital  
8 expenditures are those which extend the life of the  
9 asset and/or enhance its original value with better  
10 quality materials or system upgrades.

11 Capital improvements do not include such  
12 minor repairs as repair clamps, inventory parts and  
13 fittings, spare pieces of pipe kept to facilitate  
14 repairs, small tools, maintenance supplies such as  
15 paint or grease, service contracts, and other such  
16 day-to-day supplies. Expenses for these items are  
17 properly classified as operating and maintenance  
18 expenses.

19 Additionally, it is not appropriate to use  
20 capital replacement funds received from existing  
21 customers for system expansion; that is, to extend  
22 main lines to serve new areas or customers, or to  
23 install new services.

24 Funds for the expansion of the system should  
25 come from new development, connection fees,

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 assessments, or other sources, so that those  
2 benefitting from the improvements contribute the funds  
3 for its construction.

4           Going on, the Division recommends the  
5 following rates and charges: Currently their tariff  
6 shows \$15 per month for a minimum up to the first  
7 8,000 -- for the first 8,000 gallons used. Sherwood  
8 has requested \$35 per month.

9           The Division is recommending that users pay  
10 31.25 per month for a system fee, and an additional  
11 \$10.50 per month as -- for the usage of the water.

12           Additionally the standbys, the current tariff  
13 currently shows \$15 per month. The Division  
14 recommends that standby pays the system fees of 31.25  
15 per month.

16           For example, a customer connected and using  
17 water would pay the system fee of 31.25 plus 10.50,  
18 for a total minimum monthly water bill of 41.75.

19           On the other hand, those customers otherwise  
20 connected or ready to be connected but not using any  
21 water will pay the same system fee amount as is -- as  
22 their standby rate of 31.25.

23           Going on, the current tariff currently  
24 charges \$0.50 per thousand gallons over 8,000. The  
25 Division recommends that this be \$1.75 per thousand

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 gallons.

2           Water service turnoff. Turn on and turn off  
3 charges are currently 25. The Division recommends  
4 \$100.

5           Late fees on bills past due by 30 days or  
6 more. Currently there are none. The Division  
7 recommends 18 percent per year, or 1.5 percent per  
8 month.

9           First time connection fee is currently set at  
10 \$2,200 for each service for the first time service.  
11 The Division recommends \$2,500.

12           Fee for unwarranted service calls. Currently  
13 Sherwood is going out and donating a lot of the time  
14 and materials needed to do that. The Division  
15 recommends that they start charging the actual cost of  
16 the materials and labor that they can determine if  
17 it's the customer's responsibility.

18           And we talked about this earlier, the  
19 transfer of ownership fee. Currently there is none.  
20 The Division recommends \$50 for each transfer of  
21 ownership fee.

22           The monthly rates recommended by the Division  
23 are somewhat higher than those originally requested by  
24 Sherwood, because after Division analysis and in  
25 consultation with Sherwood it is evident that in order

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 to cover the remaining expenses Sherwood would have to  
2 raise their rates higher than they originally planned.

3 I'm referring now to Exhibit 1.9. The  
4 Division is sensitive that a rate increase of this  
5 magnitude, when compared to Sherwood's current tariff,  
6 will have an impact on ratepayers' bills. This impact  
7 is lessened, however, as described as follows:

8 Sherwood first came to the Division's  
9 attention on or about August 2009 because they were  
10 late in filing their 2008 Annual Report. The Division  
11 learned that due to the recent death of the president,  
12 Mark Johnson, and the subsequent change of ownership,  
13 Sherwood's records were in disrepair and they were  
14 unable to complete their annual report.

15 On or about September 2009, as the Division  
16 was assisting Sherwood in constructing and  
17 reconstructing their accounting records so that  
18 Sherwood had the information needed in order to fill  
19 out their annual reports, the Division discovered that  
20 Sherwood raised their rates, without Commission  
21 approval, from \$15 for the first 8,000 gallons to 35,  
22 and from \$15 for standby to 25, and from \$0.50 per  
23 thousand gallons to a dollar per thousand gallons.

24 This raise took place on or about August of  
25 2008. The Division informed Sherwood that they could

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 only raise rates by an order from the Public Service  
2 Commission. And informed them that they may have to  
3 refund the amounts collected if they were charging too  
4 high of rates.

5 A preliminary review of Sherwood's financial  
6 statements by the Division indicated that Sherwood was  
7 still operating at a loss, even with the increase in  
8 rates. Upon learning of the rate change by Sherwood  
9 the Division advised Sherwood that they needed to file  
10 a rate case immediately, which they did.

11 The Division had originally anticipated  
12 completing Sherwood's request for a rate increase  
13 sooner, but could not make an informed recommendation  
14 until Sherwood, with the Division's assistance, had  
15 completed an overhaul of their books and records so  
16 they could file accurate annual reports.

17 And on the following page the Division has  
18 shown the increase in annual rates on five of  
19 Sherwood's actual customer usage amounts.

20 I don't know. Would you like to go over  
21 those, or?

22 THE COURT: No, I can, I can -- I mean,  
23 they're here. I can see them.

24 THE WITNESS: Okay.

25 THE COURT: Thank you. Actually, I do have

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 one question. Do you know where the, I guess the  
2 primary amount of users fall in this Customer A, B, C,  
3 D, E? What would be kind of the typical annual use?

4 THE WITNESS: I would say around the 107 or  
5 153 --

6 THE COURT: Okay.

7 THE WITNESS: -- thousand. They -- Sherwood  
8 Water might have a better idea of that.

9 THE COURT: Ms. Bryner, would you know, or  
10 Mr. Johnson, would you know what the typical homeowner  
11 uses?

12 MS. BRYNER: I really wouldn't.

13 THE COURT: Okay.

14 MS. BRYNER: We haven't kept track of that.  
15 Some of them do go over. We don't have as many that  
16 go over of that 8,000 gallons per month.

17 MR. JOHNSON: I mean, between 4,000 and  
18 12,000 gallons.

19 THE COURT: A month?

20 MR. JOHNSON: Just depending on, well.

21 MS. BRYNER: The season and.

22 MR. JOHNSON: That's, that's per reading.

23 MS. BRYNER: Yeah.

24 MR. JOHNSON: And we read every two months.

25 THE COURT: Okay.

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 All right. Go ahead, Mr. Long. Sorry to  
2 interrupt you.

3 THE WITNESS: Okay. Oh, no, you're fine.  
4 Just one more item I wanted to bring to the attention  
5 of the Commission as well as the customers. Typically  
6 a developer of a subdivision would retain ownership of  
7 the water company and subsidize the water system until  
8 all the lots are sold and the water system is fully  
9 developed.

10 After the subdivision is fully developed, the  
11 developer generally either sells the water company or  
12 turns it over to the water users. At which time the  
13 rates would be set to cover the expenses of producing  
14 and delivering the water, along with a reserve for  
15 future repair and replacements.

16 Sherwood's situation is unique, because after  
17 Mr. Johnson purchased the water company in '98 he  
18 continued to subsidize the expenses both through  
19 personal and business contributions, making the rates  
20 artificially low for many years.

21 To obtain an accurate financial picture of  
22 Sherwood's operation, as previously mentioned before,  
23 all of Sherwood's expenses were accounted for and  
24 recorded to determine what rates were necessary to  
25 fund these expenses. And this also takes into account

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 the intermediate rates that Sherwood did that, that  
2 weren't authorized.

3           Prior to any adjustments these rates were  
4 approximately double the rates recommended in this  
5 analysis. Upon Sherwood's insistence, the Division  
6 and Sherwood spent many painstaking hours adjusting,  
7 trimming, and shifting expenses in order to keep the  
8 rates as low as possible for the ratepayers.

9           Although not required to, Mark's Backhoe and  
10 Scott Johnson assumed some responsibility for future  
11 contributions in the form of both labor and supplies.  
12 Additionally -- and certainly not required to --  
13 Mark's Backhoe -- Mark's Backhoe's willingness to  
14 refinance their loan to Sherwood Water at a much lower  
15 interest rate and over more years significantly  
16 lowered the rates as well.

17           While the Division commends Mark's Backhoe  
18 and Mr. Johnson for their support of Sherwood and  
19 Sherwood ratepayers, the Division is concerned about  
20 the day that the subsidies stop or the water company  
21 is sold and the actual expenses must be covered by  
22 the -- by rates paid by the ratepayers.

23           Also of concern is a pending project  
24 regarding the reduction of arsenic in order to comply  
25 with the Division of Drinking Water's requirements.

Kelly L. Wilburn, CSR, RPR  
DepomaxMerit

(March 30, 2010 - Sherwood Water - 09-075-01)

1 This has the potential of being very expensive and  
2 must be covered by the ratepayers, which would likely  
3 require another rate increase or a special assessment.

4 In conclusion, the Division believes that the  
5 recommended rates and charges represent an appropriate  
6 balancing of ratepayers' interests and the interests  
7 of Sherwood.

8 The Division asserts that the rates and  
9 charges set forth in Table 1 are just and reasonable  
10 and consistent with the public interest, and therefore  
11 the Division recommends that the Commission approve  
12 these new rates, charges, and other elements presented  
13 in this proceeding, as well as Exhibits 1.1 through  
14 1.9.

15 Q. (By Ms. Schmid) Mr. Long, I have just a  
16 couple of questions to clarify things. Earlier today  
17 we changed the Division's recommendation from 30 hours  
18 a week in the last sentence on page 4 to 30 hours a  
19 month. Does that change have any effect upon the  
20 recommended rates?

21 A. No, it doesn't. That was just a typo. But  
22 the correct amounts were put into the, the rate  
23 calculations prior to that.

24 Q. Similarly, on page 8 a figure of \$500 was  
25 changed to \$50, also the result of an inadvertent

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 typographical error. Does this change have any -- to  
2 \$50 have any change or effect on the recommended rate?

3 A. No, it doesn't. That's just a per-occurrence  
4 fee, and is just set up to cover the cost of, of doing  
5 that.

6 Q. And so the \$50, or as originally typed \$500,  
7 does not go into the calculation of the daily -- of  
8 the monthly rates, does it?

9 A. No, it doesn't.

10 Q. Thank you.

11 MS. SCHMID: Those are all the statements  
12 from the Division at this point. Mr. Long is  
13 available for questions.

14 THE COURT: All right, thank you.

15 Mr. Johnson and Ms. Bryner, do you have any  
16 questions for Mr. Long? No?

17 MS. BRYNER: No.

18 THE COURT: Okay, thank you.

19 And thank you, Mr. Long.

20 Then Mr. Johnson and Ms. Bryner, would you  
21 like to make any comment on what the Division stated  
22 today, or add anything? If so, I just need to swear  
23 you in.

24 (A private discussion was held between  
25 Mr. Johnson and Ms. Bryner.)

Kelly L. Wilburn, CSR, RPR  
DepomaxMerit

(March 30, 2010 - Sherwood Water - 09-075-01)

1           THE COURT: Let me swear you in real quick,  
2 Mr. Johnson. Raise your right hand for me. And in  
3 fact, Ms. Bryner, if you would do the same.

4           (Mr. Johnson and Ms. Bryner were sworn.)

5           THE COURT: Mr. Johnson, do you have some  
6 comments?

7           MR. JOHNSON: My dad -- my father I should  
8 say, I'm sorry -- he raised the rates to \$35. Excuse  
9 me, I didn't prepare for this. I'm --

10          THE COURT: That's fine, don't worry about  
11 it.

12          MR. JOHNSON: -- just going off my memory. I  
13 guess all I want to do is just apologize for the rate  
14 increase of what happened and how my dad did things.  
15 My dad was a very smart man, but he, he did things  
16 differently.

17          Now we are wanting to try and operate this  
18 water system as true and right as possible. And going  
19 through this with Mark Long, this is what's come  
20 about.

21          We know that this isn't what the ratepayers  
22 want to pay, and I apologize for that. But as you can  
23 see, in order to keep it going by itself we need to  
24 have these rates.

25          THE COURT: All right, thank you. Anything

Kelly L. Wilburn, CSR, RPR  
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(March 30, 2010 - Sherwood Water - 09-075-01)

1 else you'd like to add, Mr. Johnson? How many, how  
2 many connections -- maybe I'm missing it. How many  
3 connections are there? Do you know?

4 MR. JOHNSON: Approximately 96 right now.

5 THE COURT: All right, thank you.

6 Ms. Bryner, anything you'd like to add?

7 MS. BRYNER: I would like to just add that  
8 Mark, when he ran the business he was very honest in  
9 his dealings. He wasn't trying to do anything  
10 dishonest. He just, like Scott said, was very smart.  
11 He kept a lot of things in his head.

12 And because he worked the excavation he could  
13 tell how much water was being used in the pipes. I  
14 mean, he just knew things that we didn't know. So  
15 when he passed away we, you know, weren't ready to  
16 fill out all these papers and reports that were  
17 requested and we didn't know where to find the  
18 numbers.

19 And so that's why we contacted the Division  
20 and asked them for help, because we really didn't know  
21 what we were doing. And so this last year that's --  
22 basically I just feel like they've helped us in  
23 learning how to run the business, and stay in  
24 compliance, and do what we're supposed to be doing.

25 THE COURT: Thank you. Anything else you'd

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(March 30, 2010 - Sherwood Water - 09-075-01)

1 like to add, Ms. Bryner?

2 MS. BRYNER: I don't think so, no.

3 THE COURT: All right, thank you.

4 Any questions for either Mr. Johnson or

5 Ms. Bryner?

6 Ms. Schmid?

7 MS. SCHMID: No questions.

8 THE COURT: Okay. Then with that, we'll go

9 ahead and end the case in chief.

10 And we do have -- are there public witnesses?

11 Any -- anybody in the, in the public that would like

12 to comment on the proposed rate increase?

13 Sir. Anybody else? No?

14 Sir, if you could do me a favor. If you

15 could please come up to one of these chairs here and

16 make sure that -- maybe Mark can make sure that that

17 microphone is on for you.

18 And I'll swear you in. And if you could

19 start by giving us your name and address, please.

20 What's your name, sir?

21 MR. ROBINS: My name is Meriem Robins. Can

22 you hear me? It doesn't sound like it's on.

23 Okay, that's better.

24 THE COURT: Okay. Mr. Robins, if you could

25 raise --

Kelly L. Wilburn, CSR, RPR  
DepomaxMerit

(March 30, 2010 - Sherwood Water - 09-075-01)

1 MR. ROBINS: My name is Meriem Robins. And I  
2 knew Mark, and I know Scott personally. And I'm --

3 THE COURT: Let me have you raise your right  
4 hand before you testify, Mr. Robins --

5 MR. ROBINS: Okay.

6 THE COURT: -- please. All right, thank you.

7 (Mr. Robins was sworn.)

8 THE COURT: Thank you. Go ahead.

9 MR. ROBINS: And I know that they've had the  
10 problems, and I know that they've worked hard to get  
11 them corrected. There is -- and I can understand,  
12 after hearing the -- and reading, I can understand the  
13 need for some increase in rate.

14 I wonder how, how riding it over a period of  
15 time -- I think I heard six years, I don't know  
16 whether that's correct or not -- but it seems to me  
17 that, that maybe a longer period would be better and  
18 be able to reduce the rates.

19 I know there's a lot of people that are  
20 retired out there, and a number of people that it  
21 would be -- and it is going to be a little hardship.  
22 But if they plan on it I'm sure they can make it if,  
23 if, if you deem that this is proper.

24 One thing that I found that wasn't considered  
25 is that in my case, I live in Orem. And I go down

Kelly L. Wilburn, CSR, RPR  
DepomaxMerit

(March 30, 2010 - Sherwood Water - 09-075-01)

1 there and spend most of the summer down there, but not  
2 in the winter. And so I -- this is the first time,  
3 reading this, that I knew that there was a standby  
4 rate wherein there was no use of water.

5 We turn it off in October, and we don't turn  
6 it on again until about April. So I don't think this  
7 standby has been known. I didn't know about it. And  
8 I have a question from -- for Scott as to do we notify  
9 you, or do you read the meter and see that there's  
10 been no usage?

11 I'm -- this is a big question I had and one  
12 reason I wanted to be here today is to know how we go  
13 about getting the non-usage rate.

14 THE COURT: Mr. Johnson, do you want to speak  
15 to that, please?

16 MR. JOHNSON: Yes. How we will go about that  
17 is you would contact us at Sherwood Water Company and  
18 let us know. And then I would come out and read the  
19 meter and turn it off. And, and then when you came  
20 back in April you would call us and we would go back  
21 and turn it on.

22 MR. ROBINS: Okay. And then you would put a  
23 lock on it so that you'd know it would be off during  
24 those months?

25 MR. JOHNSON: Right.

Kelly L. Wilburn, CSR, RPR  
DepomaxMerit

(March 30, 2010 - Sherwood Water - 09-075-01)

1 MR. ROBINS: Okay.

2 THE COURT: Ms. Bryner?

3 MS. BRYNER: I'd like to make the comment. I  
4 worked for Mark for about a year and-a-half before he  
5 passed away, and he was trying to teach me how to do  
6 things. And from what I gathered from his  
7 understanding of the standby was the standby rate was  
8 only for customers who never use their water, ever.

9 It wasn't for the customers who came during  
10 the summer and then didn't use it for the winter, it  
11 was just for the ones who never used it. They had a  
12 connection, they had land, but they never came and  
13 used it.

14 And so, you know, I -- learning all of this  
15 stuff, we've learned in the tariff that we need to  
16 define actually what a standby is. And, you know,  
17 possibly change that so it does mean that if they  
18 don't use it per month instead of per year or per, you  
19 know --

20 THE COURT: Now, is that --

21 MS. BRYNER: -- account.

22 THE COURT: Let me -- I'm gonna ask the  
23 Division. Mr. Long, is that correct, the standby fee?  
24 I thought -- my understanding was that it was  
25 typically for somebody that hadn't put the water to

Kelly L. Wilburn, CSR, RPR  
DepomaxMerit

(March 30, 2010 - Sherwood Water - 09-075-01)

1 beneficial use yet; is that correct?

2 Or is it that basically they turn it off in  
3 the winter and turn it back on in the summer?

4 MR. LONG: In this case the standby fee had a  
5 slightly different definition than some of the prior  
6 cases.

7 THE COURT: Okay.

8 MR. LONG: And she's correct in that.

9 THE COURT: And, and what's the correct  
10 understanding of what the standby fee is?

11 MR. LONG: It's my understanding that if  
12 there's a connection there and they're not using the  
13 water, then they're paying the standby fee.

14 THE COURT: Okay. All right.

15 MS. SCHMID: I'm --

16 MR. ROBINS: Okay. Well then, then I'll,  
17 I'll notify Scott and we can -- because usually it's  
18 about six months that -- during the winter. Because  
19 if we -- the reason being is if we turn the water on,  
20 it freezes in these manufactured homes.

21 The pipes -- the plastic pipe go up and down  
22 and up and down, and if we don't blow it out then we  
23 have it freezing and breaking the pipes. So we blow  
24 it out in, in Oct -- first of October. And then we  
25 put -- turn the water back on in April/May. So --

Kelly L. Wilburn, CSR, RPR  
DepomaxMerit

(March 30, 2010 - Sherwood Water - 09-075-01)

1 usually it's in April.

2           So this would help reduce the fee when we're  
3 not using the water. And I'm glad to understand now  
4 that there, there is the non-usage fee for -- because  
5 there's a number -- I know a number of people that do  
6 that same thing as I do.

7           THE COURT: All right.

8           Ms. Schmid?

9           MS. SCHMID: At some point may the Division  
10 have a few moments to conference and discuss this  
11 issue? I think there is some confusion.

12           THE COURT: Yeah, that's fine. We can do  
13 that now, in fact. Let's go ahead and take, what do  
14 you need, about 5, 10 minutes?

15           MS. SCHMID: Please. Thank you.

16           THE COURT: We'll come back in ten minutes.

17           (A recess was taken from 10:42 to 10:57 a.m.)

18           THE COURT: Did you have time to discuss what  
19 you needed.

20           MS. SCHMID: We did, and we have some  
21 clarifications that we believe need to be made. There  
22 was a bit of confusion about the standby rates, and to  
23 whom they apply, and what purpose they serve.

24           And I believe that Mr. Long is ready,  
25 willing, and able to address that issue and provide

Kelly L. Wilburn, CSR, RPR  
DepomaxMerit

(March 30, 2010 - Sherwood Water - 09-075-01)

1 the needed clarification.

2 THE COURT: All right.

3 Go ahead, Mr. Long.

4 MR. LONG: Yes. I'm sorry for any confusion  
5 previously. The way the rates were calculated is  
6 there's 101 total connections. Seventy-nine of those  
7 are people that are connected and have, at one time,  
8 used the water.

9 Every single one of those people are being  
10 charged the standby, the system fee, plus the minimum  
11 water usage. So their bill is 41.75.

12 THE COURT: So each of them is charged --  
13 tell me again. The standby fee?

14 MS. SCHMID: No. The system charge, which is  
15 the same as the standby fee.

16 MR. LONG: Okay, they're -- the sys -- I'm  
17 sorry, the system charge and the minimum water usage  
18 of 10.50, for a total of 41.75.

19 THE COURT: Okay.

20 MR. LONG: Only those lots that have water  
21 available but have never been connected, never have  
22 used any water, are the ones that are paying the  
23 system fee only -- the standby fee, if you will -- and  
24 there's 22 of those.

25 MS. SCHMID: So if I wanted to close my water

Kelly L. Wilburn, CSR, RPR  
DepomaxMerit

(March 30, 2010 - Sherwood Water - 09-075-01)

1 off for the winter I could have it locked out, but I  
2 would still have to pay the --

3 MR. ROBINS: Connect fee.

4 MS. SCHMID: -- the 41.75 a month; is that  
5 correct?

6 MR. LONG: That's correct.

7 THE COURT: You'd pay the system charge and  
8 the monthly connection?

9 MR. LONG: Plus the --

10 MS. SCHMID: Yeah.

11 MR. LONG: Correct.

12 MS. SCHMID: Plus the lockout, so that  
13 probably wouldn't be an economical thing to do.

14 MR. ROBINS: Yeah.

15 MR. LONG: You could have it disconnected,  
16 but that would be a \$100 disconnect fee and then  
17 another \$100 to reconnect it.

18 MR. ROBINS: That's right.

19 MR. LONG: Which would be more expensive  
20 than, you know, just for a seasonal turnoff/turn on.

21 THE COURT: Okay.

22 MS. SCHMID: And just for emphasis, sir, the  
23 rates that are presented and recommended by the  
24 Division -- and that the Company I believe has agreed  
25 to being just, reasonable, and in the public

Kelly L. Wilburn, CSR, RPR  
DepomaxMerit

(March 30, 2010 - Sherwood Water - 09-075-01)

1 interest -- those were calculated upon this -- was it  
2 79?

3 MR. LONG: That's correct.

4 MS. SCHMID: Seventy-nine lots that are using  
5 water using it at 41.75 as a base rate, and then  
6 possibly more if they use water over the 8,000  
7 gallons?

8 MR. LONG: Correct.

9 MS. SCHMID: And is that consistent at --  
10 with your understanding?

11 MR. JOHNSON: Yes.

12 MS. BRYNER: Yes.

13 MS. SCHMID: Okay. That --

14 THE COURT: Okay.

15 MS. SCHMID: That's the only clarification I  
16 have.

17 THE COURT: Thank you. Thank you.

18 Mr. Robins, any other comments?

19 MR. ROBINS: No. I just wanted to give my  
20 address so it would be on the record.

21 THE COURT: You need to do that, please.

22 MR. ROBINS: My address down at Sherwood  
23 Shores is 97 Sherwood Drive. My address in Orem is  
24 487 West 650 South, Orem, Utah 84058.

25 THE COURT: Thank you.

Kelly L. Wilburn, CSR, RPR  
DepomaxMerit

(March 30, 2010 - Sherwood Water - 09-075-01)

1 MR. ROBINS: And I now understand this.

2 (A private discussion was held.)

3 MR. ROBINS: My wife says it would be nice  
4 to -- if we could suggest that they bill each month,  
5 like we get billed in Orem, so -- because otherwise we  
6 end up with a \$500 bill. We have two connections.  
7 But that's, you know, that's something they'll have to  
8 discuss and.

9 THE COURT: Thank you. That's something I  
10 think you can take up with the Company.

11 MR. ROBINS: Okay.

12 THE COURT: That's not really before us  
13 today, Mr. Robins.

14 MR. ROBINS: All right.

15 THE COURT: Thank you.

16 Anything else that -- any other public  
17 witness, any other comments from the public?

18 Sir, if you could step up to the microphone  
19 as well, please?

20 And if you could raise your right hand for me  
21 and just let me swear you in.

22 (Mr. Peterson was sworn.)

23 THE COURT: Could you give your name and  
24 address, please?

25 MR. PETERSON: Roy Peterson, 3420 South

Kelly L. Wilburn, CSR, RPR  
DepomaxMerit

(March 30, 2010 - Sherwood Water - 09-075-01)

1 7615 West, Magna, Utah.

2 THE COURT: Thank you, Mr. Peterson. Go  
3 ahead.

4 MR. PETERSON: Well, I along with the  
5 gentleman before me here, I come in here with the idea  
6 that what's written on this paper we received states  
7 applies to customers where water is available but no  
8 water is used for this standby rate. And which is  
9 what Scott said.

10 I -- it seems like we got a shift in policy  
11 here in a hurry. I don't understand it.

12 MR. JOHNSON: I'm, I'm sorry, Roy. I  
13 apologize for, for saying that. I'm not up to date  
14 with the books, and I thought that's how it was going  
15 to be.

16 My wife, and Peggey, and Mark Long are the  
17 ones who've been working on this, and so I haven't  
18 been up to date. And so I, I apologize, I'm the one  
19 who fouled that up.

20 MS. BRYNER: Well, but as it states in here  
21 for the standby rate -- I actually wrote what's on  
22 this that we sent to you.

23 MR. PETERSON: Uh-huh.

24 MS. BRYNER: And maybe there's confusion with  
25 it, I don't know. It says:

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(March 30, 2010 - Sherwood Water - 09-075-01)

1                   "Applies to customers where water is  
2                   available but no water is used, or where  
3                   service -- water service has been  
4                   disconnected by Sherwood Water."

5                   Which means if someone's not paying their  
6                   bill and we deem it necessary -- we've contacted them,  
7                   we've tried to get payment, and we just deem it  
8                   necessary -- then we go and disconnect it.

9                   Or if the customer wants us to disconnect it.  
10                  In other words, they don't want to have any water  
11                  available to them at all. They want to take away the,  
12                  the papers that you sign at first for a connection,  
13                  they want to just take away that right. And they want  
14                  to just eliminate it.

15                  And so then we send them another paper that  
16                  they fill out and says that they give up their rights  
17                  to their connection. And so that's, you know. I, I  
18                  guess the way I wrote it I understood how it -- I was  
19                  saying it, and I didn't mean for it to be confused.

20                  Because I knew how Mark felt about the  
21                  standby -- I mean Mark Johnson -- only because, you  
22                  know, I had had questions, because when I started  
23                  working for him I had no idea. You know, and I had to  
24                  have things explained to me.

25                  So I apologize for that also. But that's,

Kelly L. Wilburn, CSR, RPR  
DepomaxMerit

(March 30, 2010 - Sherwood Water - 09-075-01)

1 you know, what I thought Mark meant, and really still  
2 feel he meant, was that if -- there were very few  
3 connections available at that time before the new tank  
4 was made. And people knew that.

5           And so they would be willing to say, Okay, I  
6 want to pay a standby fee. Which means in five years  
7 if I want a connection, you know, I will put that in.  
8 I want to be paying a standby fee so I can have that  
9 connection. And so that's what that was for in, in  
10 that essence.

11           The other was if they already had a  
12 connection, then -- and, and say -- we've got quite a  
13 few -- 22 was stated, okay? And, and what that is is  
14 there's a connection on their land. They can have  
15 water. If somebody goes on their land and they want  
16 to have a party or whatever, they can turn the water  
17 on and use it.

18           But these are the people who never do that.  
19 They live in Las Vegas, or they live in California,  
20 or, you know, they've gotten older in their ages and  
21 they just don't come back anymore. And so we have  
22 given them that standby fee.

23           And that's all I know. I, you know, I guess  
24 we could change it in the future if there's a need or,  
25 you know, a necessity, we could try and decide how

Kelly L. Wilburn, CSR, RPR  
DepomaxMerit

(March 30, 2010 - Sherwood Water - 09-075-01)

1 that would best fit for everybody. Not just for, you  
2 know, so we can make money, but just best for  
3 everybody.

4 We can, we can discuss that, and I think  
5 we're willing to do that. It's just that, you know,  
6 we'd need to know how to go about it. And make it  
7 legal and still be in compliance.

8 MR. PETERSON: You know, I want you to make  
9 money down there. I don't -- I'm not trying to take  
10 money away from you. I just read that as a statement  
11 and it seemed very plain to me what it said.

12 And maybe it's written wrong or maybe I  
13 understood it wrong, I won't say for sure. But that  
14 was my only comment.

15 THE COURT: All right. Thank you,  
16 Mr. Peterson.

17 Anyone else that would like to make any quick  
18 comments?

19 No? All right then. With that, we'll go  
20 ahead and conclude these hearings.

21 And if the Division could file that  
22 Exhibit 1.9 today, I appreciate that.

23 And we'll go ahead and take this matter under  
24 advisement and issue an order shortly. Thank you.

25 (The hearing was concluded at 11:06 a.m.)

Kelly L. Wilburn, CSR, RPR  
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(March 30, 2010 - Sherwood Water - 09-075-01)

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C E R T I F I C A T E

STATE OF UTAH                    )  
  ) ss.  
COUNTY OF SALT LAKE            )

This is to certify that the foregoing proceedings were taken before me, KELLY L. WILBURN, a Certified Shorthand Reporter and Registered Professional Reporter in and for the State of Utah.

That the proceedings were reported by me in stenotype and thereafter caused by me to be transcribed into typewriting. And that a full, true, and correct transcription of said proceedings so taken and transcribed is set forth in the foregoing pages, numbered 1 through 43, 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.

SIGNED ON THIS 31st DAY OF March, 2010.

\_\_\_\_\_  
Kelly L. Wilburn, CSR, RPR  
Utah CSR No. 109582-7801

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