

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application) Docket No:
of Cedar Ridge Distribution) 11-2423-02
Company for an Increase in Rates)

TRANSCRIPT OF HEARING PROCEEDINGS

TAKEN AT: Deweyville Town Hall
 10870 North Highway 38
 Deweyville, Utah

DATE: November 16, 2011

TIME: 5:11 p.m.

REPORTED BY: Kelly L. Wilburn, CSR, RPR

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APPEARANCES

Administrative Law Judge:

MELANIE A. REIF (Administrative Law Judge)

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For the Division of Public Utilities:

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1 NOVEMBER 16, 2011 5:11 P.M.

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

3 THE COURT: Good evening everyone. I'm
4 Melanie Reif, the Administrative Law Judge for the
5 Public Service Commission. And this evening we're
6 here to hear the hearing for the Application of Cedar
7 Ridge Distribution Company For an Increase in Rates.

8 This is the time and place for such hearing,
9 and I'd like to welcome all of you and thank you for
10 attending. At this time could we take appearances,
11 starting with the Company?

12 MR. KAPALOSKI: Thank you, your Honor. It's
13 Lee Kapaloski, Parsons, Behle & Latimer, appearing on
14 behalf of Cedar Ridge Distribution Company.

15 MR. THOMPSON: David Z. Thompson.

16 MR. KAPALOSKI: President.

17 MR. THOMPSON: President of the Cedar Ridge
18 Distribution Company.

19 THE COURT: Thank you. For the Division?

20 MS. SCHMID: Thank you. Patricia E. Schmid,
21 Assistant Attorney General, for the Division. And
22 with me we have Ms. Benvegna-Springer and Mr. Duncan
23 who are with the Division.

24 THE COURT: Okay, very good. Thank you.
25 Mr. Kapaloski, I understand there may be an issue that

1 you would like to --

2 MR. KAPALOSKI: Yeah. Can I go up?

3 THE COURT: -- address. Yes, please.

4 MR. KAPALOSKI: Thank you very much.

5 Again, thank you everybody for being here.

6 Again, Lee Kapaloski. I represent the Cedar Ridge
7 Distribution Company. We've had a lot of
8 discussion -- pardon me. We have had a lot of
9 discussion with the Division of Public Utilities about
10 the issues involved in this rate hearing.

11 Again, we're not talking about whether or not
12 the Company is or should not be a regulated entity.
13 That was basically resolved in the Docket 0001. The
14 issue now before everyone is what the rates should be.

15 Integral to that discussion is the Tremonton
16 well and the Tremonton well transaction. And what you
17 may or may not have received today -- and I apologize
18 for the late hour -- is some communication from Cedar
19 Ridge Distribution Company about a proposed resolution
20 of that issue of the Tremonton well.

21 Our proposal tonight is not to proceed with
22 the formal hearing, but to give us a chance to talk
23 with the intervenors and the customers and have a
24 chance to review this proposed, I call it a
25 "settlement." Basically it's a resolution of the

1 issues that have been raised relative to the Tremonton
2 well transaction.

3 So what I, on the record, would like to
4 propose is that the formal hearing be deferred until
5 Tuesday, or a date that's acceptable to the judge to
6 proceed. And in the interim that, as everybody is
7 assembled here, I think it's very convenient for
8 everyone who's here that absent -- the judge and the
9 hearing be adjourned and we have an informal dialogue,
10 if you will, with the citizens and the intervenors to
11 explain the proposal -- that you probably have just
12 received and not actually read -- and discuss that.

13 That's not a record discussion. That's
14 purely our presentation to you, as customers of Cedar
15 Ridge Distribution Company, as to what we are
16 proposing to proceed forward.

17 So that's my recommendation, your Honor.
18 That there would be a deferral of this formal hearing
19 until next Tuesday. And in the interim, starting
20 tonight, and if it takes more time we can continue
21 doing this at our convenience between the parties --
22 yes.

23 SPEAKER FROM THE AUDIENCE: Has the
24 Commission contacted Deweyville Town to find out if
25 the building is available for Tuesday, if that's what

1 you're thinking? Before we set --

2 MR. KAPALOSKI: I don't know the answer to
3 that. That's a good question. I know it's available
4 tonight. And what we're proposing is that this
5 hearing be adjourned as of today. And I guess it
6 would be continued -- I'm not quite sure how we do
7 this -- continued.

8 And we have a discussion with the citizens
9 who want to remain and go over the proposal informally
10 as to what the position of the Company is. And
11 propose the reconvening of the formal hearing. It was
12 suggested as Tuesday, so I don't know what is the
13 actual -- I think that's the available date.

14 MS. SCHMID: That would be an excellent date.

15 MR. KAPALOSKI: That's a tentative date,
16 which everybody would get notice of, I assume.

17 THE COURT: Is there anyone here who has the
18 knowledge of the availability of this building?

19 SPEAKER FROM THE AUDIENCE: We could call. I
20 arranged for it today.

21 THE COURT: You did?

22 SPEAKER FROM THE AUDIENCE: Because no one
23 else did.

24 THE COURT: Okay. What time were you -- are
25 you proposing, Mr. Kapaloski?

1 MR. KAPALOSKI: That's more for the
2 convenience of everyone else. I, I'll accommodate
3 whatever is the right time.

4 THE COURT: Okay. Ma'am?

5 SPEAKER FROM THE AUDIENCE: Normally we have
6 Cubs here at 4:30. But not, not tonight. On a
7 Tuesday it's 4:30.

8 MR. KAPALOSKI: Can we do it at six? I don't
9 know what the Cubs --

10 SPEAKER FROM THE AUDIENCE: No, I'm saying --

11 MR. KAPALOSKI: I don't want to interfere
12 with any --

13 SPEAKER FROM THE AUDIENCE: Next week we're
14 not gonna be meeting because it's Thanksgiving week.
15 And I don't know how many people are gonna be around
16 for Thanks -- gonna be around for this.

17 MR. KAPALOSKI: Well, that's why we proposed
18 Tuesday rather than Wednesday. Yes?

19 SPEAKER FROM THE AUDIENCE: Why can't it be
20 finished tonight? There's been plenty of time.

21 SPEAKER FROM THE AUDIENCE: Has the
22 Commission seen the proposal?

23 MR. KAPALOSKI: Yes, they saw it today.

24 MS. SCHMID: Well, they wouldn't see the
25 settlement proposal.

1 MR. KAPALOSKI: They wouldn't see the
2 settlement proposal. We just presented the settlement
3 proposal this afternoon, that's the reason.

4 THE COURT: Just for clarification,
5 procedurally how it would happen is the Company would
6 propose their settlement to the Division and to the
7 parties, and the customers, and intervenors for
8 discussion.

9 And once -- if at any time there is a mutual
10 agreement that you then want to bring forward to the
11 Commission for final consideration, that's when that
12 would occur.

13 So the proposed -- the proposal that
14 Mr. Kapaloski has presented tonight is not within the
15 possession of the Commission, nor is it properly
16 before the Commission at this time. It's simply
17 something that's being proposed for all of you to
18 discuss and make a determination if you agree to it
19 and have an opportunity to discuss it and such.

20 Yes, ma'am.

21 SPEAKER FROM THE AUDIENCE: So how would this
22 affect the Commission's decision? It's just if we
23 agree to what was proposed it would affect the
24 Commission's decisions?

25 THE COURT: The Commission's, the

1 Commission's approach on settlement is that settlement
2 is always encouraged. And so to the extent that there
3 is a potential settlement, we -- the Commission gives
4 the parties an opportunity to come to an agreement.

5 And that has many benefits. It has the
6 benefits of everyone working together for a mutual
7 solution. So -- of course I'm not privy to what the
8 proposal says and I wouldn't be until it's presented
9 on behalf of everyone, if it gets to that point. But
10 that is the potential benefit.

11 And that's why Mr. Kapaloski wants to talk to
12 you all. I believe he probably wants to, if I
13 understand him correctly, he wants to end the formal
14 hearing and allow you all to meet with the Division
15 this evening and allow that to proceed.

16 SPEAKER FROM THE AUDIENCE: So would this
17 happen anyway? Even if we were to proceed with a
18 formal hearing would we still have this chance, or
19 it's like now or never?

20 THE COURT: Given the timeline that the
21 Commission is faced with with addressing the
22 application that's before it, this is the window
23 really -- yeah, this is really -- if it's going happen
24 as far as a settlement agreement, this is the
25 opportunity.

1 It's not to say that if settlement breaks
2 down that we are back to where we would have been
3 just, you know, a few minutes ago. Which is to have a
4 formal hearing, get the input, present a
5 recommendation to the Commission, and come up with a
6 decision.

7 In this situation I think it gives you, the
8 customers and the intervenors, the Company, the
9 Division, everyone the opportunity to work together
10 for hopefully a satisfactory result.

11 MS. WISER: I would just like to make the
12 comment that the lateness in the hour that this always
13 seems to happen. I mean, none of us knew about it
14 till we showed up. It's a hardship on many of us,
15 whose spouses have to take time off of work so that
16 one of us at least can attend the meetings.

17 And so -- that has happened a number of times
18 already throughout this entire process. Not just when
19 the Commission's been involved, but even beforehand
20 when we were trying to work it out on our own at
21 first.

22 And so I just would like that to be noted. I
23 don't think that it's very nice or cordial to wait
24 till the last second, when we, when we have made all
25 of our arrangements to make sure that we're here, and

1 then all of a sudden have everything be later changed.
2 So.

3 MR. KAPALOSKI: Well, can I --

4 MS. WISER: That's not very appreciated, at
5 least by my family.

6 THE COURT: Could you identify yourself for
7 the record, please?

8 MS. WISER: Lori Wiser.

9 THE COURT: Thank you.

10 MS. WISER: I am one of the intervenors.
11 Bryce and Lori Wiser.

12 THE COURT: Okay, thank you.

13 MR. KAPALOSKI: I appreciate that comment,
14 sincerely. I do. And I think in my thoughts, as I
15 stand up here, it's best to discuss substantively what
16 is on the table and what are the proposals. And we're
17 here tonight.

18 And this takes a lot of credence, from my
19 perspective and the water company's perspective, as to
20 what is going to be presented as to what is the
21 resolution of these issues.

22 And I guess can I apologize partly because of
23 scheduling, and I do if that's the reality of it. It
24 takes time, quite frankly, to get all parties to be on
25 sync as to what they want to propose as a settlement.

1 This is just, Mr. Thompson's busy -- and I'm not
2 making excuses. I'm just talking about this is a very
3 serious issue and we want to discuss it.

4 And rather than just lay this out on the
5 table tonight and go into a hearing our position is --
6 what we presented to the judge and to the Division is,
7 we will be here, we are here. There will not be a
8 judge here. And we can discuss informally -- and
9 informally allows a lot of dialogue -- the proposal
10 which we have just put on the table.

11 So again, I apologize. But this is a
12 substantive discussion which can either result in a
13 proposed settlement or not a proposed settlement. And
14 you have the rights as to what your positions are, and
15 we want to have that discussion with the customers.

16 MS. SCHMID: I have a statement I'd like to
17 make on behalf of the Division, if I may.

18 THE COURT: Yes, please. Would you like to
19 come up to the podium?

20 MS. SCHMID: The Division has taken no
21 position on whether or not the settlement is
22 appropriate or not. It is extremely important for the
23 Division to hear from the intervenors and customers
24 before that decision is made.

25 So we look forward to your reaction to the

1 Company's offer.

2 MS. HOGAN: Will you be -- will the
3 Commission be able to sit in on this meeting, or are
4 you -- no?

5 MS. SCHMID: Settlement meetings are held
6 between the parties. And the parties who make the
7 judicial decisions are not involved in the negotiating
8 part. So it would be presented at a -- if there is an
9 agreement it would be presented at a later hearing.

10 It there is no agreement or no settlement,
11 the parties' positions would also be laid out at that
12 later hearing and the decision makers would have a
13 choice of options to pursue.

14 THE COURT: Excuse me, ma'am. The -- could
15 you identify yourself and?

16 MS. HOGAN: My apologies, yes. I'm Dorothy
17 Hogan. I'm also one of the intervenors.

18 THE COURT: Okay. And then, ma'am, you had a
19 question.

20 MS. ANDERSON: Me?

21 THE COURT: Yes.

22 MS. ANDERSON: Barbara Anderson, I'm an
23 intervenor. David received an application for the
24 CPCN in April of 2010. That's a year and-a-half ago.
25 We have been waiting for a long time to get this

1 settled. I guess, with all due respect, I came here
2 tonight to have this settled. And came prepared with
3 a bunch of questions, prepared ahead of time.

4 And I find it semi-irritating that the
5 coun -- the Commission sent us emails that we could
6 study so that we're not blind sided, but then we're
7 expected without any preparation to say, Okay, let's
8 just turn everything around and do it a different way.

9 MS. SCHMID: I need to clarify that we are
10 the Division. We are separate from the Commission.
11 The --

12 MS. ANDERSON: Sorry, I wondered about that.

13 MS. SCHMID: It's okay, it's okay. So we
14 would be involved in the discussions, but the decision
15 makers would not. The Commission would not, the
16 Division would.

17 MS. ANDERSON: And may I continue? I thought
18 that this whole thing had to be settled by law in
19 December, by the 14th-ish. Am I correct?

20 THE COURT: You are.

21 MS. ANDERSON: And we have not made any
22 progress in a long time. We'd love to get meters in,
23 we'd love to get on with stuff. And if we postpone it
24 and postpone it how will we meet that deadline in
25 December?

1 THE COURT: The deadline pertains to the
2 order from the Commission. We have a 240-day deadline
3 from the date of the application, which is looming.
4 And that's, in part, why I mentioned that we don't
5 have a lot of time if we're going to have
6 discussions -- further discussions.

7 So I think that probably what would be best
8 at this point is if, if I take a recess for say ten
9 minutes. We go off the record. I'll leave the room.
10 David Clark also, from my office, will leave the room.

11 We'll give you an opportunity to talk amongst
12 yourselves. And I will come back in and make a
13 determination about the remaining -- how the remaining
14 part of this hearing/stipulation will proceed.

15 MS. ANDERSON: Can I ask -- are you looking
16 at me?

17 THE COURT: Yes, yes.

18 MS. ANDERSON: Barbara Anderson again. Now I
19 forgot my question.

20 THE COURT: Okay.

21 MS. ANDERSON: No, I do -- I remember my
22 question. And it is, can only intervenors make this
23 decision about how this goes tonight, or everyone?

24 THE COURT: Everyone has an opportunity to
25 participate as customers.

1 MR. KAPALOSKI: Yes. Everyone has.

2 THE COURT: And I, I also wanted to mention,
3 I'm -- I have no part of what happens in the
4 discussions amongst the parties, *etcetera*. That would
5 only be something that would come before the
6 Commission, and very likely come before me to present
7 to the Commission once it got to that point.

8 But to the extent that you came prepared this
9 evening with a list of questions? Those list of
10 questions could be addressed in the kind of
11 conversation with the Division, with the Company, and
12 with your neighbors.

13 So I definitely hear you. I, I know
14 Mr. Kapaloski is sensitive to the fact that we are
15 literally at the 11th hour here. At the same time,
16 there is a potential that I think is worth
17 considering, and I'd like to give you all an
18 opportunity to discuss that real quickly.

19 And I would also like to leave you with a
20 caveat that the Commission encourages settlement. So
21 to the extent that Mr. Kapaloski has presented
22 something, I think that the Commission would be of the
23 opinion that that would be worth giving an opportunity
24 for you all to consider. And to consider in a timely,
25 quick fashion such that, you know, we have days

1 involved, not months or weeks.

2 So with that said, I'm going to recess for --
3 will ten minutes -- would you need more than ten
4 minutes, do you think?

5 MR. KAPALOSKI: Fifteen.

6 THE COURT: Fifteen? And come back and make
7 a decision about how this will proceed from this
8 point. Thank you ladies and gentlemen.

9 (A recess was taken from 5:31 to 6:16 p.m.)

10 THE COURT: Thank you, everyone. At this
11 point I think it would be helpful to get an update.

12 MS. SCHMID: Certainly. The intervenors,
13 customers, Company, and Division have been discussing
14 ideas for how to proceed. The Division has a
15 suggestion. I believe the Company most likely will.
16 I do not know if there is agreement amongst all the
17 intervenors or customers.

18 So perhaps the Company, the Division, and
19 then each individual who would like to speak perhaps
20 could give some thoughts on how the procedure should
21 be handled.

22 THE COURT: Okay. And --

23 SPEAKER FROM THE AUDIENCE: We're in
24 agreement.

25 MS. SCHMID: You're in agreement?

1 SPEAKER FROM THE AUDIENCE: No.

2 SPEAKER FROM THE AUDIENCE: Yes.

3 THE COURT: Let me just ask, in the interest
4 of --

5 SPEAKER FROM THE AUDIENCE: They're in
6 agreement.

7 SPEAKER FROM THE AUDIENCE: I'm good.

8 SPEAKER FROM THE AUDIENCE: All of us minus
9 one.

10 THE COURT: -- of the confidentiality that
11 you all share, that you not disclose any details of
12 any particulars. Just so you know that we should not
13 be privy to that information.

14 MS. SCHMID: Yes.

15 THE COURT: Okay.

16 MS. SCHMID: What I believe we will be
17 expressing on is just the schedule.

18 THE COURT: Okay. All right.

19 MS. SCHMID: Not on the merits.

20 THE COURT: Okay.

21 MS. SCHMID: Should we start? The Division
22 understands that the Company's settlement proposal was
23 last minute and that it was unanticipated by the
24 intervenors and the customers.

25 But the Division believes that there is merit

1 in allowing the intervenors and every customer the
2 opportunity to review the settlement proposal,
3 participate in additional meetings to discuss the
4 proposal with the Company, with the Division, and
5 amongst themselves, however they choose to do it.

6 And then reconvene and make a decision as to
7 whether or not they support the settlement proposal.
8 Inform the Division and the Company. And then have a
9 hearing next Tuesday to present either agreement on
10 the settlement or the parties' individual positions.

11 And the Division will be available on Friday,
12 for a meeting on Friday, or Monday. You'll have to
13 have a different attorney but we'll find one for you
14 for the Division. And then I'll be back Tuesday. Or
15 both. Or both.

16 MR. KAPALOSKI: Friday a.m., Monday anytime.

17 THE COURT: Ms. Schmid, for the hearing
18 that's being proposed is that here in Deweyville?

19 MS. SCHMID: I would propose that would be
20 where it would be held, and at five, if this building
21 is available. If not, perhaps there is -- we've held
22 hearings in fire halls and other city or local
23 buildings. Perhaps one of those could be arranged.

24 THE COURT: Okay.

25 MS. SCHMID: Or a library.

1 THE COURT: And you would take the lead in
2 finding -- making that?

3 MS. SCHMID: I would suggest that the Company
4 do it because they know the resources in the area
5 more.

6 THE COURT: Okay.

7 MR. KAPALOSKI: Sure. We'll do that, your
8 Honor.

9 THE COURT: Okay.

10 MS. SCHMID: And also that they inform --
11 that they have the obligation to inform the customers
12 of the procedures, all the customers, of what is going
13 to happen next.

14 THE COURT: Okay. Ms. Schmid, you've
15 presented this as the Division's suggestion. Are
16 there other parties that are also in agreement with
17 your position?

18 MS. SCHMID: I do not know for sure.

19 THE COURT: Okay.

20 MR. KAPALOSKI: We support that.

21 THE COURT: Mr. Kapaloski? Okay. So, okay.
22 And I'd like to hear from everyone else. Do we have
23 consensus with what the Division is proposing?

24 SPEAKER FROM THE AUDIENCE: We support that.

25 SPEAKER FROM THE AUDIENCE: Uh-huh.

1 THE COURT: Is that unanimous?

2 SPEAKER FROM THE AUDIENCE: No, I'm gonna say
3 I disagree. I would like to get it settled tonight.

4 THE COURT: Okay.

5 SPEAKER FROM THE AUDIENCE: I, I think
6 everyone else was in agreement that they do that.

7 THE COURT: Okay. And you're wishing to
8 resolve things tonight.

9 SPEAKER FROM THE AUDIENCE: I just -- my
10 worry is that it'll just go on forever.

11 THE COURT: Okay.

12 SPEAKER FROM THE AUDIENCE: Create a whole
13 new set of contentions. We've almost put that to rest
14 in the neighborhood, but --

15 THE COURT: Okay.

16 SPEAKER FROM THE AUDIENCE: -- we're starting
17 it again.

18 THE COURT: I want to come back to your
19 concern.

20 And I believe you also had a comment as well.

21 SPEAKER FROM THE AUDIENCE: Well, my only
22 concern is Tuesday is two days before a holiday, and
23 so I'm just concerned that people will be in town and
24 be able to participate.

25 THE COURT: Okay. Those of you who are here

1 this evening, do you foresee any difficulty in being
2 here on Tuesday evening? A couple, couple people do.

3 SPEAKER FROM THE AUDIENCE: And see, we don't
4 know about all the others that aren't here. You know,
5 a lot of people leave for the holidays. Try to leave
6 for the holidays.

7 MS. SCHMID: I'm coming back early.

8 THE COURT: Okay. Ms. Schmid, do you have
9 any -- for those people who are here tonight or who
10 would like to participate is there some method,
11 perhaps, that they could email you or express their
12 concerns, communicate with you in some manner?

13 MS. SCHMID: Or they could present at public
14 witness through a representative, or through a letter
15 with the Commission within a very short time after the
16 hearing, their thoughts on the proposals.

17 MR. KAPALOSKI: If I may, and I'm not the
18 procedural wizard on PSC. But if you keep a record
19 open for submittals between now and Tuesday any
20 submittal could be introduced at the hearing, right?

21 MS. SCHMID: Yes.

22 THE COURT: Yes.

23 MS. SCHMID: That you would --

24 THE COURT: Yes.

25 MR. KAPALOSKI: Okay. So it's open -- the

1 record is open for submittals.

2 THE COURT: Yes.

3 MS. SCHMID: And again, as to whether or not
4 the Commission can use it as evidence depends on sworn
5 or unsworn.

6 MR. KAPALOSKI: That's right.

7 MS. SCHMID: So perhaps if you want to file
8 written comments with the Commission because you're
9 not available on Tuesday. You can often do an
10 affidavit in front of a notary public that swears it's
11 the truth. And that perhaps might be something also
12 for the Commission to consider. I know that pleadings
13 have been filed with those before.

14 THE COURT: Okay. Sir, you have a question?

15 SPEAKER FROM THE AUDIENCE: Why push -- try
16 to push this before Thanksgiving? Why not have it
17 like the Monday after Thanksgiving?

18 THE COURT: It simply isn't possible, sir.
19 If we had more time. We don't. We are, we are
20 literally at the 11th hour as far as needing to do
21 this. And Mr. Kapaloski recognizes that. And that's
22 where we are.

23 SPEAKER FROM THE AUDIENCE: But we're,
24 we're -- we, as a group, is supposed to do something
25 that's impossible too. I mean, it's impossible to go

1 after Thanksgiving, but it's impossible to get all
2 this group together before Thanksgiving.

3 We think it could be --

4 THE COURT: Well, it may be impossible for
5 the entire group to gather because people have a
6 variety of scheduling needs and conflicts and things,
7 but that does not preclude you from giving your input
8 from participating in the manner in which we've
9 discussed.

10 So in the event that you do have a conflict,
11 I would invite you to submit your comments by way of
12 an affidavit to the Commission between now and
13 Tuesday.

14 SPEAKER FROM THE AUDIENCE: Well, an
15 affidavit like before a notary public?

16 THE COURT: Yes.

17 SPEAKER FROM THE AUDIENCE: Is the -- who is
18 paying for the notary public?

19 MS. SCHMID: Many credit unions and banks
20 have them for free.

21 SPEAKER FROM THE AUDIENCE: That's true.
22 That may be true.

23 MS. SCHMID: I, I don't know where you could
24 get one. I could -- America First Credit Union has
25 always done mine for free, but.

1 SPEAKER FROM THE AUDIENCE: I just believe
2 that this is putting undue difficulty on the whole
3 situation.

4 THE COURT: Miss? Miss?

5 MS. ARBON: I'm a notary. I'll do it. For
6 free.

7 MR. KAPALOSKI: Okay.

8 THE COURT: Okay. Would you identify
9 yourself, please?

10 MS. ARBON: Jennifer Arbon.

11 (The court reporter asked for a spelling.)

12 MS. ARBON: A-r-b-o-n.

13 THE COURT: Okay. And so if anyone has any
14 concern, please see Ms. Arbon.

15 Thank you, Ms. Arbon.

16 SPEAKER FROM THE AUDIENCE: So how do you --
17 you could decide what you wanted to say now, but you
18 couldn't make any comments if you have to do it before
19 a notary before -- because you couldn't make the
20 meeting. You can't make any comments about what's
21 been said, and what's going on, and how you feel about
22 it, you know, in.

23 SPEAKER FROM THE AUDIENCE: That's the
24 unfortunate thing --

25 MR. KAPALOSKI: I think that's the idea, if I

1 may, your Honor --

2 (The speakers were talking over one another
3 and had to be interrupted.)

4 MS. SCHMID: Be really good to our court
5 reporter. Because it's on the record she has to
6 transcribe what every person says --

7 SPEAKER FROM THE AUDIENCE: And she can't do
8 it --

9 MS. SCHMID: -- and she can't do it if
10 everyone is talking.

11 THE COURT: Mr. Kapaloski, please go ahead.

12 MR. KAPALOSKI: If I may answer your
13 question. That is, as I understand the idea of an
14 informal settlement discussion absent the court
15 reporter and absent the record, that's what this is
16 about.

17 The idea of talking, I assume, when this
18 proceedings ends for the night, if it does, that we
19 will continue to dialogue about the proposal and get
20 your input informally. What they're saying is if you
21 cannot be --

22 SPEAKER FROM THE AUDIENCE: On Tuesday.

23 SPEAKER FROM THE AUDIENCE: Today too.

24 MR. KAPALOSKI: Well, no, today. If that's
25 what you want to do is stay and talk, that's fine.

1 That's without this proceeding.

2 Then what Ms. Schmid is saying is if you
3 cannot attend what is tentatively proposed as the
4 hearing on Tuesday, you can submit your comments for
5 the record with a notary. And we've had someone
6 volunteer to notarize *gratis*. Free. So I -- best --
7 from my understanding, that's what's being proposed
8 now.

9 SPEAKER FROM THE AUDIENCE: So with regard to
10 acceptance or nonacceptance of this proposal, so you
11 submit -- so if you decide it's a yea or nay on this
12 proposal, that is, that is included in that affidavit?
13 You make your comments and then you, you know.

14 Because obviously we have to, what, do we
15 vote yes we want this proposal or not? And so how is
16 that vote delivered?

17 MS. SCHMID: Settlement discussions are
18 confidential, but the results of those. So what you
19 perhaps could do is you could say, With regard to the
20 \$190 (sic), I want it to go here, here, and here. Or
21 I want it to go as specified in the Division's
22 recommendation filed this Tuesday. Something like
23 that.

24 SPEAKER FROM THE AUDIENCE: Okay.

25 MS. SCHMID: If you can't participate in the

1 whole process.

2 SPEAKER FROM THE AUDIENCE: What constitutes
3 acceptance of the proposal then, ultimately?

4 THE COURT: Ultimately the settlement goes
5 before the Commission. And the Commission reviews it
6 and determines whether or not what is being proposed
7 is just and reasonable and in the public's interest.

8 SPEAKER FROM THE AUDIENCE: So you -- so in
9 making that decision you take all of our comments into
10 account and it's based on a consensus that you see or
11 do not see in there?

12 I mean, I guess -- because it's not really a
13 formal -- we're not voting on this proposal? How do
14 you determine that the majority wants it or the
15 majority does not?

16 THE COURT: It is not necessarily an issue of
17 there being a majority or a non-majority. The issue
18 is the standard that the Commission has to review this
19 by is does the -- whether it's the rate increase or
20 the stipulation that results in a settlement, does it
21 result in just and reasonable rates that are in the
22 public's interest?

23 So it's not an issue of does everybody agree.
24 It's -- that, that would be helpful, I think, in the
25 Commission's mind if the Commission had testimony from

1 Mr. Kapaloski, from the Division, from the customers,
2 from intervenors that they all felt that this was just
3 and reasonable. And for those who didn't feel they
4 could give their testimony as well.

5 And in the end the Commission makes a
6 decision based on that standard.

7 SPEAKER FROM THE AUDIENCE: So even if we all
8 agreed that this is a grand idea, but if you, if you,
9 based on your professional opinion, thought that it
10 wasn't, you could still decide, No, really it
11 doesn't -- everyone was in agreement on this, but it
12 is our professional opinion that it's really not in
13 the best interest of the customers?

14 THE COURT: Hypothetically speaking, that is
15 possible. It is ultimately my role to hear the matter
16 and to take the case to the Commissioners with a
17 recommendation.

18 So typically when we hear a case we hear
19 testimony on why it's just and reasonable and in the
20 public's interest. To the extent there would be
21 opposition to that, that would be presented to the
22 Commission as well.

23 SPEAKER FROM THE AUDIENCE: Okay.

24 THE COURT: So one final thing that I wanted
25 to mention, and I hope that this will help with

1 everyone's understanding of where we are procedurally
2 and what tonight's meeting was initially intended to
3 address.

4 Tonight's meeting was intended to address the
5 final report from the Division, and to seek your input
6 based on that report, and to allow the Company to
7 respond. The outcome of tonight's meeting would be,
8 in no way, a final determination.

9 At most what would have happened is I -- we
10 would have recorded the entire evening. We would have
11 taken input. You all would have the opportunity to
12 speak. Give your position on all the matters. And
13 the issue would then be presented to the Commission.

14 So -- there's been some suggestion that
15 tonight was going to be the final event in this
16 history of application and proceedings. That's not
17 entirely correct. So I hope to the extent that I can
18 help clarify that, that perhaps you understand that a
19 little bit better.

20 And also because my role is not to adjudicate
21 the matter, ultimately the Commissioners are the body
22 that makes the decision. So what you present to me,
23 whether it's during this hearing or a subsequent
24 proceeding when we talk about the same thing or about
25 a stipulation or settlement, that's my role.

1 I'm taking in information and then I'm
2 sharing it with the Commission. And the Commission is
3 the ultimate arbiter, ultimate decision maker of the
4 matter.

5 SPEAKER FROM THE AUDIENCE: So having said
6 that, then really does that not mean that we, even if
7 we all agree to this -- as you said, it -- you prefer
8 to see a settlement. In reality, that isn't the case.
9 Because even if we did all -- were all in agreement on
10 this, it's not officially a settlement, because the
11 Commission is going to then take that input and figure
12 that into your decision; is that correct?

13 THE COURT: It's the Commission's decision.
14 And as I mentioned earlier, the -- settlement is
15 highly recommended, highly valued in proceedings where
16 there are differences of opinion.

17 We have an Applicant who has a position, we
18 have the Division that has a position, and we have
19 customers and customer base that has a position. So
20 to the extent that parties can come together and work
21 to a solution that they believe in part, or in whole,
22 or in different ways is just and reasonable and in the
23 public's interest, the Commission takes that into
24 consideration.

25 SPEAKER FROM THE AUDIENCE: Okay.

1 THE COURT: I, I don't want to lead you to
2 believe that if a stipulation is agreed upon that
3 that's what's gonna happen. Because that would be me
4 putting myself in the place of the Commission and
5 determining something inappropriately on their behalf.

6 So I really appreciate everybody taking the
7 time to talk about what's occurred here tonight. I
8 know it was completely unexpected. I have to say, on
9 behalf of the Commission, that I had no idea until I
10 walked into this room, as you all did, that all of
11 this was here.

12 And, you know, to the extent that I would
13 have or could have known differently, I would have
14 liked to have made things different this evening for
15 all of you. But we are where we are. And it is my
16 impression that the parties and intervenors, the
17 Division, and the Company would like an opportunity to
18 pursue this.

19 And under the circumstances I believe that
20 the time frame in which they are suggesting is one in
21 which the Commission will be in support of. Are there
22 any final issues before we adjourn?

23 MS. SCHMID: Would you --

24 SPEAKER FROM THE AUDIENCE: I have a
25 question.

1 MS. SCHMID: -- like to put the names of the
2 intervenors present on the record just as we entered
3 our appearances, the Company and the Division?

4 THE COURT: I think that would be very
5 helpful. Would each of you, if you don't mind --

6 (A discussion was held with the court reporter
7 regarding setup.)

8 THE COURT: Why don't we start on this side,
9 and we'll start with this gentleman here. And if you
10 could just identify yourself and your involvement,
11 whether you're a party, an intervenor, a customer.
12 And we'll just go around the whole room.

13 MR. THOMPSON: My name is John Thompson. I'm
14 a customer. And what would I be? I would be a, um.

15 MR. KAPALOSKI: You're an officer of the
16 Company.

17 MR. THOMPSON: An officer of the Company, I
18 guess. That would, that would be it.

19 MS. THOMPSON: I'm Trudy Thompson. I'm a
20 customer in two different ways. And I am wife to the
21 person that is being -- on trial.

22 MS. BUTTARS: Leanne Buttars. I'm a
23 customer.

24 MR. BUTTARS: Bob Buttars. I'm a customer.

25 MR. ANDERSON: Keith Anderson, customer and

1 intervenor.

2 THE COURT: Thank you.

3 MS. DONEY: Francis Doney, customer,
4 intervenor.

5 (The court reporter asked for a spelling.)

6 MS. DONEY: Doney, D-o-n-e-y.

7 MR. WALKER: Frank Walker, customer and
8 intervenor.

9 MS. SCOTT: Leone Scott, customer,
10 intervenor.

11 MS. KING: Camille King, customer and an
12 intervenor.

13 MS. HOGAN: Dorothy Hogan, customer and
14 intervenor.

15 MR. HOGAN: Eugene Hogan, customer and
16 intervenor.

17 MR. FULGHAM: Paul Fulgham, F-u-l-g-h-a-m,
18 Tremonton City. Just here.

19 THE COURT: Okay. And the lady in the
20 kitchen.

21 MS. HAMMONS: I'm Becky Hammons. I'm just
22 here.

23 (The court reporter asked for a spelling.)

24 MS. HAMMONS: M-m-o-n-s.

25 THE COURT: You're not here in any capacity

1 as a customer or?

2 MS. HAMMONS: No.

3 SPEAKER FROM THE AUDIENCE: No, she's a
4 daughter of the person on trial.

5 SPEAKER FROM THE AUDIENCE: He's not on
6 trial.

7 SPEAKER FROM THE AUDIENCE: He's not on
8 trial.

9 SPEAKER FROM THE AUDIENCE: Oh, yes. Yes, he
10 is.

11 SPEAKER FROM THE AUDIENCE: Oh, Judy, honey.

12 THE COURT: Okay. And Ms. -- yes.

13 MS. WISER: Lori Wiser. I'm a customer and
14 an intervenor.

15 MS. ANDERSON: Barbara Anderson, customer,
16 intervenor.

17 MR. ARBON: Troy Arbon, customer.

18 MS. ARBON: Jennifer Arbon, customer.

19 MS. SUMMERS: Nanny Summers, customer.

20 MS. ADAMS: Judy Adams, customer.

21 MR. ANDERSON: Daryl Anderson, customer.

22 MS. ANDERSON: Julie Anderson, customer.

23 THE COURT: Okay. Thank you. I think that
24 we got everyone. Is there anyone we didn't get?

25 SPEAKER FROM THE AUDIENCE: Doug was here,

1 Doug Adams. He is an intervenor, I believe. And he
2 left. And then Paul Rogers. Paul, what's his wife's
3 name?

4 SPEAKER FROM THE AUDIENCE: Paul and Nicky
5 Rogers, R-o-d-g-e-r-s.

6 SPEAKER FROM THE AUDIENCE: And I do believe
7 they're intervenors also.

8 SPEAKER FROM THE AUDIENCE: They were an
9 intervenor on --

10 SPEAKER FROM THE AUDIENCE: Docket 1.

11 SPEAKER FROM THE AUDIENCE: -- I don't know
12 if they got -- I don't know what docket.

13 MR. THOMPSON: Okay.

14 SPEAKER FROM THE AUDIENCE: But they were at
15 one point.

16 THE COURT: They're at least customers,
17 perhaps intervenors?

18 SPEAKER FROM THE AUDIENCE: Yes.

19 SPEAKER FROM THE AUDIENCE: Yes.

20 THE COURT: Okay, very good. Okay, thank
21 you.

22 At this point I would like to adjourn this
23 meeting. And with the expectation that the next time
24 that I will see you all will be next Tuesday, at
25 5:00 p.m., in a place that the Division will notify me

1 of.

2 MS. SCHMID: The Company?

3 THE COURT: The Company will notify me of.

4 MR. KAPALOSKI: We will.

5 THE COURT: I'm sorry. It may be here, but
6 we'll get that straightened out. And in the meantime
7 the Company, and the Division, and the intervenors and
8 customers, I have no involvement in what occurs with
9 your communication.

10 And perhaps when I leave tonight you can have
11 further dialogue about how you're planning to meet or
12 whatever.

13 MS. SCHMID: Is there a time at which you
14 would like us to present a status report, perhaps
15 Monday at five, as to where the discussions are? Or
16 just at the hearing?

17 THE COURT: I would prefer it be before the
18 hearing. Is Monday -- is it possible to do it -- I
19 guess it's not really possible to do it before Monday,
20 is it? Let's say could you do it by Monday noon?

21 MS. SCHMID: And so each --

22 SPEAKER FROM THE AUDIENCE: So that means
23 Friday we would have to meet with the other customers.
24 We wouldn't be able to meet Monday night if we have to
25 say something by Monday by noon.

1 MS. SCHMID: Or perhaps Tuesday morning at
2 nine? I don't know. And perhaps -- if there's no
3 unanimity perhaps even customers and intervenors could
4 submit comments as to where they are, if they would
5 like. And if not, present their positions at the
6 hearing.

7 But it is helpful to have an idea of what's
8 going to happen.

9 THE COURT: Yes?

10 SPEAKER FROM THE AUDIENCE: Is anyone on
11 trial here?

12 SPEAKER FROM THE AUDIENCE: Uh-huh.

13 SPEAKER FROM THE AUDIENCE: No.

14 THE COURT: No, sir.

15 SPEAKER FROM THE AUDIENCE: Thank you.

16 THE COURT: Okay. So thank you for coming
17 tonight. We'll be adjourned. Feel free to discuss
18 whatever you need to do after I leave the room.

19 (The hearing was concluded at 6:41 p.m.)

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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 38, 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 30th DAY OF November, 2011.

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

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