

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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TARIFF: In the Matter) Docket No. 06-540-T01

of the Application of)

Lakeview Water) TRANSCRIPT OF

Corporation for) PROCEEDINGS

Approval of its)

Proposed Water Rate)

Schedules and Water)

Service Regulations)

)

August 7, 2007 * 1:30 p.m.

Location: Public Service Commission

160 East 300 South, Hearing Room

Salt Lake City, Utah

Steve Goodwill

Administrative Law Judge

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14

ALSO PRESENT:

15

Ron Catanzara, Lakeview Water Corporation
16 Bradley S. Simpson
Sam Bellarosa

17

Larry Sini (via telephone)
18 Dominick Guida (via telephone)
Bob Kimball (via telephone)
19 William and Jane Coffin (via telephone)

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

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3 ADMINISTRATIVE LAW JUDGE GOODWILL: All
4 right. Let's go ahead and go on the record. This is
5 Public Service Commission hearing in the matter of
6 the Application of the Lakeview Water Corporation for
7 approval of its Proposed Water Rate Schedules and
8 Water Service Regulations, Public Service Commission
9 Docket Number 06-540-T01. I'm Steve Goodwill, the
10 Administrative Law Judge and I've been assigned by
11 the Commission to hear this matter. Notice of this
12 hearing was issued by the Commission on the 1st of
13 August, 2007.

14 Just a little bit of a procedural matter
15 before we get into the substance of the hearing this
16 morning -- or this afternoon, we are scheduled to
17 have this evidentiary hearing commence at 1:30, as we
18 have, and then at two o'clock go into a public
19 witness session. I believe we'll have a number of
20 folks calling in at that point on the telephone. And
21 we may, because we've got a bridge number set up and
22 the line is live, we may have those people joining us
23 by phone as this evidentiary hearing proceeds. If
24 there's any confusion or anything, we'll deal with
25 that as folks join us.

26

1 It sounds like we might have somebody
2 joining us. And we'll see what happens at two
3 o'clock, where we are at this hearing, if it makes
4 sense just to continue or we may actually go into the
5 public witness portion so we can get the people on
6 and off the phone line and then come back for the
7 evidentiary portion of the hearing.

8 Also, I know that our Notice of Hearing
9 that came out on the 1st of August, while complying
10 with all statutory and regulatory guidelines as far
11 as providing people adequate notice for today's
12 hearing, did provide relatively short notice. And
13 also, that we haven't had a chance to provide -- to
14 make sure that notice was given to all customers of
15 Lakeview as is standard Commission practice.

16 So my intent is to have today's hearing,
17 have the public witness hearing, to the extent that
18 folks have been notified and are able to participate,
19 and then to continue that hearing for about the next
20 30 days or so with the intent of restarting sometime
21 in early to mid September with a hearing, probably up
22 in the Huntsville area, to provide customers an
23 opportunity to again voice whatever concerns or
24 support they have for the proposed rates.

25 Again, just to make sure that we have been
26

1 able to, in the intervening period to work with the
2 company to provide adequate notice to the customers
3 and give them a chance to participate. With that,
4 let's go ahead and get started with this afternoon's
5 hearing and I'll do that by taking appearances.
6 We'll go ahead and start with Lakeview.

7 MR. SMITH: Thank you. My name is Craig
8 Smith, I'm -- is my mike on? I can't tell if it's
9 on.

10 ADMINISTRATIVE LAW JUDGE GOODWILL: It's
11 the little green button that is at the base.

12 MR. SMITH: Now it's on. Thank you.

13 My name is Craig Smith. I'm an attorney
14 licensed to practice law in the State of Utah. I'm
15 here on behalf of the Lakeview Water Corporation.
16 With me from my office is Mr. Brad Simpson who is
17 assisting me. We also have one of the owners, Ron
18 Catanzaro, who is one of the owners of the Lakeview
19 Water Corporation here.

20 ADMINISTRATIVE LAW JUDGE GOODWILL: Thank
21 you, Mr. Smith.

22 For the Division?

23 MS. SCHMID: Patricia E. Schmid,
24 Assistant Attorney General, representing the Division
25 of Public Utilities.

26

1 ADMINISTRATIVE LAW JUDGE GOODWILL: Thank
2 you.

3 And I believe we have our Intervenor, Mr.
4 Cumberland, sir?

5 MR. CUMBERLAND: Frank Cumberland,
6 resident of Huntsville, Utah, is the Intervenor.

7 ADMINISTRATIVE LAW JUDGE GOODWILL: I
8 think it makes sense to start the presentation of
9 evidence and go ahead and turn to the Division.

10 MS. SCHMID: Thank you very much.

11 The Division would like to call Mr. Paul
12 Hicken as its witness. Could Mr. Hicken please be
13 sworn?

14 ADMINISTRATIVE LAW JUDGE GOODWILL: Sure.
15 Mr. Hicken, if you would please stand and raise your
16 right hand I'll swear you in.

17 Do you solemnly swear that the testimony
18 you're about to provide to be the truth, the whole
19 truth, and nothing but the truth, so help you God?

20 MR. HICKEN: I do.

21 ADMINISTRATIVE LAW JUDGE GOODWILL:
22 Thanks.

23 PAUL HICKEN,
24 called as a witness, was examined

25 And testified as follows:

26

1 DIRECT EXAMINATION

2 BY MS. SCHMID:

3 Q. Mr. Hicken, could you please state your
4 full name for the record?

5 A. My name is Paul Allen Hicken.

6 Q. By whom are you employed and in what
7 capacity?

8 A. I'm employed by the Division of Public
9 Utilities and I am -- and the Department of Commerce,
10 and I'm employed as a utility analyst.

11 Q. Were you involved on behalf of the
12 Division in the Lakeview Water Corporation case?

13 A. Yes, I was.

14 Q. Did you prepare what has been premarked
15 for identification as DPU Exhibit 1, which is a
16 memorandum dated August 6th, 2007 to the Public
17 Service Commission from the Division of Public
18 Utilities, Constance B. White, Laura Scholl and Paul
19 Hicken?

20 A. Yes, I did.

21 Q. And this memorandum consists of five pages
22 of text, with an Exhibit marked DPU Exhibit 1.0(A),
23 Exhibit 1.0(B), DPU Exhibit 1.1, DPU Exhibit 1.2 and
24 DPU Exhibit 1.3; is that correct?

25 A. That's correct.

26

1 MS. SCHMID: The Division would like to
2 move for the admission of DPU Exhibit 1. It has been
3 previously distributed to all parties at this
4 hearing.

5 ADMINISTRATIVE LAW JUDGE GOODWILL: Any
6 objection?

7 MR. SMITH: No objection from Lakeview.

8 MR. CUMBERLAND: No objection.

9 ADMINISTRATIVE LAW JUDGE GOODWILL: All
10 right. We'll go ahead and admit it.

11 Q. (BY MS. SCHMID) Mr. Hicken, do you have
12 any changes or corrections to that?

13 A. No, not at this time.

14 Q. Thank you.

15 Mr. Hicken, I believe that you've also
16 prepared what we have premarked as DPU Exhibit 2
17 which consists of testimony that you would like to
18 give; is that correct.

19 A. That's right.

20 Q. Because this is rather short, it's up to
21 the court whether they would like it read into the
22 record or just accepted as a written document. It
23 might be helpful if he at least reads the proposed
24 rate and adjustment sections and conclusions.

25 ADMINISTRATIVE LAW JUDGE GOODWILL: That

26

1 would be fine.

2 MS. SCHMID: Please, proceed, Mr. Hicken.
3 Sorry, before we go there, the DPU would like to move
4 the admission of DPU 2.0.

5 ADMINISTRATIVE LAW JUDGE GOODWILL: Any
6 objection to its admission?

7 MR. SMITH: No objection.

8 MR. CUMBERLAND: No objection.

9 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
10 We'll go ahead and admit it.

11 MR. HICKEN: On page 2 of the exhibit
12 starting at line 29 there's a start of the Actual
13 Rates and the Proposed Rates. Would you like me to
14 read both or just the proposed?

15 ADMINISTRATIVE LAW JUDGE GOODWILL: Why
16 don't you go ahead and read both.

17 MR. HICKEN: Okay. The actual base rate
18 for up to 12,000 gallons is \$16 per month. The
19 proposed base rate for up to 12,000 gallons per month
20 is \$36 per month. Existing Tier 1 rate of 12,001 to
21 15,000 gallons is \$1.50 per 1,000. The proposed Tier
22 1 rate for 12,001 to 20,000 gallons is \$3.25 per
23 1,000. The existing Tier 2 rate of 15,001 to 25,000
24 is \$1.75 per 1,000. The proposed Tier 2 rate for
25 20,000 -- oh, on this actual Tier 2 it should read

26

1 Tier 2 rate of 15,000 to 25 -- that's right. Sorry.

2 The proposed Tier 2 rate of 20,001 to
3 40,000 gallons is \$3.75 per 1,000. The existing Tier
4 3 rate, 25,001 gallons or more is \$2.25 per 1,000.
5 The proposed Tier 3 rate of 40,001 to 60,000 gallons
6 is \$4.25 per 1,000, and the proposed Tier 4 rate of
7 60,000 gallons to -- 60,001, it should read, gallons
8 to 80,000 gallons is \$5.51 per 1,000, and the
9 proposed Tier 5 rate should read 80,001 gallons or
10 more is \$7.00 per 1,000.

11 The existing connection fee for a
12 single-family unit in the developed area with 3/4
13 inch line is \$1,000. The proposed single family
14 development per unit in the developed area is \$3,500
15 per connection. The single family unit connection
16 other than in the developed area is \$1,500. The
17 proposed other single family unit connection for 3/4
18 inch line that is not in the developed area is
19 \$4,000. The multifamily unit connection, existing
20 connection fee is \$1,000. The proposed multifamily
21 unit connection fee is \$3,000.

22 The standby fees, the existing single
23 connection standby fee is \$5.00, the proposed single
24 connection standby fee is \$10.00.

25 Those are all of the proposed adjustments.

26

1 Q. Would you like to detail the adjustments
2 that you have made?

3 A. Sure.

4 ADMINISTRATIVE LAW JUDGE GOODWILL: Ms.
5 Schmid, if I could just interrupt real quick just to
6 make sure I understand, then, it appears that on page
7 2 of DPU Exhibit 1 and then also on page 2 of DPU
8 Exhibit 2 where it talks about the actual and
9 proposed rates, you do have the one correction, just
10 basically a typo of Tier 4 and Tier 5, instead of
11 reading 60,000 to 80,000 or 80,000 or more, it would
12 be 60,001 and 80,001, is that correct, and that was
13 what you just read?

14 MR. HICKEN: That's right.

15 ADMINISTRATIVE LAW JUDGE GOODWILL: I'm
16 sorry, continue.

17 THE WITNESS: Okay. I made several
18 adjustments to the reported expenses. First of all
19 -- and those adjustments are labeled on the exhibits
20 in the memo, Exhibits 1.0(A).

21 The first adjustment is for purchase of
22 water. And the company included \$33,391 for
23 purchased water. I deducted the \$1,644 from that
24 because in the documentation, that amount of water
25 was labeled as irrigation water and it was purchased

26

1 at a lower rate than domestic water. So I concluded
2 that it was irrigation water and not regulated.

3 The next adjustment that I made is for
4 repairs and maintenance, and I reduced that amount by
5 \$1,351. And that adjustment is because during the
6 test year the amount of repairs and maintenance
7 listed of \$13,130 was unusually high, higher than in
8 previous years. So I took an average of the six
9 prior years and deducted \$1,351 to make that meet the
10 average.

11 There is also an adjustment of \$2,400 on
12 professional and contractual services. That's listed
13 as Adjustment C on Exhibit 1.0. And that amount is
14 for accounting, which was described as accounting
15 fees for the preparation of this rate case.

16 And two things on that. One is that it
17 occurred out of period; and two, it appeared to me
18 that it was not an ongoing expense, rather it was a
19 one-time expense. So I deducted that amount.

20 Adjustment D of \$4,306 is an adjustment to
21 engineering contract services. And again, this was
22 an unusually high amount during the test year. So I
23 took the average of the prior six years and deducted
24 that amount to make it meet the average cost. I took
25 an adjustment to depreciation expense, which was an

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1 overall positive increase of \$12,910. And that is
2 because the company initially submitted their
3 depreciation schedule which did not include two large
4 water tanks. And so they had not taken out enough
5 depreciation expense. After I put those tanks back
6 into the depreciation schedule, I adjusted the
7 depreciation expense upward to account for those two
8 large water tanks. And I have the depreciation
9 schedule shown as Exhibit 1.0(B).

10 I also made several adjustments to the
11 rate base. First of all, the two water tanks which I
12 added into the depreciation, I also added back into
13 the rate base at the depreciated amounts. The first
14 tank was constructed in 1983 and it cost \$114,710.
15 The second tank was completed in 2004 at the cost of
16 \$254,170. And so those two items were added back to
17 the rate base at the depreciated value, and that is
18 shown in Exhibit 1.0(B).

19 I also made an adjustment to the rate base
20 for meters which were added in 2006 at the cost of
21 \$7,881. And my discussion with the accountant, the
22 company's accountant was that these were actually new
23 meters that were added, rather than meter repairs.
24 So those should have gone back into the rate base.
25 They initially were included in the expense.

26

1 I took out a \$36,000 adjustment for
2 contributions in aid of construction in order to
3 account for new connection fees. The company
4 proposed that they would have \$48,000 of connection
5 fees of which 75 percent of that would be booked as
6 contributions in aid of construction and 25 percent
7 booked as revenue. So the \$36,000 is the deduction
8 taken out of the rate base for that contribution in
9 aid of construction.

10 And finally, there's a \$5,595 adjustment
11 for accumulated depreciation. And that is added to
12 account for the depreciation difference used on the
13 company's depreciation chart and the chart that is
14 approved by the Statute 746-332. That's shown in
15 Exhibit 1.0(B) as well.

16 I made a few adjustments to the revenues
17 also. These are indicated in Exhibit 1.3. There
18 were connection fees and standby fees of \$12,000 and
19 \$2,400, respectively, and those were company figures
20 which I agreed with. Then the company estimated that
21 there would be \$82,418 of annual revenue. And my
22 analysis estimated revenues would be at \$104,280,
23 which is a difference of \$21,862. And that amount
24 includes the overcharges for water overage of \$45,528
25 and the basic rates of \$58,752, which is simply 136

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1 customers at \$36 per month times 12 months.

2 That's basically all of the adjustments
3 that I had.

4 Q. Do you have any conclusion that you would
5 like to share?

6 A. Yes. Based on my analysis, my conclusion
7 is that the rates are just and reasonable and they
8 should be adopted by the Commission. The water
9 company, Lakeview, has not received a rate increase
10 in 25 years and it has been subsidized by the parent
11 company during that time. And the cost of operations
12 have increased over the years and there's been a new
13 water tank added at a very expensive cost and the
14 company needs to recover those costs.

15 So I recommend that the rates be adopted
16 as proposed. And if the Commission is concerned over
17 the dramatic increase in the rates they could
18 consider bringing those rates in at an incremental
19 amount over a couple of years.

20 Q. Even if the proposed rates are adopted
21 100 percent starting as soon as possible, will there
22 still be a shortfall?

23 A. Yes. My analysis shows that there will be
24 a shortfall, and that's shown on Exhibit 1.3, of
25 almost \$15,000.

26

1 Q. So at some point a decision will have to
2 be made by the company either to continue, the
3 developer either subsidizing it or another rate
4 increase?

5 A. That's right.

6 MS. SCHMID: Mr. Hicken is now available
7 for cross-examination.

8 ADMINISTRATIVE LAW JUDGE GOODWILL: Mr.
9 Smith, any questions?

10 CROSS-EXAMINATION

11 BY MR. SMITH:

12 Q. I have a couple of questions. During the
13 2005, that was the year we used to determine rates;
14 is that right?

15 A. That's right.

16 Q. What was the loss for the company that
17 year?

18 A. I don't have that in front of me. Let's
19 see. Based -- I believe it was \$100,000. Well, the
20 revenue requirement was \$100,000 on the 2005 year.
21 Let's see if I have that. I'm sorry, I don't have
22 that with me.

23 Q. That's fine. I believe your testimony was
24 even with the rate increase Lakeview will still
25 operate at a loss; is that correct?

26

1 A. That's right.

2 Q. And are you aware of any years that
3 Lakeview has ever operated at a profit?

4 A. I have only looked at 2005 and 2006, but
5 in those years they did not operate at a profit.

6 Q. Are you familiar with other rates of other
7 similarly situated water companies, companies that
8 are regulated by the Public Service Commission
9 charge?

10 A. Yes. I'm somewhat familiar with them.

11 Q. How would you feel that the proposed rates
12 that we're seeking approval of today fit in with what
13 other companies charge?

14 A. I think they're within the range of the
15 other 41 water companies. They're not the lowest,
16 but they're also not the highest.

17 MR. SMITH: One minute. That's all I have
18 for Mr. Hicken. Thank you.

19 ADMINISTRATIVE LAW JUDGE GOODWILL: Mr.
20 Cumberland, do you have any questions for Mr. Hicken?

21 MR. CUMBERLAND: Yes, I do.

22 CROSS-EXAMINATION

23 BY MR. CUMBERLAND:

24 Q. Mr. Hicken, with respect to the new water
25 tank that was completed in 2004, did you inquire of
26

1 Lakeview regarding the purpose of the construction of
2 that new tank?

3 A. Yes. I believe I asked on one occasion
4 about the construction of that tank and, maybe two
5 occasions, and they indicated it was necessary. The
6 other tank was 25 years old and with the growth in
7 the developed -- in the development that it was
8 needed for the water to supply to the customers.

9 Q. Did you and Lakeview discuss whether that
10 tank had a useful purpose in serving existing
11 customers or whether it was constructed to serve the
12 proposed expansion that's underway?

13 A. I believe I asked if it was for the
14 existing customer base, and my understanding is that
15 it was.

16 Q. Did you determine from Lakeview whether it
17 is Lakeview's intention to construct yet another
18 storage tank to serve the expanded area?

19 A. No, I didn't ask that question of them.

20 Q. Would that be germane in your
21 determination of the reasonableness of this rate
22 increase?

23 A. I misunderstood my rates were up to the --
24 including the 2005 test year and including the 2006
25 year. I don't -- I haven't heard or seen anything
26

1 proposed for future development.

2 Q. Well, as I understand what you said,
3 Lakeview represented to you that the 2004 tank was
4 constructed to serve existing customers, not new
5 customers; is that correct?

6 A. That was my understanding.

7 Q. Okay. Did you do any inquiry to test that
8 assertion?

9 A. No, I did not.

10 Q. Did you do any calculations to determine
11 whether the old existing tank was sufficiently large
12 to serve the existing customer base of Lakeview?

13 A. No, I did not.

14 Q. With respect to the adjustments you made
15 and the analysis you did of Lakeview's income, did
16 you inquire of Lakeview regarding Lakeview's
17 expansion plans and prospects that are, in part,
18 underway as we speak?

19 A. No. I didn't inquire about their
20 expansion.

21 Q. Is expansion of the Lakeview water system
22 and any consequent effect that such expansion might
23 have on Lakeview's income going forward germane to
24 your determination of the reasonableness of the
25 requested increase?

26

1 A. I suppose it could be -- it should be
2 considered.

3 MR. CUMBERLAND: Excuse me. Do we have
4 issues with the telephone?

5 ADMINISTRATIVE LAW JUDGE GOODWILL:
6 Thanks. Can the folks hear me who are on the
7 telephone?

8 FEMALE TELEPHONE SPEAKER: This is Crystal
9 Fishlock and we're having a difficult time hearing
10 Mr. Cumberland.

11 MALE TELEPHONE SPEAKER: He's breaking in
12 and out very badly.

13 ADMINISTRATIVE LAW JUDGE GOODWILL: I will
14 turn up the volume on the phone a little bit. And
15 what I will ask, if you can, just as we go through
16 the evidentiary portion of this hearing we'll try to
17 address the folks in the room and try to keep the
18 noise down on the phones just so that we can make
19 sure and hear everybody okay. I know we're going to
20 have people joining us as two o'clock approaches
21 here. We will go ahead and get started with the
22 public witness portion in just a moment. Can you
23 hear me okay right now?

24 FEMALE TELEPHONE SPEAKER: Yes.

25 MALE TELEPHONE SPEAKER: Yes.

26

1 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
2 We'll get back with you in just a moment, then. I'm
3 sorry, Mr. Cumberland?

4 MR. CUMBERLAND: I think I heard them say
5 that they were having trouble hearing me. Is it any
6 better now? I've changed microphones.

7 ADMINISTRATIVE LAW JUDGE GOODWILL: I'll
8 try to turn up the volume on the microphone as well.

9 Go ahead, Mr. Cumberland.

10 Q. (BY MR. CUMBERLAND) To go back for just a
11 second, Mr. Hicken, did I hear you say that future
12 expansion plans of Lakeview might be germane to your
13 calculations of its need for a rate increase?

14 A. I don't know that they would be germane to
15 my calculations because my calculations are based on
16 the data that we have, the historical data.

17 Q. Would it be germane to your analysis of
18 whether the requested increase is proper or not?

19 A. The requested increase is proper based on
20 the historical data that I have.

21 Q. Without regard to expansion plans and the
22 future likely or certain income of Lakeview?

23 A. I can't answer that. I don't know the
24 answer to that.

25 Q. All right. For instance, if I were to
26

1 tell you that Lakeview's customer base, which is now
2 in the vicinity of 130 customers, plus or minus, will
3 soon increase by some 255 customers, would that be
4 germane to your determination?

5 A. Yes. That would influence their revenues.
6 It would also influence expenses, capital investment
7 and so on.

8 Q. Right. Hence my questions about the
9 storage tank.

10 But you did no analysis of expansion plans
11 and their effect on Lakeview's income levels, expense
12 levels and, therefore, profit and/or loss levels; is
13 that correct?

14 A. That's right.

15 Q. If you had the opportunity to inquire on
16 those subjects, would you do so now?

17 A. Well, I think it would be worthwhile to
18 look into.

19 Q. Okay. You mentioned at the conclusion of
20 your testimony the possible phasing of any increase
21 over time. Would you recommend that any increase be
22 so phased in order to see the actual effect of
23 expansion, especially expansion of some two times the
24 current size of Lakeview?

25 A. I don't think I would recommend it on that
26

1 basis. I would recommend it based on the fact that
2 it's more than a 50 percent increase in rates.

3 Q. I see. Did you in your analysis consider
4 the presumption that's contained in Rule 746-330-6 of
5 the Utah Administrative Code that capital costs of a
6 developer-owned water utility are presumed,
7 rebuttably presumed recovered through the sale of
8 lots? Did you consider that as part of your
9 analysis?

10 A. Yes, I did.

11 Q. And what conclusion did you reach?

12 A. I asked specifically if there were any
13 inclusions that were developer contributions and I
14 was told that there weren't any shown in the
15 depreciation schedule in the list of assets other
16 than the two water tanks that were added.

17 Q. Let me be sure I am cycling through that.

18 A. Wait a minute.

19 Q. Go ahead.

20 A. The connection fees were the only amounts,
21 the 75 percent of the connection fees were the only
22 amounts that were mentioned as contributions in aid
23 of construction.

24 Q. And that means what?

25 A. The future connections, \$48,000 for future
26

1 connections, 75 percent of that would be included as
2 contributions in aid of construction. And those were
3 the only amounts that were mentioned as recovered by
4 the developer, contributed by the developer.

5 Q. So that those monies would be returned to
6 the developer which actually did the improvements and
7 paid for them? Is that your understanding of how
8 that works?

9 A. Yes, that's how I understand it.

10 Q. Okay. If you will, allow me to represent
11 to you that Rule 746-330-6 presumes that the value of
12 utility plants and assets has been recovered in the
13 sale of lots in a development to be served by a
14 developer-owned water or sewer utility.

15 Did Lakeview present to you any evidence
16 that that presumption does not apply to it? In other
17 words, that Ski Lake Corporation, it's developer
18 parent, does not recover its capital costs by and
19 through the sale of lots? Did that subject even come
20 up?

21 A. No.

22 Q. Okay. So it's fair to say that Lakeview
23 presented to you no evidence to rebut Rule 746-330-6
24 presumption; is that correct?

25 A. That's right.

26

1 MR. CUMBERLAND: All right. I have
2 nothing further.

3 ADMINISTRATIVE LAW JUDGE GOODWILL: Do you
4 have anything at this time, Ms. Schmid, in redirect?

5 MS. SCHMID: I do, I have just a couple of
6 redirect questions.

7 REDIRECT EXAMINATION

8 BY MS. SCHMID:

9 Q. Mr. Hicken, is it true that your
10 examination as to water company assets focused on
11 whether or not they were used and useful at this
12 particular point in time?

13 A. Yes, that's right.

14 Q. Is it also true that if it was determined
15 by the customers or suspected by the customers that
16 as a result of a rate increase the company was
17 overearning in excess of what the customers thought
18 it should, that the customers could petition for a
19 rate increase?

20 A. Could you restate that?

21 Q. Sorry, for a rate decrease? So if the
22 customers think that a water company is overearning
23 they can request a rate decrease; is that true?

24 A. As far as I know, that's true.

25 MS. SCHMID: Thank you.

26

1 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
2 I'll let the other parties ask questions if they have
3 any, but just for the benefit of those who have
4 joined us on the telephone for the two o'clock public
5 witness hearing in this matter, we're currently
6 taking evidence and testimony from the Division of
7 Public Utility's witness, Mr. Paul Hicken. And
8 although we're now past two o'clock, I think it makes
9 sense to finish this portion of the evidentiary
10 hearing with Mr. Hicken and then turn to those
11 members of the public who would like to provide
12 comments to the Commission and are here either in
13 person or on telephone. So if you'll stand by with
14 us for just a few more minutes we should be able to
15 begin the public witness portion of this hearing
16 shortly.

17 With that, Mr. Smith, do you have any more
18 questions?

19 MR. SMITH: I have no further questions
20 for this witness.

21 ADMINISTRATIVE LAW JUDGE GOODWILL: Mr.
22 Cumberland, do you have any more questions?

23 MR. CUMBERLAND: Nor I.

24 ADMINISTRATIVE LAW JUDGE GOODWILL: Great.
25 We'll go at this point and turn to the public witness
26

1 portion of this hearing. And then once we have heard
2 from the members of the public by phone or in person
3 we'll go back to gather any additional evidence that
4 the parties have in this matter.

5 For the benefit of those on the telephone
6 who weren't with us when this hearing began at
7 approximately 1:30, I indicated at that time that it
8 is my intent to continue this hearing after we close
9 this afternoon with an additional session to be held,
10 most likely in the Huntsville area in approximately a
11 month's time, in early to mid September, to provide
12 members of the public, customers of Lakeview, an
13 additional opportunity to provide their comments
14 and/or testimony with regard to the proposed rate
15 increases.

16 I understand that our Notice of Hearing in
17 this matter, while legally sufficient, did not
18 provide the type and amount of notice that the
19 Commission usually likes to provide to customers in a
20 proposed rate increase of this type. So we want to
21 make sure that we work with the company to ensure
22 that customers are aware of the proposed rate
23 increases, what those increases are, and to provide
24 an opportunity for those customers to provide their
25 input to the Commission.

26

1 So, having said that, we will provide that
2 opportunity in about a month's time. And so if you
3 prefer to provide your comments in person then as
4 opposed to on the telephone now you're certainly
5 welcome to do that.

6 Having said that, we are certainly willing
7 to listen to any comments that folks have at this
8 time.

9 Let me start out by asking, do we have
10 anybody in the hearing room present who wanted to
11 provide some comments during this public witness
12 time?

13 Okay. With that, I have no idea who we
14 have on the telephone. I'll ask folks who may be on
15 the telephone simply to try to speak one at a time.
16 I'll ask you to identify yourselves and we'll go from
17 there. You have two options in providing a statement
18 to the Commission. You can do that either via sworn
19 testimony, in which case I will swear you in and you
20 can provide your testimony and be subject to
21 questioning by the company, Mr. Cumberland and the
22 Division of Public Utilities, or you can simply make
23 an unsworn statement which is simply more your
24 opinion of what you think should be done in this
25 matter.

26

1 The difference is, again, sworn testimony
2 can be used by the Commission as evidence in making
3 its decision with regard to the proposed rate
4 increase, while unsworn statements cannot be used as
5 evidence, but can simply be used as more of a gauge
6 of public opinion regarding this matter.

7 Having said that, let's kind of step
8 through whoever we have on the phone. Why don't we
9 get everybody to identify themselves first. Who is
10 on the telephone?

11 MS. SINI: My name is Larry Sini. I live
12 at Ski Lake.

13 ADMINISTRATIVE LAW JUDGE GOODWILL: All
14 right. Thank you, Mr. Sini. Mr. Sini, could you
15 please spell your name?

16 MR. SINI: S-I-N-I.

17 ADMINISTRATIVE LAW JUDGE GOODWILL: Who
18 else do we have on the line?

19 MR. GUIDA: Dominick Guida with Kier
20 Property Management, the property management company
21 for Lakeside Village.

22 ADMINISTRATIVE LAW JUDGE GOODWILL: And
23 how do you spell your last name, sir?

24 THE WITNESS: G-U-I-D-A.

25 ADMINISTRATIVE LAW JUDGE GOODWILL: Anyone
26

1 else on the line?

2 MR. KIMBALL: Bob Kimball. I happen to be
3 a property owner of Lakeside.

4 ADMINISTRATIVE LAW JUDGE GOODWILL: Sir,
5 if you would please spell your last name?

6 THE WITNESS: K-I-M-B-A-L-L.

7 ADMINISTRATIVE LAW JUDGE GOODWILL: Anyone
8 else?

9 MR. COFFIN: William Coffin, property
10 owner at Lakeside.

11 ADMINISTRATIVE LAW JUDGE GOODWILL: Mr.
12 Coffin, would you please spell your lase name?

13 MR. COFFIN: C-O-F-F-I-N.

14 ADMINISTRATIVE LAW JUDGE GOODWILL: Oh,
15 Coffin, I'm sorry. All right. Anyone else?

16 All right. So I show that we have Mr.
17 Sini, Mr. Guida, Mr. Kimball and Mr. Coffin on the
18 line. Anyone else?

19 Okay. What I would like to do, then, is
20 step through each of you folks in order. We'll start
21 with Mr. Sini.

22 Mr. Sini, would you like to provide an
23 unsworn statement or sworn testimony?

24 MR. SINI: Unsworn statement.

25 ADMINISTRATIVE LAW JUDGE GOODWILL: All
26

1 right? If you would, just go ahead, sir, and please
2 state your name and address again for the record.

3 MR. SINI: My name is Larry Sini. I live
4 at 6618 Villa Cortina in Huntsville, 84317.

5 ADMINISTRATIVE LAW JUDGE GOODWILL: All
6 right, sir, go ahead and make your statement.

7 MR. SINI: Okay. I am calling to express
8 my concern about the request of Lakeview Water
9 District to significantly increase our basic water
10 rate. Specifically, we object to the 125 percent
11 increase in the basic water charge every month. We
12 now pay \$16 for our first 12,000 gallons and they
13 have asked for an increase --

14 ADMINISTRATIVE LAW JUDGE GOODWILL: Mr.
15 Sini, we just lost you for a moment there after you
16 said they have asked for an increase, if you would
17 like to go back and restate that.

18 MR. SINI: Our basic water rate.
19 Specifically, we object to the 125 percent increase
20 in the basic water charge every month. We now pay
21 \$16 for our first 12,000 gallons. They have asked
22 for an increase to \$36 for the first 12,000 gallons.

23 We do not object to the idea of increased
24 water rates for high end users because that will
25 encourage conservation. The water rate should be

26

1 examined. The Lakeview Water Company does not
2 encourage conservation because it will
3 reduce (inaudible). So it attempts to replace that
4 source of revenue with an increase in basic rates, it
5 unfairly targets all users and those that conserve.
6 The bulk of the homeowners in the Lakeview Water
7 District are not full-time residents. I'm sorry.
8 The more than doubling of the base rate will increase
9 revenue for Lakeview who will not encourage
10 conservation.

11 I have just finished converting all of my
12 sprinklers except grass sprinkler to drip irrigation
13 to conserve water. If this increase is granted it
14 will not have much effect on reducing my water bill.
15 Thank you.

16 ADMINISTRATIVE LAW JUDGE GOODWILL: Thank
17 you, Mr. Sini. And you did just fine, but for the
18 rest of our speakers, if you would, please, speak
19 clearly, as clearly as you can over the phone and
20 slowly. We do have a court reporter transcribing all
21 of your statements and testimony and we want to make
22 sure that she can get a good verbatim transcript of
23 what you have said.

24 Thank you, Mr. Sini, and we'll turn to Mr.
25 Guida.

26

1 MR. GUIDA: Yeah. My question, this is
2 again Dominick Guida with Kier Property Management --

3 ADMINISTRATIVE LAW JUDGE GOODWILL: I'm
4 sorry, Mr. Guida, excuse me.

5 MR. GUIDA: -- for Lakeside. The
6 different treatment for this expense versus a single
7 family home like maybe Mr. Sini lives in versus multi
8 units projects.

9 ADMINISTRATIVE LAW JUDGE GOODWILL: Mr.
10 Guida, excuse me. I didn't get a chance to ask you
11 if you would like to provide -- just to make an
12 unsworn statement or sworn testimony.

13 MR. GUIDA: Sworn testimony is fine.

14 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
15 If you would, please, sir, raise your right hand and
16 I'll go ahead and swear you in. Is your hand raised
17 sir?

18 MR. GUIDA: It is.

19 ADMINISTRATIVE LAW JUDGE GOODWILL: Do you
20 solemnly swear the testimony you are about to provide
21 shall be the truth, the whole truth and nothing but
22 the truth, so help you God?

23 MR. GUIDA: Yes.

24 ADMINISTRATIVE LAW JUDGE GOODWILL: Thank
25 you, sir. And if you would, again, please identify
26

1 yourself for the record, your name and whom you
2 represent.

3 MR. GUIDA: Okay. Dominick Guida,
4 spelled G-U-I-D-A, with Kier Property Management, a
5 property management company for Lakeside Village.

6 ADMINISTRATIVE LAW JUDGE GOODWILL: Great.
7 I'm sorry to have interrupted you, sir. Go ahead and
8 make your statement.

9 MR. GUIDA: That's okay. I was needing to
10 know the distinction for the rate increases versus
11 single family home and multi units of properties or
12 high density. I'm not sure I'm clear on how that is
13 handled.

14 ADMINISTRATIVE LAW JUDGE GOODWILL: All
15 right. So you're more asking a question, sir, as to
16 why there is a distinction? Is that --

17 MR. GUIDA: Yes. And how it's arrived at.

18 ADMINISTRATIVE LAW JUDGE GOODWILL: Mr.
19 Hicken, can you address that from the Division's
20 perspective?

21 MR. HICKEN: I can't say how they arrived
22 at that rate, but the rate is a connection fee for --
23 the same for every user, a \$36 connection fee,
24 whether it be a single family unit or a multifamily
25 unit.

26

1 MS. SCHMID: Pardon me. Did you mean to
2 say a usage rate rather than a connection fee?

3 MR. GUIDA: Correct. I'm more concerned
4 with the usage versus the connection.

5 MR. HICKEN: Oh, the usage. There's an
6 overuse charge per gallon. Is that what you're
7 getting at?

8 MR. GUIDA: Yes.

9 MR. HICKEN: I never did get a breakdown
10 of those overuse charges on a multifamily unit, all I
11 got was a cumulative number.

12 MR. GUIDA: Okay. Is there any way we can
13 find out how those are derived?

14 MR. HICKEN: Well, I assume that each unit
15 will be individually metered.

16 MR. GUIDA: Okay.

17 ADMINISTRATIVE LAW JUDGE GOODWILL: Mr.
18 Hicken, I'm just a little confused now and I want to
19 make sure we're clear on what we're talking about.

20 The proposed water usage rates of which
21 the Division recommends approval, those are the same
22 rates for all customers, be they single family
23 dwellings or multifamily units; is that right?

24 MR. HICKEN: That's right.

25 ADMINISTRATIVE LAW JUDGE GOODWILL: What
26

1 was the distinction you were just referring to as far
2 as an overuse charge?

3 MR. HICKEN: Over the 12,000 gallons per
4 month.

5 ADMINISTRATIVE LAW JUDGE GOODWILL: Oh,
6 the tier charges?

7 MR. HICKEN: That's right.

8 ADMINISTRATIVE LAW JUDGE GOODWILL: Those
9 apply equally to those single family and multifamiy
10 properties?

11 MR. HICKEN: That's my understanding, yes.

12 ADMINISTRATIVE LAW JUDGE GOODWILL: I
13 guess, Mr. Guida, is your concern then that the
14 multifamily units would more fall into those overuse
15 tiered rates because they've got more property to
16 water or more families they serve?

17 MR. GUIDA: No. Actually, along with Mr.
18 Sini's comments, a lot of those homeowners are second
19 homeowners and there are -- a lot of those units
20 aren't occupied full-time. And so I'm just
21 wondering, you know, how that distinction between
22 multifamily and a full-time residence, why they're
23 treated the same for the gallons.

24 ADMINISTRATIVE LAW JUDGE GOODWILL: I see.
25 I'm not sure, Mr. Smith, is there anybody from the

26

1 company that you could offer to just simply explain
2 the company's perspective on that?

3 MR. SMITH: We may be able to. If you
4 give us just a minute, I'll check and see if we can
5 provide a response.

6 ADMINISTRATIVE LAW JUDGE GOODWILL: Sure.

7 MR. SMITH: First of all, I would just
8 observe that I'm not aware of any -- I've been
9 involved with water companies and municipalities
10 throughout the state, including a number of places
11 like Park City that have high second home user units
12 and condominium user units, and I'm not aware of
13 anybody that makes a distinction between homes that
14 are occupied part-time or condos that are occupied
15 part-time versus condos that are occupied full-time.

16 MR. GUIDA: Can you get a little closer to
17 the mike because you're breaking up.

18 MR. SMITH: I'm sorry. I'll try to speak
19 up. I have my mike on, the light is on, but it's not
20 projecting very much.

21 So what I'm saying is I'm not aware of any
22 municipality or water company, whether they're
23 regulated or unregulated, that have a differentiation
24 between a full-time and part-time occupied dwelling
25 or residence. And if Mr. Guida knows of some I would

26

1 like to hear about those because I don't think there
2 are any in existence in the State of Utah.

3 MR. GUIDA: I'm not aware of that, but
4 generally what happens is we manage several other
5 communities with multi users and, you know, we
6 typically experience well below the allocation usage.
7 And it just seems like if there's a way to reevaluate
8 what the actual allocation is, you know, at any point
9 because if you're using substantially below your
10 allocation you wonder why, you know, you have that
11 high rate -- that rate may be too high for that
12 particular property.

13 ADMINISTRATIVE LAW JUDGE GOODWILL: So
14 you're speaking, Mr. Guida, basically to the base
15 rate of up to 12,000 gallons?

16 MR. GUIDA: Correct.

17 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
18 I understand your point. I think we can probably
19 just move on from there. And if you continue to have
20 questions about that, you'll certainly have an
21 opportunity when we reconvene in a month or so and
22 also maybe the company or the Division can look to
23 address that at that time as well as to see if
24 there's anything. But I think we understand your
25 concern is basically, hey, why should everybody have
26

1 to pay for up to 12,000 gallons if a multifamily
2 property won't use anywhere close to 12,000 gallons.

3 MR. GUIDA: Correct. Thank you.

4 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay,
5 thanks. Anything further, Mr. Guida?

6 MR. GUIDA: No thank you.

7 ADMINISTRATIVE LAW JUDGE GOODWILL: Mr.
8 Kimball?

9 MR. KIMBALL: Nothing at this time because
10 I had problems getting a good phone conversation so I
11 didn't hear a lot of the phone conversation.

12 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
13 So you'll wait until we reconvene?

14 MR. KIMBALL: Yes. But just as a
15 sidenote, as to what Dominick stated there, I am one
16 of the part-time homeowners. I happen to be calling
17 from Michigan.

18 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
19 Well, my concern, sir, is when we reconvene in
20 Huntsville we may or may not have the ability to take
21 phone-in calls. And so since you're calling from
22 Michigan now or may be in Michigan then, while we
23 have you on the line I would like to make sure you
24 have the opportunity to say anything you would like
25 to say even though you might just have missed what

26

1 was already said because I'm not sure we'll be able
2 to provide you that opportunity by phone in a month's
3 time.

4 MR. KIMBALL: Well, I can contact Dominick
5 and find out what was going on. And then as the
6 homeowner association representative, I can give him
7 my thoughts.

8 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
9 Fair enough. Thanks, sir.

10 Mr. Coffin?

11 MR. COFFIN: Yes.

12 ADMINISTRATIVE LAW JUDGE GOODWILL: Sir,
13 would you like to make a sworn or unsworn statement.

14 MR. COFFIN: Probably no statement now. I
15 am calling -- certainly not a sworn statement at the
16 moment. But I am calling from Colorado and I am also
17 a homeowner. And as one might expect, I guess, I was
18 just patching into this meeting to get information.
19 And certainly when someone talks about a 125 percent
20 increase in this day and age, as crazy as everything
21 is, that certainly gets one's attention.

22 So, you know, I guess that's my own
23 comments and I guess there's -- I missed also a lot
24 of the earlier discussions. Just generally, I guess
25 it's an outrage, about 125 percent, even though I

26

1 don't have -- I'm not understanding a lot of the
2 background information supporting this increase.

3 ADMINISTRATIVE LAW JUDGE GOODWILL: All
4 right. Thank you, sir, thank you for that. I'm glad
5 we gave you the opportunity to speak. I'm sorry that
6 we've have some poor phone connections and folks
7 haven't been able to hear everything today.

8 Is there anyone else on the line that we
9 haven't yet heard from that might have joined us?
10 We've heard from Mr. Sini, Mr. Guida, Mr. Kimball and
11 Mr. Coffin. Is there anyone else on the line?

12 JANE COFFIN: Yes.

13 ADMINISTRATIVE LAW JUDGE GOODWILL: Ma'am,
14 if you would please identify yourself.

15 JANE COFFIN: I'm Jane Coffin.

16 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
17 And would you like to make a sworn or unsworn
18 statement, ma'am?

19 JANE COFFIN: No, not at this time. My
20 comment is we were not notified until yesterday and
21 we would have liked to have been there.

22 ADMINISTRATIVE LAW JUDGE GOODWILL: As I
23 said --

24 JANE COFFIN: I heard nothing of the
25 meeting. I called in twice, but I couldn't -- the

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1 first time I could hear absolutely nothing but
2 garble.

3 ADMINISTRATIVE LAW JUDGE GOODWILL: I
4 apologize for that, ma'am. As I said at the start of
5 this hearing, and repeated again at the start of the
6 public witness session, we will have another
7 opportunity for members of the public to speak. We
8 intend to do that in the Huntsville area in about a
9 month's time. And we're going to work with the
10 company to make sure that we have adequate notice to
11 all customers prior to that meeting. So that will be
12 another opportunity for folks to give their input to
13 the Commission on this matter.

14 Is there anyone else on the line who would
15 like to speak?

16 MR. COFFIN: Yes. I'm appalled at a rate
17 of 125 percent. I understand the need for raises,
18 but of that magnitude, I don't understand it, and I
19 definitely want input.

20 ADMINISTRATIVE LAW JUDGE GOODWILL: And
21 that was Ms. Coffin again; is that correct?

22 JANE COFFIN: Yes. Thank you.

23 ADMINISTRATIVE LAW JUDGE GOODWILL: Anyone
24 else on the line?

25 Okay. With that, I believe we'll go ahead

26

1 and just turn back to the evidentiary portion of the
2 hearing with the folks here in the hearing room. The
3 folks on the telephone line are welcome to remain on
4 the line and listen. And as I said, we will again be
5 giving you a further opportunity to speak when we
6 reconvene for more public witness sometime in
7 September.

8 With that I'll turn back to Ms. Schmid.
9 Is there anything further from the Division?

10 MS. SCHMID: Nothing further from the
11 Division.

12 ADMINISTRATIVE LAW JUDGE GOODWILL: Does
13 the company have any evidence or testimony it would
14 like to provide at this time?

15 MR. SMITH: We do. We would like to have,
16 and I hope she's on the line, Crystal Fishlock, who
17 is our CPA and our financial analyst. I know she's
18 been on earlier.

19 MS. FISHLOCK: I'm on.

20 ADMINISTRATIVE LAW JUDGE GOODWILL: Are
21 you there Ms. Fishlock?

22 MS. FISHLOCK: Yes, I'm here.

23 ADMINISTRATIVE LAW JUDGE GOODWILL: Can
24 you hear us okay?

25 MS. FISHLOCK: Yes. When you speak up I
26

1 can hear just fine. Are you hearing me okay?

2 ADMINISTRATIVE LAW JUDGE GOODWILL: Yeah.

3 You kind of break a little bit too. So we'll both
4 just work, and if we can all speak into the
5 microphones as clearly and loudly as possible. And
6 please speak up if you have any difficulty hearing
7 us, and we'll do the same to make sure that the court
8 reporter can hear you.

9 I'm sorry, I interrupted you Mr. Smith.

10 MR. SMITH: That's not a problem.

11 Perhaps it makes sense for Ms. Fishlock to
12 be sworn in as a witness and then I have some
13 questions for her.

14 ADMINISTRATIVE LAW JUDGE GOODWILL: Ms.
15 Fishlock, if you would please raise your right hand?

16 MS. FISHLOCK: Okay.

17 ADMINISTRATIVE LAW JUDGE GOODWILL: Do you
18 solemnly swear the testimony you are about to provide
19 shall be the truth, the whole truth and nothing but
20 the truth, so help you God?

21 MS. FISHLOCK: Yes, I do.

22 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.

23 Thank you.

24 Mr. Smith.

25 /

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1 DIRECT EXAMINATION

2 BY MR. SMITH:

3 Q. Just for the record, Ms. Fishlock, could
4 you just state your name and address for the record,
5 please?

6 A. Crystal Fishlock. And I just got a new
7 address, but I'm on Powwow Drive, I can't give you
8 the exact address.

9 ADMINISTRATIVE LAW JUDGE GOODWILL: Ms.
10 Fishlock, you're kind of breaking up. Could you
11 repeat that address again, please?

12 MS. FISHLOCK: Just a moment. Let me try
13 dialing in on a different phone.

14 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.

15 MS. FISHLOCK: I'll find your number.
16 Hold on.

17 MR. KIMBALL: I have a quick question
18 while she's calling in, too. Is there some place I
19 can go --

20 ADMINISTRATIVE LAW JUDGE GOODWILL: And
21 who is speaking?

22 MR. KIMBALL: -- transcribed?

23 ADMINISTRATIVE LAW JUDGE GOODWILL: I'm
24 sorry, who is speaking?

25 MR. KIMBALL: Bob Kimball.

26

1 THE REPORTER: I didn't get your
2 statement, Mr. Kimball.

3 MS. FISHLOCK: Is that better?

4 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
5 Everybody on the phone please stop talking a minute.
6 I can hear you, Ms. Fishlock, just fine. If you'll
7 hold on just a second, we had Mr. Kimball ask a
8 question while you were dialing in. So just one
9 moment.

10 MS. FISHLOCK: Okay.

11 ADMINISTRATIVE LAW JUDGE GOODWILL: Mr.
12 Kimball, what was your question?

13 MR. KIMBALL: Is there going to be a
14 website this information will be posted on once it's
15 all transcribed?

16 ADMINISTRATIVE LAW JUDGE GOODWILL: Once
17 we get the transcription, copies of that are
18 available at the Public Service Commission. I don't
19 believe this docket is currently listed on the
20 Commission website, but we can get that posted. We
21 can get a link put on the Commission's website for
22 this docket. And then the transcript, once it's
23 completed and provided to the Commission, would be
24 available out on that site.

25 MR. KIMBALL: Okay. Because that way, for
26

1 those of us not in town would be able to see it and
2 get the gist of what all is going on.

3 ADMINISTRATIVE LAW JUDGE GOODWILL:

4 Understood. Yes, sir.

5 MR. KIMBALL: Okay. Thanks.

6 ADMINISTRATIVE LAW JUDGE GOODWILL: I'm
7 sorry. Ms. Fishlock.

8 MS. FISHLOCK: Yes, I'm here.

9 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
10 I think we can hear you better too. If you would go
11 back and start with your address again, we'll take it
12 from there.

13 THE WITNESS: My name is Krystal Fishlock
14 and I'm currently on Powwow Drive in Deloitte,
15 Wisconsin. And I don't have the exact house number,
16 but I could get it for you.

17 ADMINISTRATIVE LAW JUDGE GOODWILL: Was
18 that Powwow Drive?

19 MS. FISHLOCK: Hold on. Hold on. 2235
20 Powwow Trail, okay, in Deloitte, Wisconsin.

21 ADMINISTRATIVE LAW JUDGE GOODWILL:

22 Thanks. Mr. Smith?

23 Q. (BY MR. SMITH) Before your relocation to
24 Wisconsin, were you engaged to provide services for
25 Lakeview Water Company?

26

1 A. Yes. I was contacted with the company in
2 early 2006 to work with the company to prepare the
3 rate case filing.

4 Q. Could you just take a moment and describe
5 your, before we have you tell us what you did,
6 describe your educational and work experience
7 background for us.

8 A. Yes. I guess most relevant would be the
9 six years I spent working for the Division of Public
10 Utilities as an auditor and working with different
11 rate cases there. And subsequent to my experience
12 there I was with Wolf Creek up in the Eden area and I
13 also was involved in those water companies up there.
14 And I'm a certified public accountant, I have a
15 Master's degree in accounting, and this is one of the
16 clients that I do professional services for.

17 Q. Thank you.

18 Could you just now briefly describe what
19 you've done in preparation for this rate proceeding
20 that we're here for today.

21 A. Okay. I basically came into the company
22 when they were organizing their books for their tax
23 year. And so most of the work I've done to
24 understand the information that went into the
25 preparation was working with their tax preparer.

26

1 That's who was keeping their general ledger.

2 And so my work consisted of looking at
3 their census and their assets and their revenues to
4 calculate their current financial condition and see
5 if they were underearning. And it appeared to me,
6 with the review of the last several years of the
7 company, about five years, going back to probably
8 2000, that the company has been underearning and they
9 had not had an increase since they purchased the
10 system. And so it looks like back in 1983, I think
11 it was, that that was their original rate that
12 everyone has been being charged.

13 So the company has not had any rate
14 increases over all the years up until now. So I was
15 -- it was requested of me to help them prepare
16 documentation and consolidate their information into
17 the filing that we filed with the Public Service
18 Commission back in I think late December of 2006.

19 Q. Thank you.

20 Could you take a moment and explain for us
21 what you mean by the company was underearning?

22 A. Yes. The charges for local service were
23 basically the only charge that the company had. The
24 current tariff was a tiered rate tariff. And they
25 were charging a hook-up fee, I think it was only

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1 \$1,500, and they were not charging their standby fee.
2 And those revenues were insufficient to pay for the
3 expenses and the costs of installing different
4 facilities, the water facilities. So that, those
5 revenues not being sufficient, is what I would call
6 underearning.

7 Q. Okay. When you reviewed the financial
8 information of the company, had it earned a profit
9 during any of the years that you reviewed?

10 A. It appeared at first, if you look at the
11 2003 and 2004, they appeared to have a \$3,000 profit.
12 I'm just going off -- an approximate \$3,000 profit in
13 '03 and a \$6,000 profit in '04. That was a basic
14 income statement analysis, which if you take into
15 consideration earnings on rate base and you modify
16 the depreciation, they were not using the
17 depreciation the Commission has set forth in their
18 rules, they were using tax depreciations which were
19 accelerated. So if you compensate for those, no,
20 they did not have any profit in at least the last --
21 back to 2000.

22 Q. Thank you.

23 Did you prepare the 2005 test year rate
24 case revenue requirement calculation that's attached
25 as Exhibit C to the filing of -- the initial filing

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1 of Lakeview Water Company?

2 A. Yes.

3 Q. And were you able to hear -- I know we've
4 had some audio or telecommunication problems with
5 everybody hearing. Were you able to hear the
6 testimony of Mr. Paul Hicken on that, regarding that
7 Exhibit C?

8 A. Yes. I was able to hear Mr. Hicken's
9 testimony yes.

10 Q. In his testimony it's my understanding he
11 made some modifications or had testified to some
12 modifications he thought were appropriate for Exhibit
13 C in some of the expenses and depreciation portions
14 of that. Do you have any comments or anything you
15 would like to testify to regarding his testimony?

16 A. Yes, I do. And I'll go ahead and go in
17 the same order that Mr. Hicken used. He first
18 identified some expense adjustments. Okay. The
19 first one was purchase water. He's wanting to reduce
20 the costs that the company pays to Weber Basin for
21 water, he wants to reduce it by the \$1,644. And that
22 was determined on the classification that Weber Basin
23 is stating the water is irrigation water and not
24 culinary water. And basically the company has
25 contracted for acre-feet of water that will come from
26

1 the same source. And because they're not using that
2 high of gallonage at this point they went ahead and
3 were able to contract it as irrigation shares which
4 are cheaper than the culinary shares.

5 And basically this is what most companies
6 consider their standby water. If they had to pull
7 that water this year because of drought, they would
8 be using that water as the gallons provided in those
9 shares. So just because they got it at this cheaper
10 rate, it's still in the same system. And because of
11 the classification of irrigation, I understand why
12 the Division would throw that out.

13 But I just need to note that I agree with
14 that and I would leave this charge in because this is
15 water that has to be there to be able to support the
16 customers that are currently there and in a drought
17 year and that is available for future use.

18 Let's see. We have next, it was repairs
19 and maintenance was the next adjustment. And I
20 disagree with using the last five years, or what was
21 it, the last five or six years' average. This year
22 in 2006 it's even more than we had -- the repairs and
23 maintenance are even higher than 2005, and we don't
24 expect those to go down. The company the last couple
25 of years, and especially starting 2005, have been

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1 working very hard to bring the system up to what the
2 State agency considers standard. And there's still
3 work to be done. There's -- you know, with more
4 tanks to be installed the repairs and maintenance are
5 going to be higher. So I disagree throwing that out
6 without -- looking at 2006 as an example, I would
7 leave it in.

8 The next one was contractual services.
9 And basically we only put in \$2,400 for what we
10 considered was to be in the 2006 year and that was
11 because that was known and measurable. By the time
12 we filed the case the company had already spent over
13 \$2,400 on just my accounting fees. That did not
14 include lawyer fees. And now in 2007 we have already
15 paid over that also. And it appears that, you know,
16 we'll have more in future years also.

17 So eliminating the complete \$2,400 I
18 disagree with specifically in that my contract is not
19 just for rate cases, it's also for accounting
20 services and other accounting services. So I
21 disagree throwing out the \$2,400.

22 Contractual proof of engineering, I did
23 look at the trend there and we are not increasing
24 those fees. I do agree that you could use the past
25 six years as an average. It was a high year so I
26

1 don't have an argument for that.

2 Depreciation expense, the way that the
3 Division wanted to handle the additional plants was
4 to include these plants as the value that it cost to
5 actually produce the water tanks from the parent
6 company, and that was the development company. So
7 now the water company basically should be the owner
8 of those assets. So the Division did accept that we
9 wanted to have those on the water company's books and
10 that we would have them at the original value.

11 And the Division wants to go ahead and put
12 them on as depreciated as if they were at the rate
13 the Commission has ordered in their rules. So I
14 would agree with that methodology. I also want to
15 make a point that if it came down to it, that
16 original -- the original tanks that were purchased at
17 \$114,000, those were depreciated for tax purposes
18 only by the parent company. So they did -- they were
19 able to depreciate that and receive a tax benefit
20 and, therefore, it's -- now if the Commission desires
21 we would carry that at its net book value at the date
22 of this hearing and not carry it at a depreciated
23 value it would have been if you had had it on the
24 books originally.

25 But the 2004 water tanks had not had any

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1 depreciation by the parent company and, therefore, I
2 agree with the Division that that should be carried
3 at its purchase price less what would have been the
4 depreciation for those years through 2005. So I
5 agree with the way they've handled the 2003 water
6 tank.

7 Okay. The next thing that got brought up
8 was Mr. Hicken's review of the revenue. And I did
9 not get a formal worksheet to see exactly how he
10 calculated those rates. Without going into all the
11 detail on numbers, let's see, if I go back and look
12 at increasing my worksheets to include the 33
13 customers that were not in the original worksheets
14 that were filed for the company, I am looking at
15 possibly my numbers would be \$7,000 lower more than
16 Mr. Hicken. But that's -- you know, and looking at
17 the fact that we don't have all of the overage
18 numbers at this point. I mean, I would have to go
19 back and redo the worksheets through today, which
20 that's so much farther out than a 2005 test year with
21 2006 numbers, we're already in 2007.

22 So we're using the customer base as of the
23 end of the year 2006 which is 136 customers. So I
24 don't have a huge argument on the amount of the
25 revenue that he's using in his worksheets. I do
26

1 think it might be a little bit high.

2 Okay. I wanted to go ahead and clarify
3 just one thing that I thought of during the
4 discussion by the water users of the multifamily.
5 The base rate is the same. It doesn't -- you know,
6 we don't consider -- in the rate cases I've been in
7 before, we have not considered whether it's
8 multifamily or a basic residential fee, whether
9 you're a -- what am I trying to say -- whether you're
10 a part-time owner or a full-time owner or whether you
11 live there part-time or whether you live there
12 full-time. The system is there, the cost to have
13 water at your door is there. So we don't make a
14 differentiation. The difference would be whether you
15 specifically are going to go overusage or not. And
16 so we look more at the tiering of rates for
17 multifamily.

18 Now, multifamily is different than
19 residential in that a residential user has one meter
20 and their overage is determined based on the water
21 flow through that meter. Multifamily is
22 determined -- individually there's meters, but
23 there's also a homeowners association that is using
24 water for all of the common areas, the grass and
25 vegetation that they've planted there, and the pool,
26

1 if they have a pool, but it's used for all of the
2 community areas of that multifamily dwelling unit
3 area.

4 So each individual is paying their base
5 rate and the homeowners association is paying
6 everything above that. Now, there's a benefit there
7 because not every user is going to use the full
8 amount that's allowed in their base rate. So we go
9 ahead and allocate to them, to the homeowners
10 association, the base amount allowed and then
11 anything above that the homeowners association is
12 responsible to pay for. So they are getting a
13 benefit by any of these low users and that benefit
14 would flow through to everyone through the homeowners
15 association. And that's basically the difference
16 between multifamily and residential.

17 That's really all I had to make statements
18 about from Mr. Hicken's testimony and that's what I
19 did have from the customers.

20 Q. Thank you.

21 I have an additional question. In your
22 calculations in preparing the filing for the rate
23 case, were you able to speculate as to future growth
24 in connections of the company? Was that germane as
25 to what you did?

26

1 A. Okay. We considered only the increase in
2 the customer base for revenues, the potential for a
3 few connections. But the point in time rate case
4 that we tried to determine here was for 2005. And
5 since we're so far into the future we knew that at
6 the end of 2006 there was 136 customers instead of
7 103.

8 So, you know, that's why I agree with Mr.
9 Hicken that we could increase the amount of revenue
10 that we expect. But we did not -- we did understand
11 that there is more work being done on facilities.
12 There's a new well going in, there's well repair
13 that's going to happen, and those were not factored
14 into our rate that we calculated in this case. Those
15 were not going to be completed by the end of 2006.
16 So the rate case basically considers the point in
17 time with a 12-year stretch on what's known and
18 measurable. But anything beyond that would have to
19 go into a future rate case. That's the position that
20 we took.

21 MR. SMITH: Thank you. That's all the
22 questions that I have for Ms. Fishlock.

23 ADMINISTRATIVE LAW JUDGE GOODWILL: Thank
24 you.

25 MS. Schmid, do you have any questions for
26

1 Ms. Fishlock?

2 MS. SCHMID: Yes, I do have a few.

3 CROSS-EXAMINATION

4 BY MS. SCHMID:

5 Q. Ms. Fishlock, how are you?

6 A. Just fine. How are you?

7 Q. Just fine. I have a question on the years
8 that were used for rate calculation. Are you
9 familiar with Utah Code Annotated 54-4-4 that permits
10 a future test year to be used?

11 A. Yes. I don't have it in front of me to
12 read, but I am familiar with it, yes.

13 Q. And so the company, is it your
14 understanding that the company could have used a
15 future test year if they wanted to?

16 A. Yes.

17 Q. And they didn't choose to?

18 A. No. We chose to use the 2005 test year,
19 but we also chose to include known and measurable
20 items from 2006 that would be a 12-month from the
21 test year.

22 Q. But the company did not go forward past
23 into 2007 to use the entire 20 months; is that
24 correct?

25 A. Correct, yes.

26

1 Q. If you turn to Mr. Hicken's exhibits
2 you'll see that Exhibit DPU Exhibit Number 1.3, which
3 was attached to the memo dated August 6, 2007 and
4 admitted as DPU Exhibit 1 states that there is a
5 shortfall --

6 A. I'm sorry, I heard you say DPU Exhibit
7 Number 1.3.

8 Q. Which is attached to the memo dated August
9 6, 2007, which was admitted as DPU Exhibit 1. So
10 it's the Division's memorandum on Lakeview Water
11 Corporation.

12 A. Yes.

13 Q. So if we look at line 14 it shows that
14 there's a revenue shortfall from proposed rates; is
15 that correct?

16 A. Yes, I see that.

17 Q. And do you know how the company proposes
18 to make up this shortfall of \$11,596?

19 A. Yes. Those funds would be provided by the
20 parent company at this time.

21 MS. SCHMID: Okay. Thank you. Those are
22 all my questions.

23 ADMINISTRATIVE LAW JUDGE GOODWILL: Mr.
24 Cumberland, do you have any questions of Ms.
25 Fishlock?

26

1 MR. CUMBERLAND: Yes, I do. Ms. Fishlock,
2 can you hear me?

3 MS. FISHLOCK: Yes. If you wouldn't mind
4 just staying as close to the microphone as you can.
5 Earlier it was a little difficult to hear you.

6 MR. CUMBERLAND: Okay. I also switched
7 microphones. Let me know if at any time you can't
8 hear me and I'll try to speak louder, okay?

9 MS. FISHLOCK: Okay.

10 CROSS-EXAMINATION

11 BY MR. CUMBERLAND:

12 Q. On the subject of the 160 acre-feet of
13 water purchased from Weber Basin that Mr. Hicken
14 deducted from the rate base, as I understand it, it's
15 your position that that deduction should not have
16 been made, that that 160 acre-feet should remain in
17 the rate base along with the cost for it; is that
18 correct?

19 A. Yes.

20 Q. Okay. So from a layperson's point of
21 view, what you're suggesting is that the cost, albeit
22 relatively small for that 160 acre-feet of water,
23 should constitute part of the rate base and that the
24 customers of Lakeview should effectively pay for the
25 acquisition of that water; is that correct?

26

1 A. Yes.

2 Q. Okay. Can you tell me where, if anywhere,
3 there appears a component of income for the sale of
4 that water attributable to Lakeview Water
5 Corporation?

6 A. I'm sorry. Could you repeat the question,
7 please?

8 Q. We've established that you maintain that
9 the cost for the 160 acre-feet of water should be
10 borne by the customers of Lakeview Water, correct?

11 A. Yes, I do.

12 Q. Can you point for us to anywhere in any of
13 the documents that you have submitted on Lakeview's
14 behalf any component of income related to the sale of
15 that irrigation water?

16 A. I'm sorry. The sale of that irrigation
17 water, what you're speaking of, terminology-wise
18 that's not quite making sense to me. That irrigation
19 waters are acre-feet from the same source that
20 they're drawing the culinary water from. It's all
21 culinary water. We're not selling irrigation water.
22 Does that answer your question?

23 MR. SMITH: I don't know if I should
24 interpose an objection.

25 ADMINISTRATIVE LAW JUDGE GOODWILL: Just
26

1 one minute, Ms. Fishlock. Mr. Smith?

2 MR. SMITH: I think what Mr. Cumberland is
3 intimating is that Lakeview somehow sells this water
4 to a third party. I'm not aware of that. In fact,
5 my understanding is completely opposite of that.
6 That's not sold to anyone. Weber Basin doesn't allow
7 you to sell your water to anyone else. And so if he
8 has information about that, I would like to have it
9 brought before the tribunal today so that we can be
10 aware of that.

11 MR. CUMBERLAND: No.

12 MS. FISHLOCK: Okay, I do understand the
13 question now. And no, they are not selling
14 irrigation water that they're purchasing from Weber
15 Basin under that specific water right.

16 MR. SMITH: And it's my understanding, and
17 I would be happy to clarify, is that when you buy
18 water from Weber Basin Water Conservancy District,
19 you buy it on what's called the take or pay basis,
20 and you pay the full contract amount. And if you
21 don't pay the full contract amount you lose your
22 contract or go into default of the contract with
23 Weber Basin. And we would be happy to provide
24 additional evidence to that effect if that would be
25 helpful to this tribunal.

26

1 ADMINISTRATIVE LAW JUDGE GOODWILL: All
2 right. Thanks. Mr. Cumberland, why don't you
3 continue.

4 Q. (BY MR. CUMBERLAND) I understand what a
5 take or pay contract is. I'm trying to get to the
6 issue of basically why it is that the customers of
7 Lakeview Water should have to pay for, albeit a small
8 number, for that amount of irrigation water purchased
9 from or replaced to, as the case may be, Weber Basin
10 Water in your estimation, Ms. Fishlock?

11 I mean, is it real water or isn't it?
12 And if it isn't, why should the customers of Lakeview
13 have to pay for it, in your estimation, as you have
14 so testified?

15 A. Okay. Well, it's my understanding, and
16 someone may want to correct me if I'm wrong, but all
17 the water is being drawn from one source. And
18 they're paying under separate contract a lower rate
19 because it's not used to that high degree every year.
20 That water is available and it is being used, and I
21 would suspect that it may be even being used up to
22 that degree this year with the drought and what we're
23 having with the heat wave and the drought. So that
24 water is available, it is being used, it's all coming
25 from the same source. And I do testify that that --

26

1 the cost of that water should be borne by the
2 customers. As the customer base grows, more people
3 will share in that, but the current customer base is
4 the one that is there and the water is there for them
5 as well as future customers.

6 Q. Ms. Fishlock, did you prepare the usage
7 charts, the revenue calculations that showed
8 precisely how much water was supplied to Lakeview
9 Water Company customers by the company?

10 A. Yes. All of the water that was currently
11 being able to be metered, there has been some broken
12 meters here and there on the estimates, but as of the
13 filing date, that was the closest I could come to
14 what specific customers were paying for through
15 billings. And that's the information that I used to
16 prepare the revenue calculation, it was based on the
17 actual billing.

18 Q. Did you at any time calculate a number of
19 gallons and/or acre-feet of water actually supplied
20 by Lakeview to its customers?

21 A. You know, I did have the gallons on the
22 bottom of that worksheet and I don't have it in front
23 of me, the converting to acre-feet. I mean, if
24 you've got that, give me a number and I'll see if I
25 can figure out if that's close to what I would

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1 estimate. But I don't have that calculation in front
2 of me, no.

3 Q. I don't have the conversion figure in
4 front of me either, but I can tell you that having
5 done the exercise I came up with a figure of 72.1
6 acre-feet of water actually supplied from your
7 gallonage figures on your revenue calculation sheet.
8 Would you have any evidence to indicate that that
9 72.1 acre-feet figure is not correct?

10 A. Do you have the conversion calculation,
11 how many gallons are assumed in an acre-feet? Do you
12 have that?

13 Q. I do not have that --

14 A. Do you have that number?

15 Q. -- with me. Yeah, actually I do. One
16 acre --

17 A. Could you give that to me, please.

18 Q. One acre-feet of water is 325,850 gallons.

19 A. Okay. Hold on just one minute.

20 Q. Okay.

21 A. Okay. I'll have to get back to you on
22 that one. And if you would like, we could discuss
23 that one at the follow-up hearing. I'm not sure --
24 Judge Goodwill, are we going to discuss the issues at
25 that point or just have public witness?

26

1 Q. I actually have a few more questions on
2 that subject that I would like to ask you right now
3 if you don't mind.

4 ADMINISTRATIVE LAW JUDGE GOODWILL: Let me
5 just break in for a second. I do think that to the
6 extent we need to we can take further evidence and
7 testimony when we reconvene. The primary purpose
8 will be public witness. What I would like to do is
9 if the parties feel that we need to have an
10 evidentiary session, if you will, in addition to the
11 public witness, you can let me know through the
12 Commission prior to that date and we will decide
13 whether or not it's appropriate to do so in
14 conjunction with the public witness or at a different
15 time and place, say, back here at the Commission's
16 hearing rooms on some other date. I don't have an
17 answer for that right now and I'm just open for
18 whatever the parties would like to do and would be
19 most convenient and beneficial to everybody.

20 But to the extent that -- I understand
21 that the Division filed its recommendation and
22 analysis in this matter just yesterday afternoon.
23 Everyone maybe hasn't had time to maybe fully analyze
24 and provide their position here today. So I don't
25 want to be premature in cutting off any evidence or

26

1 testimony. I'm just not sure through what forum
2 we'll continue that.

3 THE WITNESS: Okay.

4 ADMINISTRATIVE LAW JUDGE GOODWILL: But
5 having said that --

6 THE WITNESS: Let me go just ahead and
7 assume that Mr. Cumberland is correct and that the
8 information, the gallonage used in my calculation was
9 72.1 acre-feet. That does not recognize the 33
10 additional customers that were added over the next
11 year.

12 And I also would like to make one more
13 point that the Weber Basin water rights give you a
14 right to certain points of water. And when I say
15 "point," you can derive it from a specific location.
16 And it's to be drawn through, you know, the water
17 under the ground in different water rates, okay?

18 So the Weber Basin is determining that
19 they can have so many acre-feet and they can start
20 drawing it from a certain point. Well, they may say
21 that you have 300 acre-feet, but at a point in time
22 during the summer that source does not always have
23 300 acre-feet available during a year. So just to
24 say that, oh, you're paying for gallons you don't
25 have, you could be paying for gallons you'll never
26

1 have because of the way the whole system is set up.

2 So I would just like to present that the
3 company is doing what it should be doing on securing
4 water rights for its customers. Without securing
5 these irrigation -- you know, these shares that are
6 termed irrigation, they may not be able to obtain
7 more unless they pay even higher costs from someone
8 else who owns them later. So it's a benefit to the
9 company that they have these priced the way they do
10 and the company can draw on them and it's still
11 culinary water.

12 MR. CUMBERLAND: May I continue, Mr.
13 Goodwill?

14 ADMINISTRATIVE LAW JUDGE GOODWILL:
15 Certainly.

16 Q. (BY MR. CUMBERLAND) All right. I
17 understand and I thank you for that explanation, but
18 it raises a couple of other questions. On the
19 assumption -- and I thank you for acceptance of my
20 72.1 figure. I do believe that it is accurate, or
21 very close to accurate.

22 On the assumption that the company in your
23 test year supplied 72.1 acre-feet of water to its
24 customers, can you explain to me the rationale for
25 its purchase and its charge to its customers for 528

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1 acre-feet of water? Do you think that's fair to the
2 customers?

3 A. Well, as I've stated, that source is
4 available, but the amount of acre-feet they're
5 actually going to be able to draw from that is just
6 not the same.

7 Q. Will the 528 acre-feet contracted for from
8 Weber Basin Water Conservancy District also cover the
9 needs for the chalets, the Edgewater chalets and the
10 condo development on the north side of 39?

11 A. It will.

12 Q. Put another way, an additional 255
13 additional Lakeview customers?

14 A. Yes. That water will provide water to
15 them.

16 Q. And yet it is your position that the
17 current customers of Lakeview should pay for all 528
18 acre-feet of water contracted for from Weber Basin;
19 is that correct?

20 A. Yes, I do. To secure water for
21 themselves, yes, I agree that it should all be funded
22 each year by all the customers.

23 Q. Okay. Interesting position.

24 With respect to the original tank
25 purchased by Lakeview in or about 1983, did I hear
26

1 you say before that that tank was depreciated by Ski
2 Lake Corporation?

3 A. Yes, it was, for tax purposes.

4 Q. What amount of depreciation was taken from
5 the time of its purchase until, say, your test year
6 began, do you know?

7 A. Until the test year began? The
8 depreciation taken by Ski Lake for tax purposes was
9 \$112,704.

10 Q. So it was more or less fully depreciated,
11 right?

12 A. Yes.

13 Q. Okay. Was there any benefit to Lakeview
14 Water for that depreciation taken by Ski Lake during
15 that same period of time?

16 A. Now, did you just ask if there was any
17 benefit?

18 Q. Well, any --

19 A. I'm sorry, would you please state your
20 question again?

21 Q. Was there any tax benefit or was there any
22 expense component of Lakeview's rate base during that
23 same period of time attributable to that 1983 tank?

24 A. I'm sorry, is anyone there?

25 Q. Yeah. Did you hear the question?

26

1 ADMINISTRATIVE LAW JUDGE GOODWILL: Ms.
2 Fishlock, can you hear us?

3 MS. FISHLOCK: Is anyone there?

4 MR. CUMBERLAND: Evidently not.

5 ADMINISTRATIVE LAW JUDGE GOODWILL: I
6 think Ms. Fishlock is having difficulty hearing us.

7 MS. FISHLOCK: Hello?

8 MR. CUMBERLAND: Can you hear me now?

9 MALE SPEAKER: I can.

10 ADMINISTRATIVE LAW JUDGE GOODWILL: It
11 sounds like everybody can hear everybody except Ms.
12 Fishlock cannot hear what's going on in the hearing
13 room.

14 MS. FISHLOCK: Oh, I can hear now. I
15 don't know what happened.

16 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay,
17 good. Let us know if it happens again. And if it
18 does, you might want to try to hang up and call back.
19 But for now we'll just go ahead and continue.

20 Mr. Cumberland, can you go ahead and
21 repeat your question?

22 MR. CUMBERLAND: I hope so.

23 Q. (BY MR. CUMBERLAND) We've established
24 that the 1983 tank was fully depreciated by Ski Lake
25 from 1983 to whenever, right?

26

1 A. Correct.

2 Q. Was there any benefit derived, tax or
3 otherwise, by Lakeview Water attributable to that
4 depreciation?

5 A. A benefit relating to the depreciation, I
6 would say no. The benefit was that they had full use
7 of a facility that they never had to contribute
8 towards depreciation.

9 Q. Well, it certainly is a component of the
10 debt that Lakeview owes to Ski Lake, is it not?

11 A. I'm sorry. Repeat the question, please.

12 Q. Is that tank not at least a component of
13 the debt that is owed by Lakeview to Ski Lake Corp.?

14 ADMINISTRATIVE LAW JUDGE GOODWILL: Ms.
15 Fishlock?

16 MR. CUMBERLAND: Have we lost you again?

17 MALE TELEPHONE SPEAKER: I believe so.

18 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
19 We will just wait here and see if she calls back in
20 for a moment. Ms. Fishlock?

21 MS. FISHLOCK: Are you there?

22 ADMINISTRATIVE LAW JUDGE GOODWILL: We can
23 hear you. I guess you just intermittently can't hear
24 us. Thanks for calling back.

25 MS. FISHLOCK: Yeah. It just goes to
26

1 static, not really loud static, but a light kind of
2 dead tone.

3 ADMINISTRATIVE LAW JUDGE GOODWILL: Well,
4 we'll just try to continue and see if we can get
5 through this. Mr. Cumberland?

6 Q. (BY MR. CUMBERLAND) Okay. Let me maybe
7 ask it another way and maybe it will transmit better.

8 A. Okay.

9 Q. For the period 1983 until 2006, say, that
10 tank was treated as if it were an asset of Ski Lake,
11 not Lakeview Water, correct?

12 A. Yes, that's correct.

13 Q. Okay. Now you and the Division of Public
14 Utilities propose to treat that tank as a depreciable
15 asset of Lakeview Water, correct?

16 A. Yes.

17 Q. Even though it's been fully depreciated by
18 Lakeview's parent corporation?

19 A. I disagree with the Division that it
20 should be carried at the value that it would have
21 been if it was on the water company's books.

22 Q. What is your position?

23 A. I do not propose that we depreciate that
24 tank. I mean, if you look at the fact that the
25 customers should be paying depreciation on that tank

26

1 as it is now and not look at the tax effect to the
2 parent, then yes, I would agree with the Division and
3 I fully would support that adjustment. But I
4 basically took a different position for the company
5 and we agreed that we would not include that
6 depreciation, basically for the customers' benefit,
7 and wanted to mitigate the argument we could have.

8 Q. So your position basically is, having
9 depreciated it once, you don't think it should be
10 depreciated again at the expense of Lakeview's
11 customers, correct?

12 MR. SMITH: I think that
13 mischaracterizes --

14 MS. FISHLOCK: Well, depreciation is
15 not a --

16 ADMINISTRATIVE LAW JUDGE GOODWILL: Ms.
17 Fishlock, just a minute, please.

18 MR. CUMBERLAND: Would you please let her
19 answer the question?

20 MR. SMITH: No. I think I have a right to
21 make an objection. And my objection is, I think that
22 mischaracterized her testimony and so I object to
23 that question.

24 ADMINISTRATIVE LAW JUDGE GOODWILL: Mr.
25 Cumberland, ask your question again or rephrase, if

26

1 you think you can, and we'll go from there.

2 Q. (BY MR. CUMBERLAND) Okay. Is it your
3 position, Ms. Fishlock, that having fully depreciated
4 that 1983 tank once that the customers of Lakeview
5 should not have to, in effect, pay for its
6 depreciation again?

7 A. That's not exactly my position. It's not
8 been charged to the customers at all. And I would
9 agree with the Division that they should be bearing
10 the cost of that depreciation expense. We have fully
11 depreciated it for tax purposes, which is a tax
12 benefit, but it has never been charged to the
13 customers. But at this point we didn't want to make
14 an argument about it so that is the only reason we
15 have not -- we are not trying to ask for it to be
16 included at this time.

17 Q. Okay. But to your understanding it is,
18 right?

19 A. I'm sorry, was that question towards me?

20 Q. Yes.

21 A. Would you state the question again?

22 Q. To your understanding it is a part of the
23 rate base, at least as far as depreciation of that
24 asset is concerned; is that your understanding?

25 A. Well, it's my position that it should be,
26

1 but we're not asking the Commission to put it in our
2 rate base and take depreciation on it that has
3 already been taken for tax. We're not asking for
4 that.

5 Q. Well, all right. Let's go on to another
6 subject.

7 In your role as preparer of this rate
8 case, or put another way, in your role as the
9 preparer of any rate case, if you picked a test year,
10 any test year, and you knew that there would be a
11 dramatic increase in, say, revenue soon thereafter,
12 but there was no mention of the imminence of that
13 dramatic increase in rates, that would be misleading,
14 wouldn't it?

15 A. I'm not sure I understand what you're
16 saying.

17 Q. Well, it was necessary for you, as one of
18 the major preparers of this rate case to pick a test
19 year, was it not?

20 A. Yes. We chose a test year that had just
21 ended, so it being the most current test year, and
22 then we looked for anything that may need to be
23 adjusted for based on the year 2006, and we did see
24 that there were some things that were going to be
25 coming on that going forward were increasing expenses

26

1 , not decreasing them. But yes, we chose a specific
2 year because it had just finished, it was the most
3 current, it was the most reflective of what was going
4 on in the company's operation as we speak, and that's
5 why we chose 2005.

6 Q. Did you know at the time you did your work
7 in preparing this rate case that the parent
8 corporation of Lakeview Water, Ski Lake Corp., had
9 received approval to construct 87 single family homes
10 and 168 condominium units, all of whom would be
11 served with water by Lakeview Water Corp.?

12 A. I don't recall that.

13 MR. SMITH: I'm going to make an objection
14 on -- hold on. I make an objection on relevance.
15 There's no evidence to this. And even if you receive
16 approval to build things doesn't guarantee they're
17 going to be built and it's not a guarantee that
18 they're going to be hooked onto this company. We're
19 making a huge leap here for unknown reasons.

20 ADMINISTRATIVE LAW JUDGE GOODWILL: I'll
21 allow the question. The witness can certainly speak
22 to her view as to whether or not it's relevant to
23 information. Ms. Fishlock?

24 MS. FISHLOCK: Yes, I did know that. And
25 I did ascertain from the company that it's a -- there

26

1 is a -- it is a 5 to 10-year plan, and over the next
2 five years they would probably only get about 20 of
3 those online each year. And so that's the estimate
4 that we used to look at the, what do you call them,
5 the connection fees. That's why we included
6 additional connection fees.

7 Q. (BY MR. CUMBERLAND) Do you have personal
8 knowledge of how many of the 87 single family
9 residential units are under roof right now?

10 A. We haven't talked about it in probably the
11 last few months so I couldn't say exactly how many
12 are being built right now.

13 Q. What was the number the last time you knew
14 it?

15 A. Well, I understood that there was the one
16 four-plex being built and I was able to see three
17 regular residences that were under construction. But
18 other than that, I've been out of the area for a
19 while so I haven't discussed it since then.

20 Q. Okay. You've mentioned a four-plex.
21 That's one of the condominium units, isn't it?

22 A. Yes, I believe so.

23 Q. Okay. And that's four units?

24 A. Yes, four units.

25 Q. Okay. And you knew of three of the single
26

1 family residences that were already under roof as of
2 the time you left the area?

3 A. Yes.

4 Q. And you don't know how many are under roof
5 now?

6 A. You might want to address that to Ron
7 Catanzaro.

8 Q. I'm asking whether you knew or not.

9 A. I'm not aware of anything more than that.

10 Q. All right. My question, to get back to
11 the original question, and let's make it more
12 particular. If you knew when you were in the process
13 of preparing this rate case that the customer base of
14 Lakeview Water could well triple from the levels in
15 your test year within the relatively near future, did
16 you consider it misleading not to include information
17 in that regard in the application for a rate
18 increase?

19 A. I'm sorry. I don't see anything --

20 MR. SMITH: I'm going to object.

21 ADMINISTRATIVE LAW JUDGE GOODWILL: Ms.
22 Fishlock, just a minute, please.

23 MR. SMITH: We've been through this.

24 She's already answered it once and now we're going
25 through the same point again.

26

1 MR. CUMBERLAND: I didn't hear the answer.

2 ADMINISTRATIVE LAW JUDGE GOODWILL: I'm
3 not sure I understand --

4 MS. FISHLOCK: I'm unaware of any tripling
5 of the customer base in the near future. When I
6 prepared this filing I was under the understanding
7 that there would be maybe at the maximum 20 come
8 online in the next year.

9 Q. (BY MR. CUMBERLAND) All right. Let's do
10 the numbers since you're a numbers person. How many
11 customers of Lakeview were there at the time you
12 prepared the application for a rate increase?

13 A. A hundred and three.

14 Q. How many, if you know, for how many
15 condominium units had Ski Lake received approval to
16 build which would --

17 A. I don't have that number.

18 Q. You don't.

19 A. That was not approved at the time I made
20 this filing.

21 Q. Oh, I believe it was, Ms. Fishlock.

22 MR. SMITH: Now we have the person asking
23 the questions testifying. You know, we're really not
24 getting anywhere on any of this.

25 ADMINISTRATIVE LAW JUDGE GOODWILL: I

26

1 understand. Just continue with your questions, Mr.
2 Cumberland. You'll have your chance to present your
3 evidence.

4 Q. (BY MR. CUMBERLAND) All right. Well, I
5 would like to get an answer to the question which I
6 honestly don't remember getting. If the preparer of
7 a rate case knew that the customer base of its
8 utility --

9 ADMINISTRATIVE LAW JUDGE GOODWILL: She
10 testified that she did not know it was going to
11 triple as was part of your question. I don't know
12 wherever else we need to go with that.

13 Q. (BY MR. CUMBERLAND) Hypothetically, then.
14 If a preparer of a rate case knew that the customer
15 base of its utility had the potential to triple in
16 the relatively near future, do you consider it
17 misleading not to include information to that effect
18 in the application for a rate case?

19 A. Okay.

20 MR. SMITH: Let me interpose another
21 objection, since I guess I have to on every question
22 now. I think that this is assuming facts not in
23 evidence. And the facts not in evidence that is
24 being assumed by Mr. Cumberland is that somehow you
25 have a lower -- I guess it's an economies of sale

26

1 argument. There's been nothing determined about
2 that. It may be more expensive to serve those
3 additional people than less. And until that is
4 established as a fact I think it's a patently unfair
5 question to try to -- you know, what he's trying to
6 do is attack the character of the witness and of the
7 applicant here. And, you know, if he wants to
8 establish that fact, fine, we'll deal with it then,
9 but it hasn't been established.

10 ADMINISTRATIVE LAW JUDGE GOODWILL: Mr.
11 Cumberland, do you have any comment on that?

12 MR. CUMBERLAND: Inasmuch as this witness
13 is being presented in the order in which she is being
14 presented and the evidence on the record thus far is
15 what it is, I am not the person who controls what is
16 or is not in evidence. This is a purely hypothetical
17 question to a woman who I believe was asked what I
18 think amounts to an expert witness kind of question
19 as the preparer of this rate case. And I think I'm
20 entitled to ask a similarly hypothetical question
21 about the preparation of a rate case. But if counsel
22 does not wish to allow her to answer, I suppose we
23 can pick it up again at session two.

24 MR. SMITH: It's just a question that's
25 impossible to be answered because there are variables

26

1 that are not part of the hypothetical that makes it
2 an unfair hypothetical. In one situation it could be
3 more costly if you had more hook-ups and in another
4 situation it could be less costly. And yet he
5 continues to interpose the same question to try to
6 get an answer that -- it's just not a proper
7 hypothetical because it has no -- it's kind of like
8 the question, When did you quit beating your wife.
9 That's the kind of question that we're into now.

10 ADMINISTRATIVE LAW JUDGE GOODWILL: I
11 understand. To me, I think the thrust of the
12 question, Mr. Cumberland is if Ms. Fishlock had known
13 that the customer base would shortly triple, should
14 that have been included in the rate case?

15 MR. CUMBERLAND: That's quite nicely put.

16 ADMINISTRATIVE LAW JUDGE GOODWILL: That
17 seems like a fair question. Ms. Fishlock, can you
18 answer that?

19 MS. FISHLOCK: If I knew that the customer
20 base was going to triple, and what I would consider
21 near future would be within the next 12 to 24 months,
22 yes, I would include that as part of the calculations
23 that would be used to set rates, yes, I would.

24 MR. SMITH: And I think that's a proper
25 question. That's a different question, I would like

26

1 to point out, than was asked by Mr. Cumberland.

2 ADMINISTRATIVE LAW JUDGE GOODWILL:

3 Understood.

4 Q. (BY MR. CUMBERLAND) How about if the
5 tripling would occur within, say, a five-year period,
6 would you include that?

7 MR. SMITH: I think has been asked and
8 answered.

9 MR. CUMBERLAND: What was the answer?

10 ADMINISTRATIVE LAW JUDGE GOODWILL: We can
11 go ahead and let Ms. Fishlock answer that.

12 MS. FISHLOCK: If I knew it was in a five
13 year it might be in a footnote. But I would only
14 include what I would estimate in the next -- if we
15 were during a 2005 test year, I would look only to
16 what was going to happen in 2006 as I've presented
17 here. You would only be able to go out that far in
18 setting the current rate. Another rate case in two
19 years would be what I would recommend to the client.

20 MR. CUMBERLAND: Okay. I have nothing
21 further at this point, but I will reserve the right
22 to further question in the event Ms. Fishlock
23 testifies again.

24 ADMINISTRATIVE LAW JUDGE GOODWILL:

25 Understood. What we will do, we've been going about

26

1 two hours now. Well, let me just ask, then, do you
2 have any redirect?

3 MR. SMITH: I don't believe I have any
4 redirect at this time.

5 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
6 Given that, Ms. Fishlock, I think you're free to -- I
7 don't know if you want to hang on the line, you're
8 welcome to or free to, or you're free to hang up. It
9 appears that we're done with you for today. And
10 we'll just leave it at that. And let's take a
11 five-minute recess and then we'll come back.

12 MR. SMITH: Thank you.

13 (Recess taken.)

14 ADMINISTRATIVE LAW JUDGE GOODWILL: Let's
15 go back on the record. Before we get started again,
16 Ms. Schmid, I was just informed that the Division has
17 a correction with the memo it would like to make.
18 The memo, I believe that was introduced is DPU
19 Exhibit 1, or admitted?

20 MS. SCHMID: Yes, I believe that's
21 correct. Mr. Hicken could explain that better
22 than I.

23 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.

24 MS. SCHMID: Mr. Hicken?

25 MR. HICKEN: Thank you. On Exhibit
26

1 1.0(B), the depreciation schedule?

2 MR. SMITH: I'm sorry, which page of the
3 exhibit is that?

4 MR. HICKEN: It's on the memo, the DPU
5 memo. It's Exhibit 1.0(B), the second page.

6 MR. SMITH: I've got it. I just wanted to
7 make sure I had it in front of me.

8 MR. HICKEN: The water tanks that were
9 added to the rate base, one is right below item
10 number 21 and the other is right below item number
11 24. Initially when I put those in to the
12 depreciation schedule I used a 50-year depreciation
13 on the estimated life thinking that those were
14 collection or impounding reservoirs. After talking
15 with Krystal this morning, I found out they were
16 distribution reservoirs and the life was 30 years.
17 Hence, the depreciation changed, the accumulated
18 depreciation. And I think some of you may have the
19 one with the 30 year life and I have one with the 50
20 year life. So I think the correct number of -- the
21 correct amount of accumulated depreciation should be
22 \$241,212.

23 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
24 And that is as it is listed in the copy that I
25 received that was offered and admitted as DPU Exhibit
26

1 1, that the bottom line number from 1.0(B) is
2 \$241,212?

3 MR. HICKEN: That's correct. I think I
4 may have, when I filed, I may have filed the one that
5 showed the 50-year depreciation.

6 ADMINISTRATIVE LAW JUDGE GOODWILL: Just
7 to be clear, there's no correction to be made to that
8 exhibit. The number is as you intended it to be,
9 which is \$241,212 using the 30-year depreciation.

10 MR. HICKEN: Okay.

11 ADMINISTRATIVE LAW JUDGE GOODWILL:
12 However, I had noticed that the Exhibits 1.0(B), (C)
13 and in 1.1, 1.2 and 1.3 had different numbers on the
14 copy that was filed with the Division yesterday -- or
15 with the Commission yesterday afternoon as opposed to
16 the copy that was admitted here today. Is that the
17 source of the difference of those numbers?

18 MR. HICKEN: Yes.

19 ADMINISTRATIVE LAW JUDGE GOODWILL: The
20 use of 50 years versus 30 years depreciation?

21 MR. HICKEN: That's right.

22 ADMINISTRATIVE LAW JUDGE GOODWILL: Does
23 anybody have any questions on that?

24 MS. SCHMID: Just one. So the numbers we
25 want to use are the numbers contained in DPU Exhibit

26

1 1; is that correct?

2 MR. HICKEN: Yes, the ones that were
3 admitted today.

4 MR. SMITH: I have a question. Mr.
5 Hicken, does that change anything in the body of your
6 memo that we need to be aware of? If I was better at
7 numbers I probably could answer my own question, but
8 I'm not.

9 MR. HICKEN: No, I don't believe it
10 changes anything in the body of the memo.

11 MR. SMITH: Okay. And also, I take it, it
12 does not change any of the conclusions that you have
13 previously testified to?

14 MR. HICKEN: No, it does not.

15 MR. SMITH: Thank you.

16 MS. SCHMID: Thank you.

17 ADMINISTRATIVE LAW JUDGE GOODWILL: Mr.
18 Smith, anything further?

19 MR. SMITH: I don't have anything right
20 now. I understand we're going to have, I guess,
21 another hearing, and maybe we should talk about that
22 a minute.

23 ADMINISTRATIVE LAW JUDGE GOODWILL: Yes.
24 And we'll just stay on the record and talk about that
25 briefly. My thought is, and just kind of off the top
26

1 of my head as we go through these proceedings, I'm
2 not trying to drive this train and say we will have
3 another evidentiary session after today, but I am
4 aware that, you know, parties only received the
5 Division's recommendation when it was filed last
6 evening almost at 5:00 p.m.

7 I'm aware from discussions prior to the
8 start of the hearing with Mr. Cumberland of a
9 procedural nature that he had just recently received
10 the Division's recommendation and may or may not be
11 prepared today to present all of his evidence. And
12 especially given the fact that the -- he had some
13 data requests that were outstanding that maybe he
14 only received information to recently, and that the
15 notice of the hearing only went out six days ago. So
16 given that, I want to provide him the opportunity at
17 some later date to provide any additional evidence
18 that he wants to.

19 Along those lines, if any of the other
20 parties want to provide additional evidence or
21 testimony, I'm certainly open to that. But I don't
22 see the need to necessarily establish -- to set
23 another time to reconvene here for evidence that
24 might not be forthcoming. And so my thought was Mr.
25 Cumberland will remain under oath and can certainly
26

1 provide any additional evidence at the public witness
2 hearing that we do intend to schedule.

3 If either the Division or the company
4 decides after the close to today's proceedings that
5 you do have additional evidence or testimony that you
6 would like to provide, let me know just via e-mail,
7 phone call, filing or whatever, and we can determine,
8 does it make more sense to do that through a separate
9 evidentiary hearing proceeding or in conjunction with
10 the public witness.

11 MR. SMITH: And we may -- yeah, that would
12 be acceptable for the applicant. We may want to
13 provide additional information based on just some of
14 the things we've heard today, and I'll just give one
15 example.

16 One example, I think a question has been
17 raised, did we really need this additional tank and
18 the capacity of that tank. I haven't had a chance to
19 look at that issue. I do generally know that the
20 fire flow requirements have increased in the last ten
21 years and the need to have additional storage for
22 fire flow, those standards have risen and we may need
23 to address that. And that's one of the things I
24 would like a chance to look into and be able to
25 address if we need to address that.

26

1 ADMINISTRATIVE LAW JUDGE GOODWILL: And
2 that makes sense to me, that any and other types of
3 questions. All I would ask is, if you decide that
4 that's something you would like to address further,
5 let us know. I think a written filing would be the
6 best way to do so with copies to all parties, and
7 simply say, these are the issues with which -- that
8 we would like to address with further evidence or
9 testimony. We think that we can do that at the
10 public witness hearing or we think it would be better
11 to do it in a different forum. And everybody can
12 have it or we can respond to it and we can decide as
13 we get closer to the public witness date what makes
14 most sense.

15 MR. SMITH: That's perfectly acceptable to
16 the applicant. Thank you.

17 ADMINISTRATIVE LAW JUDGE GOODWILL: Does
18 that make sense from the Division's perspective?

19 MS. SCHMID: Yes, it does. And that's
20 what the Division would do.

21 MR. CUMBERLAND: And for mine.

22 ADMINISTRATIVE LAW JUDGE GOODWILL: Great.
23 Thanks. So you have nothing further today, Mr.
24 Smith?

25 MR. SMITH: That's correct.

26

1 ADMINISTRATIVE LAW JUDGE GOODWILL: With
2 that we'll turn to you, Mr. Cumberland.

3 MR. CUMBERLAND: I have one horrendous
4 correction to make in my hearing brief.

5 ADMINISTRATIVE LAW JUDGE GOODWILL: Let me
6 first swear you in, if we could.

7 MR. CUMBERLAND: Sure.

8 ADMINISTRATIVE LAW JUDGE GOODWILL: Go
9 ahead and raise your right hand and I will swear you
10 in.

11 Do you solemnly swear the testimony you're
12 about to provide shall be the truth, the whole truth
13 and nothing but the truth, so help you God?

14 MR. CUMBERLAND: Yes, I do.

15 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay,
16 thanks.

17 Does everybody have a copy of Mr.
18 Cumberland's what he titled as "Hearing Brief of
19 Intervenor"?

20 MS. SCHMID: I would take another one if I
21 may, please.

22 MR. CUMBERLAND: Sure. There are a bunch
23 of them here, so...

24 MR. SMITH: If there's an extra one it
25 would be helpful as well so both I and Mr. Simpson

26

1 can have one.

2 ADMINISTRATIVE LAW JUDGE GOODWILL: And,
3 Mr. Cumberland, you had indicated that you have a
4 correction to that?

5 MR. CUMBERLAND: Yes. My arithmetic
6 skills decline severely after midnight.

7 MS. SCHMID: You were not alone in that.

8 MR. CUMBERLAND: On page 3, Roman Numeral
9 V, presently reads, "The Purported Reason for the 225
10 percent Increase." It should read 125 increase.
11 That same figure appears on the next page in the
12 paragraph immediately preceding the bold paragraph in
13 the second line, 225 should read 125. I apologize
14 for the error. Next time I'll get more rest.

15 ADMINISTRATIVE LAW JUDGE GOODWILL: Is
16 that the only corrections you know at this time?

17 MR. CUMBERLAND: That's the only one I
18 know.

19 ADMINISTRATIVE LAW JUDGE GOODWILL:
20 Everybody understood those?

21 MR. SMITH: Yes, we did.

22 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
23 Now, before we get started, Mr. Cumberland, was it
24 your intent that this document be entered into
25 evidence here today?

26

1 MR. CUMBERLAND: No. Candidly, Mr.
2 Goodwill, I had no idea what would occur at this
3 proceeding today. I intended it as a brief in
4 argument in what effort I could muster to predict
5 what was going to be presented by way of evidence
6 today, but obviously without knowing.

7 Candidly, I'm delighted that we are going
8 to adjourn to another date because I have seen for
9 the first time today a large number of documents that
10 I have never seen before. And I suspect that there
11 are even more of them. So I will want to rectify
12 that between now and the time we meet again.

13 ADMINISTRATIVE LAW JUDGE GOODWILL: All
14 right. Well, what I will do is this: For
15 identification purposes we'll mark this document as
16 Intervenor Number 1.

17 MR. CUMBERLAND: That's fine.

18 ADMINISTRATIVE LAW JUDGE GOODWILL: But we
19 will not admit it at this time.

20 MR. CUMBERLAND: I will not offer it at
21 this time.

22 ADMINISTRATIVE LAW JUDGE GOODWILL: But
23 you're free to refer to it and of course to testify
24 to any facts that you would like to at this time.

25 MR. CUMBERLAND: I have nothing further at
26

1 this time. I will reserve presentation of additional
2 evidence for session two wherever and whenever that
3 may occur.

4 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
5 And unless I hear differently from the other parties,
6 as I just stated, we'll plan on giving you the
7 opportunity to provide additional evidence or
8 testimony if you feel you need to or want to at the
9 public witness session that's to be scheduled. And
10 at that time then, too, you would be subject to
11 cross-examination by the Division and by the company.

12 MS. SCHMID: And a question, if I might,
13 would the Commission like the Division to file a
14 corrected memo with it or would the corrections that
15 have been made here be sufficient? I don't know what
16 would be easier.

17 ADMINISTRATIVE LAW JUDGE GOODWILL: I
18 think as long as we've got the corrections on the
19 record for DPU Exhibit 1 we can just leave it as
20 filed.

21 MS. SCHMID: Thank you.

22 ADMINISTRATIVE LAW JUDGE GOODWILL:
23 Anything further that we need to address here today?

24 MR. SMITH: The only thing further is it
25 would be helpful in preparing for this next hearing

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1 if Mr. Cumberland has any other issues besides those
2 that are addressed either in his cross-examination or
3 in his memo that he intends to raise, if he can be
4 required to identify those so we would have a chance
5 to be prepared for those. There may not be. And if
6 that's the case, that's fine.

7 MR. CUMBERLAND: As soon as I see all of
8 the documents that have been exchanged between the
9 Applicant and the Division, for one, and any other
10 discovery, unanswered discovery that I still have
11 outstanding to the applicant, there may be additional
12 issues that I'm not aware of at this point because
13 there's so many documents that I still have yet to
14 see.

15 MR. SMITH: I was going to say, I'm a
16 little unclear as to what those are. I just checked
17 with Mr. Simpson, who has been handling the
18 documents, and I'll let him address that.

19 MR. SIMPSON: Your Honor, we have provided
20 the Intervenor with all documents that we have
21 provided to the PSC/DPU. So there are no additional
22 documents that he would be getting. The only issue
23 is unresolved issues with regard to his data requests
24 and our data requests about which the parties have
25 both engaged in meet and confer letters without any

26

1 resolution.

2 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
3 And at some point, of course, the parties are free to
4 come back to the Commission and say, "We have
5 discovery disputes," and if we need to we can have a
6 procedural hearing to talk about that. I guess all I
7 would say at this point is please continue to work on
8 your discovery issues. If you do reach an impasse or
9 if there are any objections that need to be raised,
10 raise those to the Commission.

11 And it is fair, Mr. Cumberland, if you
12 have additional issues that you want to address in
13 your further evidentiary presentation that aren't
14 addressed in your hearing brief that we marked as
15 Intervenor Exhibit 1, please make the Division and
16 the company aware of those at least a week prior to
17 the public witness session that will be scheduled so
18 that they have an opportunity to adequately prepare
19 for those.

20 MR. CUMBERLAND: I will promise the
21 Commission and the Applicant that I will not only
22 give them notice of those issues, if any, more than a
23 week prior, I will give them notice of those issues
24 as soon as they arise.

25 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay,

26

1 thanks.

2 MS. SCHMID: And the Division would also
3 like such notice.

4 MR. CUMBERLAND: And I will also give it
5 to the Division. I will give it to anybody who is a
6 party to this action, as I think everyone should.

7 ADMINISTRATIVE LAW JUDGE GOODWILL: Yes.
8 And with respect to any documents, if you feel -- I
9 mean, please check with the Division to make sure
10 that you have all the documents that have been
11 provided up to this point.

12 MR. CUMBERLAND: Inasmuch as we have a
13 record going on right now, let me make a data request
14 to the Division for any and all documents or other
15 materials, correspondence, et cetera, furnished to it
16 by the Applicant.

17 MS. SCHMID: Could we have that in regular
18 data request form, please, to facilitate handling of
19 the request?

20 MR. CUMBERLAND: Sure.

21 ADMINISTRATIVE LAW JUDGE GOODWILL: Since
22 we have parties here, let me just ask. Procedurally,
23 what we would typically do in a matter like this is
24 work with the company to make sure customers are
25 provided notice of the proposed rate increase. I

26

1 don't know to this point what notice has gone out to
2 customers, if any, or if it's been published in the
3 local newspaper and those sorts of things.

4 MS. FISHLOCK: Krystal Fishlock. I'm
5 still on the phone. Would you like me to answer
6 that?

7 ADMINISTRATIVE LAW JUDGE GOODWILL: Sure,
8 if you know.

9 MS. FISHLOCK: The original notice to
10 customers, that's the one that went out way back a
11 year ago, back at the end of 2006, and no other
12 notice was provided until last week. We did a rapid
13 mailing and got it out in the mail, and most of them
14 probably got it yesterday. The local paper, there
15 wasn't a timing with any local paper to get it into
16 the paper. We can do that and we have plenty of time
17 to get the 30 days in and publish it.

18 ADMINISTRATIVE LAW JUDGE GOODWILL: Are
19 you the contact, Ms. Fishlock, or who would be the
20 contact with the company to -- what I'm thinking, is
21 just to get with Julie Orchard of the Commission
22 because I'm not the one to really speak at this point
23 as to what sort of notice would be required or
24 necessary at this time. But I would like somebody --

25 MS. FISHLOCK: I have worked with Julie
26

1 before on that, and that would be fine.

2 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
3 If you will get with her, but anticipating that we
4 give something along the lines of the next 30 days to
5 get adequate notice out. It sounds like, and I
6 appreciate, it sounds like the company has provided
7 some notice to this point just to make sure that the
8 customers get notice of the actual proposed rates and
9 of the public witness hearing that will be scheduled.

10 And that was my next question while we've
11 got parties here, looking at roughly mid September at
12 this point, calendar-wise, are there dates that would
13 not work for the Division, for the company, for you,
14 Mr. Cumberland, to have that public witness session?

15 MS. SCHMID: Counsel for the Division will
16 be participating in every hearing in September but
17 for some of the telephone hearings. So if that could
18 be taken into account when selecting the date.

19 ADMINISTRATIVE LAW JUDGE GOODWILL: So
20 whatever is on the Commission schedule?

21 MS. SCHMID: I know that there's a real
22 heavy Commission calendar in September.

23 MR. CATANZARO: I'm planning a family
24 vacation I think the third week in September. I'll
25 have to get back with you with dates on that. You

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1 can proceed without me, but since you asked.

2 ADMINISTRATIVE LAW JUDGE GOODWILL: Sure.

3 MR. SMITH: I'm trying to look at my
4 schedule. I'm not as good with these things as I
5 should be. I know I have a trial in a water matter
6 in Provo, it's the week of the 17th of September. So
7 that week would be bad for me.

8 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.

9 MR. SMITH: After that would be fine.

10 MS. FISHLOCK: Are you saying that that
11 whole week is out?

12 MR. SMITH: I'm in trial that whole week
13 the 17th of September.

14 MS. FISHLOCK: Oh, well, darn. That's my
15 best week.

16 MR. SMITH: I'm sorry.

17 ADMINISTRATIVE LAW JUDGE GOODWILL: How
18 about, just off the top of my head, something like,
19 and this will be an evening thing, obviously, if we
20 do it up in Huntsville for the convenience of the
21 customers, something like the evening of the 14th of
22 September, or is that a Friday?

23 MR. SMITH: That is a Friday.

24 ADMINISTRATIVE LAW JUDGE GOODWILL: Maybe
25 the 13th.

26

1 MS. SCHMID: If you could please check the
2 Commission calendar because that may be in the middle
3 of the Conservation Enabling Tariff hearing, during
4 which time I would love to get away for an evening,
5 but probably would not.

6 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.
7 What we will probably do is coordinating calendars
8 and Julie Orchard from the Commission will probably
9 contact each of you to coordinate dates. What I
10 don't want to have happen is that we go out with a
11 public notice and then somebody can't make that date
12 and we have to change it all over again. So in the
13 next few days Ms. Orchard will probably be contacting
14 you to coordinate some sort of a date somewhere
15 around the middle of September, if we can work that
16 out.

17 MR. SMITH: That will be fine.

18 MR. CUMBERLAND: That's fine.

19 ADMINISTRATIVE LAW JUDGE GOODWILL:
20 Anything further that we need to take up here today?

21 MS. SCHMID: Nothing from the Division.

22 MR. SMITH: Nothing from the Applicant.

23 ADMINISTRATIVE LAW JUDGE GOODWILL: Okay.

24 Then we'll stand adjourned. Thanks.

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1 (The taking of the proceedings was
2 concluded at 3:49 p.m.)

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

I, LANETTE SHINDURLING, a Registered Professional Reporter, Certified Realtime Reporter and Notary Public in and for the State of Utah, residing at Salt Lake City, Utah hereby certify;

That the foregoing proceeding was taken before me at the time and place herein set forth, and was taken down by me in stenotype and thereafter transcribed into typewriting;

That pages 1 through 106, contain a full, true and correct transcription of my stenotype notes so taken.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

WITNESS MY HAND and official seal at Salt Lake City, Utah, this 28th day of August, 2007.

LANETTE SHINDURLING, RPR, CRR
Utah License No. 103865-7801