

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 )

)

September 25, 2007 \* 6:00 p.m.

Location: Huntsville Library

131 South 7400 East

Huntsville, Utah

Steve Goodwill

Administrative Law Judge

1                                   A P P E A R A N C E S

2       FOR LAKEVIEW WATER CORPORATION:

3                           J. Craig Smith, Esq.  
                          SMITH HARTVIGSEN, PLLC  
4                           Attorneys at Law  
                          215 South State, Suite 650  
5                           Salt Lake City, Utah 84111  
                          Tel: 801.413.1600

6  
7       FOR DIVISION OF PUBLIC UTILITIES:

8                           Patricia E. Schmid, Esq.  
                          ATTORNEY GENERAL'S OFFICE  
9                           160 East 300 South, 5th Floor  
                          Salt Lake City, Utah 84114  
10                          Tel: 801.366.0353

11       FOR THE INTERVENOR:

12                          Frank J. Cumberland  
                          6563 East 1100 South  
13                          Huntsville, Utah 84317  
                          Tel: 435.745.8757

14  
15       ALSO PRESENT:

                          Ron Catanzaro, Lakeview Water Corporation  
16                          Bradley S. Simpson  
                          Members of the public

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

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3 JUDGE GOODWILL: All right. Let's go on  
4 the record. This is the Public Service Commission  
5 hearing in the matter of the Application of Lakeview  
6 Water Corporation for Approval of its Water Rate  
7 Schedules and Water Service Regulations, Public  
8 Service Commission Docket No. 06-540-T01.

9 I'm Steve Goodwill, the Administrative Law  
10 Judge for the Public Service Commission and I've been  
11 assigned by the Commission to hear this matter.  
12 Notice of this was issued by the Commission on the  
13 14th of August, 2007.

14 By way of introduction, tonight's hearing  
15 is a continuation of a hearing begun on this matter  
16 in the Commission's office on August 7, 2007.  
17 Because of the relatively short notice that was  
18 provided prior to that hearing, we wanted to make  
19 sure and continue the hearing to tonight to give  
20 everybody an opportunity to participate, both Mr.  
21 Cumberland as an intervenor, and members of the  
22 public who wish to listen and to speak concerning  
23 this proposed increase.

24 The first thing we'll do tonight, then, is  
25 continue with the evidentiary portion of the hearing

26

1 which was begun on 7 August, and we'll turn first to  
2 Mr. Cumberland for that. Once Mr. Cumberland has put  
3 any evidence and testimony that he intends to put in,  
4 we'll then turn to the Public Witness portion. So I  
5 think Mr. Cumberland has roughly a half hour or so of  
6 information and presentation.

7           Then in an effort not to keep members of  
8 the public here too late this evening, we'll turn to  
9 you and give you a chance to make your statements,  
10 and then we'll turn back to the Division of Public  
11 Utilities and to the water company to provide any  
12 additional rebuttal or evidence that they've got, and  
13 you're welcome to stay for that. And if members of  
14 the public have something they would like to say  
15 after hearing that, that's great, we can do that.  
16 But I would like to move the Public Witness portion  
17 up so that you don't all have to sit here if you  
18 don't want to for the entire.

19           More on the ground rules of the Public  
20 Witness portion when we get to that section after Mr.  
21 Cumberland's presentation, but for now we'll go ahead  
22 and go with the evidentiary portion. I would like to  
23 take appearances of counsel, and we'll start with  
24 Lakeview Water Company.

25           MR. SMITH: Thank you, Judge Goodwill. My  
26

1 name is Craig Smith and I'm here on behalf of the  
2 Applicant. Assisting me is Brad Simpson.

3 JUDGE GOODWILL: All right. Thank you.  
4 We'll go to the Division of Public Utilities.

5 MS. SCHMID: Patricia E. Schmid, Assistant  
6 Attorney General, representing the Division of Public  
7 Utilities.

8 MR. HICKEN: Paul Hicken, Utility Analyst  
9 for the Division of Public Utilities.

10 JUDGE GOODWILL: Mr. Cumberland, if you  
11 would just state your name and address for the  
12 record.

13 MR. CUMBERLAND: Frank Cumberland, 6563  
14 East 1100 South, Huntsville, Utah. I am the  
15 intervenor.

16 JUDGE GOODWILL: Okay. Just to remind  
17 everybody, Mr. Hicken and Mr. Cumberland were  
18 previously sworn in this matter on August 7th so  
19 anything that they say will be under oath. You may  
20 have noticed, we have a court reporter here tonight.  
21 She will be taking a verbatim transcript of both this  
22 evidentiary portion of the hearing and the Public  
23 Witness to follow.

24 With that, I think we'll go ahead and turn  
25 it over to Mr. Cumberland. Sir?

26

1 MR. CUMBERLAND: Thank you, your Honor.

2 I have a couple of housekeeping issues  
3 before I actually begin. But first, regarding what  
4 has been marked on August 7 as Exhibit 1, it was a  
5 brief that I submitted, a hearing brief marked as  
6 Exhibit 1. It is my wish to withdraw that Exhibit.  
7 And I would ask your Honor whether he wishes the new  
8 hearing memorandum that I submitted today substituted  
9 as Intervenor Exhibit 1 or a different number.

10 JUDGE GOODWILL: We can go ahead and mark  
11 what we provided to all parties before this hearing  
12 as Intervenor Exhibit 2, the new memo that you've  
13 provided.

14 MR. CUMBERLAND: Well, we can't do that  
15 because I have 2, 3, 4, 5 6 that are already  
16 premarked.

17 JUDGE GOODWILL: Oh, okay, that are  
18 attached to this?

19 MR. CUMBERLAND: Yes. I can make it  
20 Number 7 or I can make it Number 1, as you wish.

21 JUDGE GOODWILL: We'll make it Number 1.1.

22 MR. CUMBERLAND: 1.1 it is.

23 JUDGE GOODWILL: And that will be for  
24 identification. You wish to withdraw Exhibit 1 that  
25 was previously entered into evidence. Any objection

26



1 from the parties to withdrawing that?

2 MR. SMITH: No objection to withdrawal.

3 We do have concerns about the new brief, but we'll

4 talk about those later.

5 JUDGE GOODWILL: Okay.

6 MS. SCHMID: No objections to the

7 withdrawal.

8 JUDGE GOODWILL: Okay. So we will

9 withdraw what had been previously marked as

10 Intervenor Exhibit 1. We've now marked Intervenor

11 Exhibit 1.1, and let's address the attachments to

12 that. Are they referenced in the memorandum that is

13 now marked 1.1?

14 MR. CUMBERLAND: Yes, they are.

15 JUDGE GOODWILL: So we'll leave them

16 basically as attachments to 1.1.

17 MR. CUMBERLAND: They're individually

18 marked Intervenor Exhibits 2, 3, 4, 5, and 6.

19 JUDGE GOODWILL: Okay. I believe the

20 parties have copies of all of those. We'll go ahead

21 and mark them as such. And did you want to seek

22 their admission now, the admission of all these

23 Exhibits?

24 MR. CUMBERLAND: There may be some

25 foundation that I might have to lay with regard to

26

1 some of them, which I will do in my presentation. So  
2 I will wait until the end and offer them at that  
3 time.

4 JUDGE GOODWILL: All right.

5 MR. CUMBERLAND: While we're in the  
6 housekeeping mode, my thanks to the Commission for  
7 holding this hearing here so that customers, citizens  
8 of this valley can express their opinions. We very  
9 much appreciate that. It's difficult for those of us  
10 who live up here in the boonies to get to the big  
11 city. So thank you.

12 Thanks also to Michael Suley, who works  
13 with the Library, for setting up these accommodations  
14 for us on very short notice. And last but not least,  
15 thank you to all of you for coming. Those of you who  
16 wish to speak will get your chance and I'm happy that  
17 you did so.

18 With that, I would like to call Mr. Paul  
19 Hicken on cross-examination.

20 JUDGE GOODWILL: Okay. Well, we'll go  
21 ahead and continue that from last time, that's fine.  
22 Mr. Hicken, you're already under oath, as I stated  
23 earlier. Go ahead and ask your questions, Mr.  
24 Cumberland.

25 MS. SCHMID: One more housekeeping. So do  
26

1 you have a direct case that you're going to present  
2 or are you going to pursue through cross-examination?

3 MR. CUMBERLAND: Well, I guess I do have a  
4 direct case.

5 MS. SCHMID: Would it be better to have --

6 MR. CUMBERLAND: This is part of it.

7 JUDGE GOODWILL: Are you asking questions  
8 to clarify what Mr. Hicken previously testified to?

9 MR. CUMBERLAND: Yes. And on his  
10 memorandum, the report of the Division of Public  
11 Utilities, which I was handed when I walked into the  
12 hearing last time.

13 JUDGE GOODWILL: I think it makes sense,  
14 why don't we do ahead and proceed with that. If we  
15 start getting into new matter we can talk about what  
16 makes most sense. But go ahead and ask your  
17 questions regarding that.

18

19 PAUL HICKEN,

20

21 recalled as a witness, was examined and

22 Testified as follows:

23

24 RECROSS-EXAMINATION

25 BY MR. CUMBERLAND:

26

1 Q. All right. Mr. Hicken, do you have a copy  
2 of your August 6, 2007 Memorandum, the report of the  
3 DPU to the Public Service Commission of Utah?

4 A. Yes, I do.

5 Q. Okay. I refer you to the last paragraph  
6 on page 1, the second to last line indicates that, to  
7 your knowledge, the Application of Lakewood --  
8 Lakeview Water for an increase was based, in part, on  
9 a demand for water due to growth in the area. Do you  
10 see that?

11 A. I do.

12 Q. On what did you base that part of your  
13 summary? Was there anything in their Application,  
14 for instance, that said that?

15 A. I'm trying to recall in the Application.  
16 It could have been just through discussion that we  
17 had with the Applicant.

18 JUDGE GOODWILL: Mr. Hicken, I know you  
19 don't have a microphone. If you could just make sure  
20 and speak up as loud as possible.

21 MR. HICKEN: Okay.

22 Q. (BY MR. CUMBERLAND) Anything other than  
23 that recollection of your conversations with them?

24 A. I don't think there was anything in the  
25 Application, but I'm pretty sure that in  
26

1 conversations we had with the Applicant and in  
2 looking at the Annual Reports from '05 and '06, it  
3 was obvious that there was an increase in growth.

4 Q. Okay. Was there any discussion between  
5 you and the Applicant about further growth, further  
6 increases in demand beyond what you knew of as of the  
7 filing of the Application?

8 A. The only thing that comes to mind is a  
9 piece of information that you sent me, was the --  
10 when they went before the county and said that there  
11 would be anticipated future growth in the area.

12 Q. Okay. But that came from me.

13 A. Right.

14 Q. Not from Lakeview.

15 A. I may have had conversations with them  
16 saying that there was going to be some significant  
17 growth. I can't remember.

18 MR. CUMBERLAND: Okay. On the next page  
19 of your report under the heading Analysis, I'll read  
20 you the sentence, it's the last sentence of the only  
21 paragraph. "The Division has met with LWC  
22 representatives and spoken on several occasions to  
23 discuss earnings and expenses and they have been very  
24 cooperative." Do you see that?

25 A. That's right.

26

1 Q. How many times did you meet with the LWC  
2 representatives?

3 A. Oh, at least twice.

4 Q. How many times did you talk with LWC  
5 representatives on the phone?

6 A. Oh, including the Data Requests?  
7 Probably two or three. I don't know exactly.

8 Q. Did you talk with principals and employees  
9 of Lakeview?

10 A. I think mostly I talked with their  
11 attorneys.

12 Q. Okay. Did you ever talk to me in the  
13 course of your investigation?

14 A. Just the one time when you called.

15 Q. Just within the last week or so?

16 A. No.

17 Q. What was the substance of that?

18 A. It was you had sent in your notice that  
19 you were going to be an Intervenor and I talked to  
20 you on the phone over some of your concerns.

21 Q. Do you recall asking me any substantive  
22 questions about the merit or lack of merit or my  
23 position on any of the issues involving this  
24 increase?

25 A. I think we talked about the 2003 water  
26

1 tank that you were concerned that it was being added  
2 to store water for a subdivision that wasn't part of  
3 the subdivision that was being served.

4 Q. Okay. Did any of that conversation find  
5 its way into your report?

6 A. No, I don't believe so.

7 Q. On page 3 of your report under the heading  
8 Expense Adjustments, about halfway down the page  
9 there's a heading Contractual Services Engineering.  
10 You reduced the expenses listed by Lakeview by \$4,306  
11 and you indicated in your paragraph that the costs  
12 could not be identified in the documentation. What  
13 does that mean?

14 A. Well, I think they sent me some -- a  
15 summary of some expenses, but I couldn't tell from  
16 the description what they were.

17 Q. Okay. And could you tell whether they  
18 were related to operations of Lakeview and equipment  
19 that Lakeview already has or whether the engineering  
20 had to do with, say, providing water and services for  
21 the new chalets and condos? Could you tell from the  
22 documentation you had?

23 A. I don't recall. I would have to pull back  
24 that documentation and look at it, but probably not.

25 Q. Further down that same page under Rate  
26

1 Base Adjustments under the heading Water Tanks, you  
2 added the cost and some depreciation figures for the  
3 two water tanks that Lakeview now has; is that  
4 correct?

5 A. That's right.

6 Q. Do you know if Lakeview has any plans to  
7 construct any additional water tanks in order to  
8 serve the chalets and condos across 39?

9 A. I don't know.

10 Q. But you don't know that they do?

11 A. No, I don't.

12 Q. The last item on that same page under the  
13 heading Meters, your note reads, "This adjustment  
14 increased the rate base by \$7,881. New meters were  
15 added in 2006 at a cost of \$7,881." If you would be  
16 so kind as to take a look at Intervenor Exhibit  
17 Number 2, this was information furnished to the DPU  
18 by Lakeview in response to one of your Data Requests.

19 A. That's right.

20 Q. And I will represent to you that the items  
21 that are circled halfway down the page, the total  
22 \$7,881.54 are the same ones that you referred to in  
23 your discussion with meters in your report.

24 Do you see the heading on the invoice?

25 What this is, for purposes of the record, is an

26



1 invoice to Ron Catanzaro from Castle Rock Excavation  
2 and Development in South Weber, Utah, dated July 14,  
3 2006, and it's headed -- well, that circled  
4 information in the caption there at the top, would  
5 you read that, Mr. Hicken?

6 A. The circled part, Ski Lake Chalets.

7 Q. Ski Lake Chalets Water, right?

8 A. Right.

9 Q. Do you know where the Ski Lake Chalets  
10 are?

11 A. No, I'm not sure.

12 Q. But you added that \$7,881 to the rate  
13 base?

14 A. I did.

15 Q. Okay. Despite the fact that they appeared  
16 to be for service to Ski Lake Chalets, right?

17 A. Well, that was one of the items I asked  
18 about and I was told that is for new meters that were  
19 added to the development.

20 Q. Okay. Would it be proper to add to the  
21 rate base meters like this that are for expansion  
22 rather than for current customers?

23 A. If they were added within a year of the  
24 test year and it was part of the development that was  
25 being served, then it would be proper.

26

1 Q. But if it were part of a development  
2 that's brand new, that wasn't yet being served it  
3 wouldn't be; is that what you're saying?

4 A. If it's not within the service area then  
5 it wouldn't be.

6 Q. Okay. Last, let's turn back to the first  
7 page.

8 JUDGE GOODWILL: The first page of what,  
9 sir?

10 MR. CUMBERLAND: The first page of the  
11 memorandum.

12 JUDGE GOODWILL: The Division Memorandum?

13 MR. CUMBERLAND: DPU Exhibit Number 1.

14 Q. (BY MR. CUMBERLAND) Under your  
15 Recommendation, the last sentence, would you read it  
16 for the record, please?

17 A. "If the Commission has concerns about the  
18 immediate and significant rate increase, they should  
19 consider an incremental increase over the next  
20 several years."

21 Q. Do you stand by that recommendation as you  
22 sit here today?

23 A. I think that there is such a thing as rate  
24 shock, which if a rate is increased too significantly  
25 it can produce a shock to the users. And that was  
26

1 what we're trying to avoid here.

2 Q. So would you or would you not stand by  
3 that part of your recommendation today?

4 A. Yeah, I stand by it.

5 MR. CUMBERLAND: Okay. That's all I have  
6 for this witness.

7 JUDGE GOODWILL: Let's start with the  
8 Division. Ms. Schmid, do you have any questions of  
9 Mr. Hicken?

10 MS. SCHMID: No.

11 JUDGE GOODWILL: Mr. Smith?

12 MR. SMITH: Thank you. I do have a few  
13 questions.

14 RE-CROSS-EXAMINATION

15 BY MR. SMITH:

16 Q. Mr. Hicken, you were just asked about the  
17 topic of rate shock. If I were to give you an  
18 example, if I have a house that's worth a million  
19 dollars, would it be shocking to me to have to pay  
20 \$36 a month instead of \$16 a month for my water bill?

21 A. I don't know. I don't know what your  
22 income is.

23 Q. Let's assume I have an income that allows  
24 me to buy a house that's worth a million dollars.

25 A. I wouldn't think it would be a shocking  
26

1 increase.

2 Q. Have you had a chance to visit the area  
3 that's served by Lakeview Water Company?

4 A. Just driven by. I haven't been inside,  
5 I've seen it from the road.

6 Q. And also as to rate shock, if I have one  
7 home and I -- let me give you another hypothetical.  
8 If this is a second home that I have in the service  
9 area of Lakeview Water Company, would it be shocking  
10 if I were to -- well, let me back up and ask this  
11 question.

12 Are you kind of familiar with what  
13 generally rates are in the Ogden Valley area for  
14 water companies?

15 A. Somewhat familiar.

16 Q. And the proposed rates that we're seeking  
17 to have approved by the Commission, where would they  
18 fall within the parameter of other water rates that  
19 are within the Ogden Valley?

20 A. I don't have a list in front of me, but of  
21 the 41 regulated water companies they're not the  
22 highest and they're the lowest either. But they're  
23 within the range of rates that -- of the other  
24 utilities that we look at.

25 Q. Okay. And that's the other utilities that  
26

1 you regulate as well?

2 A. That's correct.

3 Q. Let me ask you this question about the  
4 meters. If I were -- you were asked some questions  
5 about whether this meter cost of 7,800 some odd  
6 dollars was properly added in, my understanding of  
7 your testimony, and you tell me if I'm correct, is  
8 that if they're within the service area of the  
9 company and those meters are being used to serve  
10 customers of the company, that would be a proper  
11 expense to be added in?

12 A. That's right, that's my understanding.

13 Q. And to offset that, the company would have  
14 received whatever connection fees that it's currently  
15 entitled to charge to the owners of the Ski Lake  
16 Chalets?

17 A. The offset connection fee is typically  
18 applied only to a new installation. I don't know if  
19 these are brand new meters, a first time connection  
20 or if it's a replacement of an existing meter.

21 Q. But it's your understanding that the Ski  
22 Lake Chalets are within the service area of the  
23 Lakeview Water Company?

24 MR. HICKEN: I believe so. I'm not  
25 certain. I haven't reviewed that for a while.

26

1 Q. Okay. Thank you.

2 A couple more questions on your -- you  
3 were asked some questions about the two water tanks  
4 that you added to the rate base. Do you remember  
5 those questions?

6 A. Yes.

7 Q. Why don't you take a minute and just  
8 explain why you added the two water tanks into the  
9 rate base as part of your review of the proposed rate  
10 increase.

11 A. When I received the Application there was  
12 a depreciation table showing the assets that were  
13 being depreciated. There was also some information  
14 that, and I believe the first tank was included, but  
15 I can't remember how far it was depreciated. The  
16 second tank that was added in '03, I had some  
17 information that a tank was added, but it wasn't  
18 appearing on the depreciation table.

19 So I asked about the depreciation table  
20 and received some invoices showing that it was added  
21 on -- I think it was completed in '04, I believe it  
22 was May or April of '04, and it showed the cost of  
23 the total installation. And so I added that into the  
24 depreciation to the rate base part.

25 Q. Thank you.

26

1                   Is that typically what you would do in  
2                   that circumstance?

3                   A.     Yes, I think so.   Because my understanding  
4                   was that this was a new tank being constructed.   The  
5                   old tank was nearly -- well, let's see, it was over  
6                   20 years old, and the depreciation on a tank, on a  
7                   distribution tank is 30 years.   So I just presumed  
8                   that the new tank was to co-exist with the old tank  
9                   until it was fully depreciated and then it would be  
10                  used for the main distribution.   That was my  
11                  understanding.

12                 Q.     You were asked some questions about  
13                  conversations that you may have had with  
14                  representatives of Lakeview Water Company.   Do you  
15                  remember those questions?

16                 A.     If I talked to them and who did I talk to,  
17                  whether it was actual Lakeview people or their  
18                  representatives?

19                 Q.     For example, if Mr. Cumberland, the  
20                  Intervenor contacted you, would you talk to him about  
21                  this case?

22                 A.     He contacted me I think twice, and I  
23                  talked to him the first time just to kind of hear his  
24                  concerns.   And the second time was a week or so ago  
25                  regarding some filings that may have occurred, may or

26

1 may not have occurred in '03.

2 Q. Okay. So I take it that if any party  
3 contacts you, any party to a rate case like we're  
4 involved in tonight, if any party contacts you you  
5 will contact them and try to answer questions or at  
6 least discuss whatever they want to discuss with  
7 them?

8 A. Well, I think I would be careful about  
9 ex parte communications, but I'm not sure exactly  
10 where that would occur and when it would not occur.  
11 But I think I would try to provide general  
12 information without being too specific.

13 Q. Anything unusual about this case as far as  
14 your communications with any of the parties?

15 A. No, I don't think so.

16 Q. So the communications would be similar in  
17 this case to other rate cases that you've been  
18 involved in on behalf of the Division of Public  
19 Utilities?

20 A. Right. That's right. Except I've never  
21 had an Intervenor on the other rate cases.

22 Q. Okay. Just a couple of questions about,  
23 you were asked about some of your conclusions that  
24 you had in your memorandum.

25 My understanding is that one of your

26



1 conclusions is that the proposed rates by Lakeview  
2 Water Corporation, you consider to be just and  
3 reasonable; is that right?

4 MR. CUMBERLAND: Objection. That's well  
5 beyond the scope of cross.

6 MR. SMITH: Your Honor, he opened up the  
7 area of his conclusions. I'm just trying to talk  
8 about all of his conclusions since we've opened that  
9 area with the examination by Mr. Cumberland.

10 JUDGE GOODWILL: I'll allow it.

11 Q. (BY MR. SMITH) Can you explain what that  
12 means to you to be just and reasonable?

13 A. Well, based on the analysis, on the  
14 information that I received, it appeared that the  
15 water company was losing money and a rate increase  
16 was needed to help make up the cost of their  
17 increased costs, their lack of revenue. And based on  
18 comparison with other water companies that were  
19 regulated, they weren't outside the parameters of  
20 rates that other companies were charging.

21 Q. Okay. When you say "losing money," what  
22 do you mean by that?

23 A. Well, when they -- when you look at their  
24 income and their expenses and then you compare that  
25 to a rate of return that they're allowed to receive

26

1 and add in some things like their tax -- expected  
2 taxes, there was a shortfall of revenue. I think  
3 that's shown in one of my Exhibits.

4 And so based on the existing revenues and  
5 existing expenses, they're losing money. So  
6 additional revenue was needed, which would be in the  
7 form of a rate increase.

8 Q. Okay. If a company is losing money, does  
9 it have the ability to pay for things if it has to  
10 like, for example, replace an existing water line?

11 A. Yes, as part of the rate. It's built into  
12 the rates.

13 Q. But I'm saying if there's no return on  
14 your rates because you're losing money -- well, let  
15 me ask the question this way. My understanding, tell  
16 me if I'm correct, is that the company is not allowed  
17 to have a reserve fund, for example, to pay for  
18 replacement of existing facilities that may need to  
19 be replaced because of their age?

20 A. I don't know if that's the case or not.

21 Q. And the rate of return -- let me ask this  
22 question. It's my understanding that the rate, to  
23 have a reasonable rate of return is what's the profit  
24 or what would allow the company to pay for unexpected  
25 expenses, things like that, that come up as far as

26

1 maintenance sorts of things?

2 A. Yes. I believe that's right.

3 Q. And so would you be concerned with a  
4 company that's losing money in their ability to do  
5 that?

6 A. Sure.

7 MR. SMITH: Thank you. That's all the  
8 questions I have for Mr. Hicken.

9 JUDGE GOODWILL: Mr. Cumberland, any  
10 further questions at this time?

11 MR. CUMBERLAND: Yes.

12 FURTHER RECROSS-EXAMINATION

13 BY MR. CUMBERLAND:

14 Q. Just to follow-up with a question on the  
15 two tanks. There were no tanks included in the  
16 Application, right? Isn't that what you said?  
17 Neither the old one nor the new one was included?

18 A. I'd have to go back and look and see if  
19 that was included. I can't remember if the first  
20 tank was included or not, but -- let me see if I can  
21 find that. The second tank was definitely not  
22 included.

23 MS. SCHMID: And if I may, I believe that  
24 this issue was covered on page 3 of the Division's  
25 Memorandum.

26

1 Q. (BY MR. CUMBERLAND) I was just about to  
2 go there. I think that if you take a look at the  
3 paragraph headed Water Tanks on page 3 under Rate  
4 Base Adjustments that may help answer your question,  
5 Mr. Hicken, where it says, "Two water tanks were  
6 inadvertently left out of the rate base"? Do you see  
7 that?

8 A. Okay.

9 Q. So you added both of them?

10 A. Yes.

11 Q. You were present at the August 7 hearing,  
12 were you not?

13 A. Yes, I was.

14 Q. Did you hear Ms. Fishlock testify that the  
15 first tank, the old tank, had been fully depreciated  
16 down to zero by Ski Lake Corporation? Do you  
17 remember that?

18 A. I can't remember. She probably said that,  
19 I can't remember exactly.

20 Q. Okay. Well, let's, for the purpose of  
21 this questions, assume that she did. Having been  
22 fully been depreciated down to zero, would it be  
23 proper to add it back?

24 A. Well, if it was depreciated prematurely,  
25 sooner than was allowed, then I think it would be

26

1 appropriate to add it back in and adjust it to the  
2 correct life of the asset.

3 Q. Even though all the benefits of  
4 depreciating it had already been taken, whether  
5 properly or not, you would maintain that it's proper  
6 to add it back in to start depreciating it again?

7 A. Well, I don't know. No, I don't believe  
8 if it was fully depreciated, I don't think you would  
9 add it back in.

10 Q. Okay. And as regards the new tank that  
11 you definitely added in, if that new tank was to  
12 serve as an addition to the service area, would it  
13 still be proper to add that to the rate base?

14 A. What do you mean by "in addition to"? Do  
15 you mean part of the service area?

16 Q. No. To serve the customers that didn't  
17 yet exist?

18 A. Well, the customers may not exist, but it  
19 could still be part of the geographic service area.  
20 Is that what you're referring to?

21 Q. No. I'm referring to whether that tank  
22 was designed for and installed for the purpose of  
23 serving existing Lakeview Water customers because, as  
24 you suggested before, the old tank was wearing out,  
25 or whether it was added to serve a whole bunch of new  
26

1 customers that were not yet on stream?

2 A. If they were in the service area, that  
3 would be appropriate.

4 Q. It would?

5 A. I think so.

6 MR. CUMBERLAND: Okay. I have nothing  
7 further for this witness.

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

10 MR. SMITH: No, your Honor.

11 JUDGE GOODWILL: Ms. Schmid?

12 MS. SCHMID: No, your Honor.

13 MR. CUMBERLAND: At this time, your Honor,  
14 I would like not so much for presentation of  
15 admissible evidence, but for demonstrative evidence  
16 to explain to those in attendance what we are talking  
17 about when we talk about The Chalets at Ski Lake.  
18 Mr. Hicken just indicated that he didn't really know  
19 what those are about. We have some photographs of  
20 what The Chalets are and where they are, and if  
21 there's no objection I would like to show those just  
22 in general.

23 JUDGE GOODWILL: Will you go ahead and  
24 talk through the photos and what they're depicting  
25 and so forth so we have that on the record?

26

1 MR. CUMBERLAND: Yes.

2 Mr. Sini, could you bring up?

3 MR. CUMBERLAND: The first one should be a  
4 photograph taken from the existing Ski Lake  
5 Development across the sewer ponds, across old Snow  
6 Basin Road to -- I have a laser pen, I have never  
7 used one before -- to an area across old Snow Basin  
8 Road which constitutes the expanded area which is  
9 known as The Chalets at Ski Lake.

10 Further, across State Route 39 there is  
11 one, currently one building, a four-plex condominium.  
12 I don't recall what the name of that development is,  
13 but these are separate from and geographically  
14 removed from the existing Ski Lake developments.

15 Can we see the next one?

16 JUDGE GOODWILL: Mr. Cumberland, will you  
17 be able to provide photographs so we can just have  
18 them as part of the record, copies of these  
19 photographs?

20 MR. CUMBERLAND: Certainly.

21 JUDGE GOODWILL: They can be black and  
22 white. We'll refer to that first paragraph as  
23 Photograph Number 1. This one is now Photograph 2,  
24 if you will go to that.

25 MR. CUMBERLAND: Photograph number 2 is  
26

1 the first of eight homes being constructed in The  
2 Chalets at Ski Lake across Snow Basin Road.

3 The next one? This would be Photograph  
4 Number 3, house number 2, also in The Chalets.

5 Next? That would be house number 3,  
6 Photograph Number 4.

7 JUDGE GOODWILL: Mr. Cumberland, these are  
8 in the Ski Lake Chalets that you've referred to?

9 MR. CUMBERLAND: The development is called  
10 The Chalets at Ski Lake. It is a brand new  
11 development. It's geographically separate from all  
12 other Ski Lake properties.

13 MR. SMITH: Judge Goodwill, if it would be  
14 helpful, we have a plat that shows all of the service  
15 areas of the company, including the Ski Lake Chalets,  
16 you know, if that would be helpful to do that.

17 JUDGE GOODWILL: It's good to know that  
18 you have that. We'll see if we need to refer to  
19 that. I guess my question for right now was, are  
20 these homes in these photographs part of the what's  
21 called the Ski Lake Chalets on your Intervenor  
22 Exhibit number 2 that you referred to?

23 MR. CUMBERLAND: Yes, these are The  
24 Chalets.

25 JUDGE GOODWILL: Okay.

26



1                   MR. CUMBERLAND: They did not exist  
2 before, they are under construction right now. These  
3 photographs were taken by me within the last 30  
4 hours.

5                   Can we see the next one? That would be  
6 Photograph Number 5, house number 4. Also under  
7 construction now.

8                   Next, the same thing. Photograph Number  
9 6, house number 5. Did you switch?

10                  MR. SINI: Yeah, I did. Do you want me to  
11 go back?

12                  MR. CUMBERLAND: No, that's okay. And as  
13 you can see, these are all new, all constructed this  
14 year. They did not exist at the time this rate  
15 increase application was filed, but they exist now.

16                  Can we see the next? And the next. And I  
17 believe that is the last. So that is just for  
18 reference.

19                  JUDGE GOODWILL: If we could get those  
20 lights back on, please. Thank you.

21                  MR. CUMBERLAND: I have calculated at the  
22 new rates -- oh, I'm sorry, I forgot the condos. But  
23 that's all right. There are three more photographs  
24 of the four-plex condo across the street from these  
25 also that did not exist before the application was  
26

1 filed but exist now.

2           Could we see that? Those are four  
3 condominium units. I am advised that there is a  
4 building permit issuing this week for another one of  
5 these same buildings for four more condo units, but  
6 obviously can't be photographed because it doesn't  
7 yet exist. There should be one more and that's it.

8           JUDGE GOODWILL: So your last three photos  
9 were of the same four-plex condo unit?

10           MR. CUMBERLAND: The same four-plex condo.

11           JUDGE GOODWILL: That you referred to in  
12 initially addressing this, your comment here was  
13 across Route 339, I guess it was.

14           MR. CUMBERLAND: Across State Route 39.

15           JUDGE GOODWILL: From the rest of the Ski  
16 Lake and The Chalets?

17           MR. CUMBERLAND: From Ski Lake and The  
18 Chalets, that's correct.

19           JUDGE GOODWILL: Okay. Thank you.

20           MR. CUMBERLAND: I have done a quick  
21 calculation, and with disclaimers that my math is  
22 often suspect, but I don't think it is in this case,  
23 the impact of the eight chalets and four condos on  
24 Lakeview Water's income, none of which is reflected  
25 in the Application. Connection fees for the four

26

1 condos at \$3,000 is \$12,000. Connection fees for the  
2 eight chalets that you just saw at \$3,500 is \$28,000,  
3 for a total connection fees of \$40,000, 25 percent of  
4 which goes directly to Lakeview's bottom line, or  
5 \$10,000.

6           There are 14 other lots in The Chalet  
7 developments that do not have houses on them now.  
8 Giving them the benefit of the doubt that there will  
9 not be houses on those lots for a time, the standby  
10 fees for those 14 lots at \$10 a month times 12 months  
11 is \$1,680.

12           At the new rates the minimum water bill  
13 for the HLAs and the four condos that you just saw  
14 would be \$36 times 12 units times 12 months, or  
15 \$5,184. The overage or usage revenue for those 12  
16 units at the new rates would equal, using the figures  
17 supplied by Lakeview in its application --

18           MR. SIMPSON: We don't know there's going  
19 to be an overage.

20           MR. SMITH: I'm going to object. This is  
21 pure speculation. Who knows if people are going to  
22 build there, when it's going to be built there, who  
23 knows if people are going to be water hogs or not  
24 water hogs that live in those homes. That's pure  
25 speculation.

26

1                   MR. CUMBERLAND: I'm using the averages  
2 that Lakeview supplied. If they're wrong then the  
3 information you supplied is wrong.

4                   JUDGE GOODWILL: Your objection is noted.  
5 I'll go ahead and let Mr. Cumberland provide his  
6 information.

7                   MR. CUMBERLAND: The average usage revenue  
8 for those 12 units would total \$4,017. The bottom  
9 line, those 12 units that you just saw that are not  
10 figured into this application in any way, will total  
11 \$20,881.

12                   At this point I think it would make sense  
13 for me to identify the other Exhibits which I have  
14 attached to Intervenor's Exhibit 1.1. We've already  
15 spoken of Exhibit Number 2 and identified it.  
16 Intervenor Exhibit Number 3 is a photocopy of some  
17 advertisements for real estate in the Edgewater  
18 Chalet complex and in The Summit at Ski Lake.  
19 There's vacant land in The Chalets, there's vacant  
20 land in The Summit, and there's one built home or to  
21 be built home from the July 1, 2007 addition of the  
22 Ogden Valley News. That's the -- that is what  
23 Intervenor Exhibit 3 is.

24                   It is referred to in the hearing  
25 memorandum of the Intervenor as evidence and argument  
26

1 that Ski Lake Corporation could have, should have,  
2 and no doubt did recover all of its capital costs in  
3 the sale of land. And if it didn't, it certainly  
4 should have.

5 Intervenor Exhibit 4 came from Lakeview  
6 Water in response to one of the DPU's Data Requests.  
7 It is a letter from Weber Basin Water Conservancy  
8 District indicating that for the year 2007,  
9 apparently, Lakeview Water has ordered a total of 528  
10 acre-feet of water from Weber Basin Water Conservancy  
11 District. There is argument concerning that figure  
12 in the hearing memorandum.

13 JUDGE GOODWILL: Mr. Cumberland, what  
14 Exhibit did you say that was?

15 MR. CUMBERLAND: I hope I said it was  
16 Intervenor Exhibit 4.

17 JUDGE GOODWILL: All right. Thank you.

18 MR. CUMBERLAND: Intervenor Exhibit Number  
19 5 is a page from Lakeview's responses to my first set  
20 of Data Requests to it in which Lakeview admits that  
21 at capacity Lakeview will have 450 connections as  
22 opposed to the -- well, you know, it varies depending  
23 on who you ask, 126 or 136 existing connections.

24 Intervenor Exhibit 6 is another page from  
25 Lakeview's responses to Data Requests I propounded to  
26

1       them. Number 5, in particular, in which Lakeview  
2       admits that at the time that Lakeview acquired the  
3       system that is now Lakeview Water it had 25  
4       residential customers.

5               Having identified them, I will offer  
6       Intervenor Exhibits 1.1, 2, 3, 4, 5 and 6.

7               JUDGE GOODWILL: Objections?

8               MR. SMITH: We do have some objections to  
9       some of the Exhibits. Do you want me to take them  
10      one at a time?

11              JUDGE GOODWILL: Sure.

12              MR. SMITH: In my understanding, Exhibit  
13      1.1 is a memoranda prepared by the Intervenor. A  
14      couple of objections to that. First of all, object  
15      to that as not being evidence, it's legal argument.  
16      The second objection to that is we've spotted, and I  
17      just caught it tonight so I'm having a little bit of  
18      a hard time spotting everything, but there's at least  
19      one new issue that's raised in that memoranda.

20              As I recall from our previous hearing, we  
21      were given assurances by the Intervenor, both the  
22      Commission and us as parties were given assurances by  
23      the Intervenor that if he had any new issues that we  
24      would be apprised of those. In fact, we have a  
25      transcript where he guaranteed that we would be

26

1 apprised of new issues at least one week before the  
2 hearing. We have not been apprised of anything since  
3 the hearing from the Intervenor, of any new issues,  
4 and then we come tonight and, like I say, there's at  
5 least one new issue that's addressed in the  
6 memorandum. So I'm going to object to admission on  
7 those two bases.

8 Exhibit Number 2, I do not have an  
9 objection to. That's a document that we submitted to  
10 the Division as part of the Data Requests, even  
11 though we hadn't seen it or know what it was going to  
12 be used for until tonight, I don't object to that.

13 Exhibit Number 3, which one is that. Oh,  
14 yeah, my objection to Exhibit 3 is that I think it  
15 lacks any relevance or probative value that there are  
16 lots for sale within the service area of Lakeview  
17 Water Company. Obviously, there are lots for sale.  
18 There's a number of platted lots, a number of  
19 individuals own those. I don't know who owned these  
20 lots that are listed here on Exhibit 2 or buildings  
21 or houses, some of them are houses that are already  
22 there. I would assume the Edgewater Chalet for  
23 \$1,300,000 is an existing house that we're already  
24 committed to serve. So on that basis of lack of  
25 probative value I object to Intervenor's Exhibit

26

1 Number 3.

2 As to Exhibit Number 4, let me see, which  
3 one is that, no objection to that Exhibit. That's  
4 something we've submitted as -- to show our costs of  
5 acquiring water from Weber Basin Water Conservancy  
6 District. That's already I believe in evidence, so  
7 we don't object to that.

8 As to Exhibit Number 5 and Exhibit Number  
9 6, I think I can handle those together. For example,  
10 Exhibit Number 5, the fact that some day we may have  
11 up to 450 connections lacks any relevance as well.  
12 It's not something that can be considered I think by  
13 -- in the rate increase hearing that we're here for  
14 tonight. We do not have a timetable for that. We  
15 have the engineer for the company here who can  
16 testify, and the owner as well, that that could be  
17 five years, ten years, 20 years, 50 years, maybe  
18 never. It's just the capacities that are hoped for  
19 at some future time. We certainly can talk about  
20 what has been improved, but I want to be sure that  
21 it's clear that everything that we're talking about  
22 is within the service area of the company.

23 Finally, Exhibit Number 6. The fact that  
24 there were 25 customers, you know, 30, 26 years ago  
25 or 25 years ago, whenever that was, again, we object  
26



1 to that as lacking any relevance to the reasons we're  
2 here for today.

3 MS. SCHMID: And the Division has, if I  
4 may.

5 JUDGE GOODWILL: Go ahead.

6 MS. SCHMID: The Division has no objection  
7 to 2, 3, 4, 5 or 6, but with regard to Intervenor  
8 Exhibit marked for identification as 1.1, it does  
9 appear that this is a mix of legal argument and  
10 facts. So the Division does request that the  
11 Commission carefully consider that and assign it the  
12 appropriate weight.

13 JUDGE GOODWILL: Given my thoughts on the  
14 objections, Mr. Cumberland, I won't ask for your  
15 response because I'm going to go ahead and admit all  
16 of the Exhibits that you've offered, but I do want to  
17 comment. As Ms. Schmid has indicated, I and the  
18 Commission certainly will read and consider Exhibit  
19 1.1 for what it is, which is a combination of some  
20 evidence and some argument on your part, and the  
21 Commission will assign it its appropriate weight  
22 based on that.

23 Also, because I am aware that the -- that  
24 at the prior hearing on August 7th we did ask that  
25 information be provided to the Division and to all  
26

1 parties at least a week prior to tonight's hearing so  
2 that they would be adequately able to respond, what I  
3 will do is allow the Division and the company, I  
4 think one week from today is sufficient to provide  
5 any comment, and I would like that via Affidavit  
6 through -- sworn Affidavit through a witness on  
7 Memorandum 1.1, or Exhibit 1.1, that you would like  
8 to make because I realize that you did just see it  
9 for the first time this evening.

10           And while I'm not disputing anything that  
11 Mr. Cumberland says in this memorandum, having not  
12 even read it fully yet myself, or any of the  
13 calculations that he makes, et cetera, I want to give  
14 the Division and the company an opportunity to do its  
15 own analysis and to provide any explanation or  
16 opposition to the numbers, arguments, et cetera, that  
17 are laid out in that Exhibit.

18           MR. SMITH: Thank you.

19           JUDGE GOODWILL: So we'll expect that one  
20 week from today, by close of business one week from  
21 today, whatever date that happens to be. But 1.1, 2,  
22 3, 4, 5 and 6 are admitted into evidence.

23           Mr. Cumberland, anything else?

24           MR. CUMBERLAND: There's only the one  
25 additional matter that I mentioned to your Honor

26

1 before the hearing began. Today I received a call  
2 from the property manager of Lakeside Village, which  
3 is a Ski Lake entity served by Lakeview Water  
4 indicating that, it's called Kier Management, had  
5 sent to each of the owners of the condos at Lakeside  
6 an e-mail yesterday suggesting -- well, I can read  
7 the e-mail that it sent if you wish, but my  
8 interpretation of it is that it notified them of this  
9 hearing and asked them if they were interested in  
10 submitting any kind of comments.

11 JUDGE GOODWILL: Why don't you read that  
12 into the record just so we have it, the e-mail that  
13 was sent.

14 MR. CUMBERLAND: Here's the e-mail. It's  
15 from Shantele who apparently is an employee of  
16 Lakeside Village or Kier Management, I honestly don't  
17 know. It reads as follows. And it's dated Monday,  
18 September 24, 2007, 3:18 p.m., the one that I'm  
19 looking at. Yeah, they were all dated yesterday  
20 afternoon.

21 "Dear Lakeside Village Homeowner,  
22 "Lakeside Water Corp., the company that  
23 provides water to Lakeside Village, has applied for  
24 permission to MORE THAN DOUBLE your water rates. The  
25 base rate, whether you use the allotted 12,000

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1 gallons or not -- in fact, whether you use any water  
2 that month or not -- would go from \$16 per month to  
3 \$36 per month, a 125 percent increase with  
4 proportionate increases in price for usage over  
5 12,000 gallons.

6 "As your Property Managers, we feel that  
7 the increase is excessive and unwarranted, and  
8 certainly too large for imposition all at once. The  
9 Public Service Commission of Utah will receive  
10 customer comments tomorrow, Tuesday, September 25, at  
11 6:00 p.m., and will take them into account in its  
12 decision to allow the increase or perhaps to modify  
13 it.

14 "Please take a moment to respond to this  
15 e-mail with your thoughts on the proposed increase.  
16 We will collect the responses and present them to the  
17 Commission tomorrow night, whether the responses are  
18 in favor of or opposed to the increase. Please  
19 forward this e-mail together with your response, to  
20 dominick@kiermanagement.com. Thanks!"

21 What I was handed this afternoon by  
22 Dominick Guida, who testified on August 7, were 16  
23 such responses. And at the pleasure of your Honor I  
24 will either read some of them or all of them or none  
25 of them, but I submit them on behalf of the residents  
26

1 of Lakeside Village, Lakeview Water customers. And  
2 I'm happy to show them to Counsel.

3 JUDGE GOODWILL: And I'll ask you to do  
4 that in a moment. Let me just ask, though, of the  
5 16, you mentioned you had received 16, are they all,  
6 I take it, opposed to the increase?

7 MR. CUMBERLAND: I believe so. I've  
8 looked at them very quickly in the time I had  
9 available. I think they are all opposed.

10 JUDGE GOODWILL: And why don't you read  
11 just one -- let's do this. Why don't you read just  
12 one representative one for the record. Then I'll ask  
13 you to show them briefly to Counsel for the Division  
14 and for the company and then we'll deal with how we  
15 want to handle those.

16 MR. CUMBERLAND: Well, I'll just read the  
17 first one. I won't cherrypick them.

18 "I am opposed to the LARGE," in all caps,  
19 "water rate increase. I realize there hasn't been an  
20 increase in water or sewer since we purchased in  
21 2002, to the best of my knowledge, but such a large  
22 increase is unwarranted -- an annual increase to keep  
23 up with inflation would be acceptable."

24 JUDGE GOODWILL: Thank you.

25 Why don't you show those to Counsel for  
26

1 the Division and the company. And while you're doing  
2 that I'll just state my thought. My intent would be  
3 to mark these as Public Witness Exhibits, Unsworn  
4 Statements, for the Commission to use as such in  
5 deciding this matter. We'll go off the record for a  
6 second.

7 (Off the record.)

8 JUDGE GOODWILL: Let's go back on the  
9 record. Counsel for the Division and the company  
10 have reviewed the customer e-mails. Are there any --  
11 do you have any objection to them at this point?

12 MR. SMITH: I have no objection as public  
13 input. I do want to make it clear, I think that  
14 there was some suggestion that the sender of the  
15 e-mails, Kier Corporation, worked for the water  
16 company some way. They do not. They work for the  
17 Lakeview Condominium Homeowners Association, which is  
18 a separate entity that has nothing to do with either  
19 the applicant or any entity that's related to the  
20 applicant. It's an association that's run by its  
21 members who are the customers of the company, and  
22 that's our only connection.

23 JUDGE GOODWILL: Is that your  
24 understanding, Mr. Cumberland?

25 MR. CUMBERLAND: What I said was that  
26

1 Shantele, who apparently authored that e-mail, is  
2 either an employee of Lakeside Village and/or Kier  
3 Management and I didn't know which. I didn't say,  
4 nor did I mean to imply, that she had any connection  
5 to Lakeview Water whatsoever.

6 MR. SMITH: Thank you for the  
7 clarification.

8 JUDGE GOODWILL: Ms. Schmid, does the  
9 Division have any objection to their admission as  
10 Public Witness Statements, Unsworn Statements?

11 MS. SCHMID: No objection.

12 JUDGE GOODWILL: Okay. What we'll do,  
13 then, for purposes of the record, I'll just go  
14 through these briefly and identify them, and they'll  
15 be Public Witness Exhibits 1 through 16, I guess,  
16 respectively.

17 Number 1 will be from Gerry Keech,  
18 K-E-E-C-H. Number 2 is from Sherri Huff, H-U-F-F,  
19 it's two pages. Number 3 is from Taryn, T-A-R-Y-N,  
20 OLDS, O-L-D-S. It looks like there's a second one  
21 from -- no, it's just a two-page document, I guess,  
22 from Taryn Olds.

23 MR. CUMBERLAND: Actually, I think that  
24 second page is from another owner. I had the same  
25 problem.

26





1 questions for Mr. Cumberland.

2

3

FRANK J. CUMBERLAND,

4

5 called as a witness, being previously duly sworn, was

6

examined and testified as follows:

7

8

CROSS-EXAMINATION

9

BY MR. SMITH:

10

Q. Mr. Cumberland, other than your

11

calculations as to additional revenue from new

12

construction or new homes, did you do any calculation

13

as to the expense of serving these additional

14

properties?

15

A. No.

16

Q. Are you contending that they could be

17

somehow served for free?

18

A. No.

19

Q. So you admit that they will bring in --

20

there there's an expense to that, just like there is

21

to everybody else that's served?

22

A. Not much.

23

Q. And what do you base "not much" on?

24

A. The fact that all of the mechanics, if you

25

will, for serving them are apparently in place. So

26

1 we're talking about electricity for the pumps and  
2 whatever administrative folderol there is.

3 Q. So isn't that true for every unit that's  
4 currently served by them, everything has been put in  
5 place for that?

6 A. Well, yes.

7 Q. Do you know who put those in place? Was  
8 that the company or someone else that put those in?

9 A. Put what in place?

10 Q. You said all the pumps and everything that  
11 had been put in place.

12 A. Well, there were pumps and tanks and  
13 standpipes and meters and whatever else is involved  
14 in supplying people with water in place when Lakeview  
15 bought the system from whoever put them in place.  
16 There were additions made over the years '82 or  
17 whenever it bought it until now, say, to serve the  
18 existing customers. And then all of a sudden there  
19 was this big flurry of activity in 2002, '3, '4 and  
20 '5, I would maintain, to serve customers that didn't  
21 yet exist.

22 Q. Let me ask this question. Do you know  
23 whether or not the existing tanks, not counting the  
24 2004 tank, are sufficient to serve the existing  
25 customers of Lakeview Water?

26

1                   MR. CUMBERLAND: Well, all I can say is  
2                   that they were adequate until the new tank was --  
3                   there was no better or worse service before the new  
4                   tank was constructed than after.

5                   Q.       So I take it you're saying, well, I turned  
6                   on my tap and water came out?

7                   A.       Most of the time.

8                   Q.       So other than that, do you have any  
9                   knowledge about adequacy of the existing, I think  
10                  there's two 52,000 gallon tanks, whether or not  
11                  they're adequate for the existing customers?

12                  A.       I honestly don't know what the capacity of  
13                  the old tank or tanks was because you refused to tell  
14                  me.

15                  Q.       I would ask that that be stricken, the  
16                  last statement. We haven't refused to tell Mr.  
17                  Cumberland anything.

18                  A.       Yes, you did.

19                  Q.       How about the service area of the company?  
20                  Do you know what the service area of the company is?

21                  A.       No. Because I asked you at least three  
22                  times for that Exhibit and you still haven't sent it  
23                  to me.

24                  Q.       We've sent you everything you've asked  
25                  for. I'm not going to get into that back and forth

26

1 here. Also, I would suggest that all that stuff is  
2 down at the Public Service Commission and you could  
3 avail yourself of going down there and picking those  
4 things up.

5 A. Oh, that's right. They're as available to  
6 me as they are to you.

7 MR. SMITH: That's all the questions I  
8 have.

9 MR. CUMBERLAND: I think that the map  
10 you're referring to was somehow denominated Exhibit  
11 1.1 and you said Exhibit 1.1 is an oversized document  
12 and we're trying to get a copy of it to you. Is that  
13 what you're talking about?

14 Q. (BY MR. SMITH) I don't know what you're  
15 referring to.

16 A. In fact, I know that's what you're talking  
17 about. In your letter, which I can't find at the  
18 moment, said it is an oversized document -- here it  
19 is. Your letter of August 3, 2007, after I had asked  
20 for it twice said, "Exhibit 1.1 is an oversized map  
21 and we are in the process of trying to get one for  
22 you." It's now September 25 and I still don't have  
23 that.

24 JUDGE GOODWILL: Ms. Schmid, do you have  
25 any questions for Mr. Cumberland?

26

1 MS. SCHMID: I do.

2

3 CROSS-EXAMINATION

4 BY MS. SCHMID:

5 Q. Mr. Cumberland, if we could turn to  
6 Intervenor Exhibit Number 3, there is a second page  
7 on which, at least in my copy, you have highlighted  
8 some I guess lots or houses?

9 A. Yeah.

10 Q. There's one, the third row down, second  
11 column called Edgewater Chalet, 938 South Meadowlark  
12 Lane in Huntsville, an amazing home, et cetera,  
13 priced at \$1.3 million. Is that in the Ski Lake  
14 Subdivision or where?

15 A. It's in the chalets of the new  
16 subdivision.

17 Q. Is it within the service area of Ski Lake?

18 A. I have no idea because I still don't have  
19 that service area map.

20 Q. So the price on that house is  
21 \$1.3 million?

22 A. That's what it says.

23 Q. And you are claiming that a rate increase  
24 up to \$36 a month is a sticker shock in a subdivision  
25 with houses that are this much?

26

1           A.     I'm claiming -- 125 percent increase will  
2 generate sticker shock no matter who the customer is.

3           Q.     So if I were paying a dime and it went up  
4 to 20 cents, that's 100 percent, and therefore I  
5 should be offended? Okay.

6                     That's all my questions.

7           MR. CUMBERLAND: Is that a question?

8           MS. SCHMID: No. I said that was all my  
9 questions.

10                                 --ooOoo--

11

12                     JUDGE GOODWILL: All right. At this time  
13 I think what I would like to do is turn to the  
14 members of the public so that you're free to make  
15 your statements and go if you choose. Although I do  
16 want to come back to some questions and issues  
17 regarding the evidentiary portion of this hearing.

18                     And having done so for those that want to  
19 stay and listen to the whole thing and then make  
20 statements, you're free to do so. But I think it  
21 makes sense now to, we've been going an hour  
22 and-a-half, to turn to the Public Witness portion and  
23 then we'll come back to any questions that I and the  
24 other parties might have of each other, any  
25 additional evidentiary matters we need to take up.

26

1                   So with regard to that, let me kind of  
2           just explain what we're doing. This is a chance for  
3           members of the public to step to this microphone and  
4           to state your thoughts, your opinion regarding the  
5           proposed rate increase. Due to the number of people  
6           that we have here and the time that we need to be out  
7           of this room, in about an hour and 15 minutes, I  
8           would ask that each member of the public limit their  
9           comments to no more than three minutes.

10                   When you step forward to make your  
11           comment, I'll ask you to state your name and address  
12           for the record and whether or not you would like your  
13           statements to be sworn or unsworn. The difference  
14           is, if you make an unsworn statement, then it is  
15           simply basically you providing your opinion to the  
16           Public Service Commission and the Commission can only  
17           use that opinion sort of as a general gauge of public  
18           support or opposition to the proposed rate increase  
19           in trying to determine whether or not the increase is  
20           in the public interest.

21                   If you make a sworn statement, if you want  
22           to make a sworn statement I'll ask you to raise your  
23           right hand, I'll put you under oath, and you'll then  
24           be providing testimony which can be used by the  
25           Commission as evidence in making it's decision in

26

1 this matter. As part of that you will then be  
2 subject to questioning, to cross-examination by  
3 myself or any of the parties present here based on  
4 the statements that you make. But that is your two  
5 options and really the only difference between them.

6 Having said that, I do have a list which I  
7 intended just to go down in order as people signed  
8 up, but I guess I'll ask first, does anybody wish to  
9 speak that would like to go ahead and get on out of  
10 here sooner than later.

11 MR. SINI: I would like to get up so I  
12 could get my paraphernalia off the podium and make  
13 room for everybody else. So if I could go first.

14 JUDGE GOODWILL: Okay. And your name is?

15 MR. SINI: Larry Sini.

16 JUDGE GOODWILL: And you spoke at the  
17 August 7 hearing, correct?

18 MR. SINI: By phone.

19 JUDGE GOODWILL: Great. We'll go ahead  
20 and start with you, then, Mr. Sini. Do you want your  
21 statement to be sworn or unsworn?

22 MR. SINI: Unsworn.

23 JUDGE GOODWILL: Okay. Would you please  
24 state your name and address for the record and then  
25 go ahead and make your statement.

26



1                   MR. SINI: My name is Larry Sini. I live  
2 at 6618 Via Cortina in Huntsville in the Summit at  
3 Ski Lake Development.

4                   We, when I say "we," my wife and I are  
5 opposed to the increase in basic water rates proposed  
6 by the Lakeview Water Company. The Lakeview Water  
7 Company is proposing a 125 percent increase for the  
8 monthly base rate for water. This will enhance the  
9 cash flow for Lakeview Water Corporation while doing  
10 very little to encourage water conservation.

11                   We are year-round residents with extensive  
12 landscaping and are not opposed to increase related  
13 to usage. Such usage fees encourage drip systems and  
14 other user efforts at water conservation.

15                   Our main complaint, however, is about  
16 service. The Lakeview Water Company has had multiple  
17 interruptions of water service, along with reduced  
18 pressure episodes in the two years we have lived in  
19 the Ski Lake Development.

20                   On two occasions when I have called Mr.  
21 Cantanzaro, the company owner about the  
22 interruptions, he claimed no knowledge of the  
23 problem. I had assumed that his employees would  
24 notify him as the owner immediately when the service  
25 was interrupted.

26

1                   On July 14 of this year, 2007, Mr.  
2           Cantanzaro told myself and another property owner  
3           that he thought someone was stealing water from the  
4           hydrants in the development. He said they assumed  
5           someone was stealing because a hydrant cap was  
6           unscrewed and the water tank reading was low or  
7           indicator was low.

8                   I asked his employee, Mr. Banks, how much  
9           water was missing and he told me there was no way to  
10          measure that amount. Mr. Banks said they had ordered  
11          locks for the hydrants in July, this was in July, but  
12          after two months and as of this date they have still  
13          not been installed.

14                   What did occur the weekend of July 14 were  
15          some power interruptions in our area. When these  
16          power interruptions have occurred in the past the  
17          reset switch in the water tank has not functioned  
18          properly at times and the tank is not refilled from  
19          that point on. What appears to have happened again  
20          that weekend is the refill system failed and the  
21          water tank was low.

22                   If functioning properly, the electrical  
23          mechanical system should send a low water alarm via  
24          telephone line to the Lakeview employees and they  
25          would drive up to the tank and reset the refill

26

1 system to fill the tank.

2 Then on August 21, 2007 at 2:00 a.m., my  
3 wife and I discovered we had zero water flow at our  
4 home. This is the first time in my life I have ever  
5 had zero water flow in a house other than when a  
6 plumber was working on it or anything. There was no  
7 water at all. I called a couple of neighbors, woke  
8 them up at night and verified that this was common to  
9 the people that I talked to within the development  
10 and just not a problem with my house.

11 Then I called Mr. Banks of the Lakeview  
12 Water Company. Our water flow was restored just  
13 prior to 7:00 a.m. that same morning. My home is  
14 just below the water tank and I would be one of the  
15 first homes to have my water flow to return.

16 Mr. Banks may have reacted right away to  
17 the call, but we did not have any water flow for  
18 about five hours. That means that any hillside fire  
19 emergency would not have had any water for that  
20 period of time.

21 Now, unfortunately -- well, fortunately  
22 that occurred at 2:00 a.m. and so most of the people  
23 probably in the system were not aware of the problem  
24 and it was probably restored by the time they woke up  
25 at 7:00 a.m. in the morning. The Lakeview Water

26

1 Company never made any effort to contact the fire  
2 department and notify them there would no water flow  
3 in our area until the system was fully restored.

4 I myself called 911 early that a.m. after  
5 I had talked to Mr. Banks and reported to them so  
6 they would be aware in case by some chance there  
7 would have been a fire in our area, it was dry, no  
8 rain all summer, and that they would have to get the  
9 water from some other source until we had the water  
10 pressure restored.

11 This total loss of water flow could have  
12 been catastrophic for homeowners. When I initially  
13 called Mr. Cantanzaro after the water flow was  
14 restored, he claimed he knew nothing of the  
15 interruption. He later stated the condos below had a  
16 major water leak and that was the reason for the  
17 failure of the water flow.

18 This information in my call to Mr. Banks  
19 clearly validates that the low water alarm system did  
20 not function on the tank and this resulted in the  
21 total interruption of water flow to all customers on  
22 the morning of August 21.

23 The reason for the complete drainage of  
24 the water tank was a lack of a shut-off valve that  
25 could have isolated the Lakeside condos where the

26

1 leak was from the rest of the system. I understand  
2 now there's been one put in, but there was not one  
3 when this occurred. So it essentially drained the  
4 tank, they couldn't shut off the leak.

5           In conjunction with this, and I've got  
6 some pictures. I'm going to need the light. In  
7 conjunction with this, Lakeview Water Company  
8 customers discovered a buried telephone line to the  
9 water tank that had been dug by Mr. Cantanzaro's own  
10 contractors building a new road to the summit of Ski  
11 Lake this summer. This line was cut during the  
12 digging and was not repaired for a significant amount  
13 of time. During that time the tank auto alarm for  
14 refill systems could not function and most likely  
15 explained why they ran totally out of water with no  
16 warning on the 21st of August.

17           In the response to the complaint about the  
18 severed telephone cable that provides the low water  
19 and warning alarms for the water tank, Mr. Cantanzaro  
20 sent a handwritten note to me that daily inspections  
21 were being done so that the telephone cable was no  
22 longer needed.

23           JUDGE GOODWILL: Sir, I'll ask you, if you  
24 could, to go as fast as you can on that to make sure  
25 that we give others a chance.

26

1                   MR. SINI: There's another shot. There's  
2 the splice of the cut cable. Okay. But he did not  
3 explain how Lakeview Water would be notified in the  
4 future if the water is low or cut off between daily  
5 inspections without a working telephone connection.  
6 He just said to me in a note, which I have right  
7 here, that it was no longer needed.

8                   On September 10th I received an e-mail  
9 from another neighbor about the open flow of a drain  
10 pipe below the water tank. I found the water flowing  
11 out of a six-inch tank that appeared to be an  
12 overflow or drain pipe. The e-mail from Sunday the  
13 9th of September was sent at about 7:00 p.m., so this  
14 water had been running at least 16 hours by the time  
15 I checked it out.

16                   We reported it to Mr. Cantanzaro  
17 immediately and he said he had an overflow pipe, he  
18 would check it out. The significance of the latest  
19 development is that Lakeview Water Corporation was  
20 losing hundreds and possibly thousands of gallons of  
21 culinary water through this pipe and will no doubt  
22 pass this cost down to the Lakeview ratepayers.

23                   Mr. Cantanzaro has been somewhat a  
24 sporadic advocate of water conservation by the  
25 residents, but doesn't appear to have any cut-off  
26

1 valve system to shut off the culinary water pumps to  
2 stem the loss out of the overflow pipe when the tanks  
3 is full. The six-inch pipe overflow ran for over 24  
4 hours before it was shut off. This means the tank,  
5 the electric pumps were working to pump the water  
6 that is dumped down the open hillside and all of  
7 these costs are part of the operational costs for Mr.  
8 Cantanzaro in his rate case.

9 I believe -- I received a written note  
10 from Mr. Cantanzaro about the overflow pipe and he  
11 said it was a normal overflow and not a problem.  
12 Culinary water running unabated for over 24 hours is  
13 a problem in Utah. A simple tank valve to cut off  
14 the pumps when the tank is full would be appropriate  
15 to save both water and operational costs.

16 We ask the Commission to deny or delay  
17 Lakeview's rate increase until Mr. Cantanzaro has  
18 demonstrated that the repeated technical failures  
19 surrounding the water tank system have been resolved  
20 and a valve installed to prevent the loss of  
21 excessive overflow water. His company should also be  
22 directed by the Commission to communicate to his  
23 customers clearly and promptly when an outage or  
24 service interruption occurs.

25 Thank you.

26

1 JUDGE GOODWILL: Thank you, sir.

2 If you would, sir, I think we spoke prior  
3 to the start of the hearing too about this, but if  
4 you could get copies of these photographs to the  
5 Commission they will go into the record as well.

6 Okay. Let's go ahead and move on and  
7 we'll just start down the list that I have in front  
8 of me. Kent Lundell?

9 MR. LUNDELL: I just wrote a few --

10 JUDGE GOODWILL: Sir, could you please  
11 state your name and address for the record?

12 MR. LUNDELL: My name is Kent Lundell. I  
13 live at 919 South 6600 East in Huntsville.

14 JUDGE GOODWILL: Would you like to provide  
15 a sworn or unsworn statement?

16 MR. LUNDELL: Sworn statement.

17 JUDGE GOODWILL: Okay. Please raise your  
18 right hand.

19 Do you solemnly swear the testimony you're  
20 about to provide shall be the truth, the whole truth,  
21 and nothing but the truth, so help you God?

22 MR. LUNDELL: Yes.

23 JUDGE GOODWILL: Thank you. Go ahead and  
24 make your statement, sir.

25 MR. LUNDELL: Anyway, there's been a lot  
26



1 of talk about rate shock. And let me assure you that  
2 I'm not a millionaire. When I moved here there  
3 wasn't many million dollar houses around where I  
4 lived. There's a developer that develops the lots  
5 and in order to develop they have to put sewer, water  
6 lines, all that stuff. I used to do that. I was  
7 at -- worked for a contractor for many years, W.W.  
8 Clyde, HE Lowdermilk, Granite Construction. We did a  
9 lot of stuff like this, subdivisions to dams,  
10 Jordanelle, I did that, some of that, all the roads  
11 around here. So I'm familiar with what a developer,  
12 you know, does to put infrastructure in.

13                   Anyway, when I moved here there wasn't  
14 much of that going on. And that was probably -- I  
15 moved here in 1998. But the shock does shock me, how  
16 is that, because I'm not a millionaire. And when you  
17 ask, "Well" -- I heard one of the -- an attorney over  
18 here say, well, heck, if you own a home worth a  
19 million bucks, what does 18 bucks mean to you?  
20 Well, I'm not a millionaire and 18 bucks means 18  
21 bucks to me.

22                   And, I'm sorry, I don't make a million  
23 dollars a year, nor do I have a million dollar  
24 estate. And that's all I want to say. It's  
25 shocking. I would rather -- if there's going to be  
26

1 an increase, how about incremental increases because  
2 it is a shocker to me and my wife.

3 Not only that, you know, everybody builds  
4 million dollar houses around you, all of a sudden,  
5 I'm sure that all of my million dollar residents here  
6 or my million dollar buddies here, how many of you  
7 have got your new tax statements? I wonder how that  
8 happened. Because our developer developed land, it's  
9 a nice view, everybody -- you know, they say, "Well,  
10 gee whiz, it makes the value of your property go up.  
11 That's a real cool deal."

12 I went through this in Park City. That's  
13 why I moved the hell out of there. Because I  
14 couldn't take it any longer because I had a nice  
15 place there and all of a sudden the developer made  
16 all sorts of stuff going around me and the next thing  
17 I know, I'm out of there, I can't do it, I can't  
18 afford the taxes. A similar thing here. So I do  
19 have rate shock, how is that?

20 JUDGE GOODWILL: All right. Thank you,  
21 sir. Any questions for Mr. Lundell?

22 MR. SMITH: I have one. Just how much is  
23 the tax value of your house?

24 MR. LUNDELL: Oh, I got the property  
25 assessed evaluation for my house that the county

26

1 assessed it at, and everybody is having a fit in  
2 Ogden Valley about this. And, you know, they went  
3 through something down in Salt Lake where they wanted  
4 to kick out all the assessors and that stuff, you  
5 know. But my house was assessed at \$354,000. That  
6 was a \$150,000 increase in one year.

7 Now, that didn't happen because of my  
8 improvements to the house, it happened because of all  
9 the development going on around my house. And the  
10 developer is with us today and he also owns the water  
11 company so...

12 JUDGE GOODWILL: Anything further? Thank  
13 you, sir.

14 MR. LUNDELL: Okay.

15 JUDGE GOODWILL: Next, and I apologize for  
16 not being able to read some handwriting, but Michael  
17 Seley?

18 MR. SULEY: Suley.

19 JUDGE GOODWILL: Suley. Sir, if you would  
20 please state your name and address for the record.

21 MR. SULEY: My name is Michael Suley and  
22 my address 980 South 6525 East, Ski Lake Estates.

23 JUDGE GOODWILL: Would you spell your last  
24 name?

25 MR. SULEY: S-U-L-E-Y.

26

1                   JUDGE GOODWILL: Okay. Would you like  
2 your statement to be sworn or unsworn?

3                   MR. SULEY: Unsworn would be fine.

4                   I have this for you, sir, and I have  
5 already given a copy to the court reporter to be  
6 admitted.

7                   JUDGE GOODWILL: This is a copy of your  
8 statement?

9                   MR. SULEY: This is a copy of my statement  
10 and that way you'll have it.

11                  JUDGE GOODWILL: And there are also a copy  
12 of pieces of paper attached to it?

13                  MR. SULEY: Right.

14                  JUDGE GOODWILL: Go ahead and make your  
15 statement, sir. I'm going to make sure Counsel has a  
16 chance to look at this.

17                  MR. SULEY: Should I just start?

18                  JUDGE GOODWILL: Go ahead.

19                  MR. SULEY: My name is Michael Suley and I  
20 am speaking for myself, my wife Diane and her sister  
21 Colleen Camp, who also lives at our residence at 980  
22 South 6525 East, Ski Lake Estates. Diane and I have  
23 lived in our home for six years. We built it to  
24 enjoy the beauty of Ogden Valley to retire in its  
25 serenity. Before that we lived in Ogden Canyon for  
26

1 six years.

2           The homes in Ski Lake are upscale and not  
3 of an average nature. Square footages can range  
4 anywhere from 2,000 up to 6,000 plus, which include  
5 many baths, fountains, multiple kitchens, et cetera.  
6 Many homes have a mother-in-law quarters and are  
7 servicing more than one family. The 12,000 gallon  
8 per household usage in our home and others is hardly  
9 attainable.

10           As we built our last, these last few  
11 years, we and our neighbors were encouraged to  
12 landscape up to 10,000 square feet of our property to  
13 enhance the beauty of our phase, which was Ski Lake  
14 Phase Number 1, and future phases of Ski Lake Estates  
15 and the upper Summit area for sales. And I  
16 understand.

17           The only water available to us is culinary  
18 water. This serves the household and landscape needs  
19 of Ski Lake Estates and all future developments. A  
20 secondary water system has never been offered to us.  
21 This would certainly alleviate much of the culinary  
22 water problem.

23           We are not against gradual increases  
24 phased in over, say, a five-year period, with each  
25 other Lakeview Water being accountable for verified  
26

1 statements of profit and loss made available to all  
2 property owners and this Commission.

3 This increase will more than double our  
4 water rates and we feel it is unjustified, as is the  
5 fixed monthly charge of \$36 from \$16. This also  
6 seems excessive. I also work for a living and I'm  
7 not a millionaire.

8 Additionally, we would ask that when and  
9 as Lakeview turns a profit by the addition of more  
10 customers the water rate increases would stop at that  
11 point. This is a fair and equitable alternative to  
12 the sticker shock of this massive increase.

13 Respectfully, that's myself and my wife  
14 and her sister Diane. In here I put the old rates  
15 that were there in '82 and the new rates which  
16 everybody has. And I also put an article from the  
17 Salt Lake Tribune, and that was September 20, 2007,  
18 and it dealt a lot with property taxes which we all  
19 have problems with.

20 But if you go to the second page, I've  
21 highlighted a couple of things right here, and it was  
22 a comment I found from the Senate President, Utah  
23 Senate President, John Valentine, and in it talking  
24 about the tax shock he states that, "He cited also  
25 school districts that raised property taxes even  
26

1 after the large increase in school funding in recent  
2 history and water districts increasing taxes to their  
3 highest limits for unidentified future projects."

4 He has several possible solutions, some of  
5 which are deferred payments for the tax gap. The  
6 other one would be averaging of several years of  
7 property rates to lessen what he calls the sticker  
8 shock of recent tax increases. I think that can be  
9 used for the water rate. We're going down to our  
10 Senate and here's our Senate President sees that  
11 there is a problem. It's unspecified and I'm hoping  
12 they're going to look at it. But I thought I would  
13 like to put that in the record.

14 That's all I have to say. I'll move on.  
15 Thank you.

16 JUDGE GOODWILL: Thank you.

17 What I propose to do with the documents  
18 that Mr. Suley has provided me is simply to mark them  
19 as Public Witness Exhibit 17 for identification, and  
20 he provided an unsworn statement so these will just  
21 be marked accordingly and put in there.

22 MR. SMITH: That would be fine.

23 JUDGE GOODWILL: And just for the record  
24 that is a letter dated September 25, 2007. The  
25 second page looks like it's marked "Water Service  
26

1 Regulation Number 9, State of Utah, May 15, 1982."

2 The third page is a rate list from Lakeview Water  
3 Corporation, and then three pieces of a newspaper  
4 article that Mr. Suley has attached to his statement.

5 So we'll mark that as 17 and I'll provide  
6 that to the court reporter.

7 Next, Val Hyer? Sir, if you would please  
8 state your name and address for the record.

9 MR. HYER: Val Hyer, 6722 East 950 South.

10 JUDGE GOODWILL: Sir, Would you like to  
11 make a sworn or unsworn statement?

12 MR. HYER: Unsworn is fine.

13 JUDGE GOODWILL: Go ahead, please.

14 MR. HYER: When I moved here there was a  
15 -- well, let me start with the letter that was sent  
16 out by Lakeview Water Corporation that gives the  
17 comparison of water costs for various areas. They  
18 have the Lakeview proposal, they have Nordic  
19 Mountain, a recreational type place, Wolf Creek, Park  
20 City. There's a financial reason why I didn't move  
21 to Park City and instead I moved up here.

22 The rate increase as they show here with  
23 the base price being raised so high, it seems to me  
24 that whatever rates need to be fairly increased could  
25 be better done with the additional charges when you

26



1 go up. Because as my wife and I, we have tried to  
2 conserve, we don't even meet that minimum a lot of  
3 times, and yet, why conserve if you're not going to  
4 do any good for yourself. You're still going to have  
5 to pay for it whether you use it or not.

6 That brings another item. I noticed on  
7 the -- as you were talking about standby fees, what  
8 was it, \$10, I believe? That seems quite low to me.  
9 I myself as late as the first of this year was paying  
10 \$25 a month in standby fees for a lot that was worth  
11 just a small fraction of the lots that are around us.  
12 It seems like that small rate for standby fees should  
13 be more in line with the rest of the state. If not,  
14 then we end up paying for it.

15 Now, when it comes to standby fees and  
16 sticker shock or rate shock, I guess you call it, I  
17 was quite offended when they talked about the million  
18 and-a-half dollar homes. My wife and I are both  
19 retired, have a fixed income. Everybody knows what  
20 the taxes are doing to us. Now they say, oh, well,  
21 that's just a little bit, is that really a rate  
22 shock? I bought my house for \$64,000. And granted,  
23 that's been a while ago, but we've gone through other  
24 rate increases with the water since we've been here.

25 To go 100 percent or 125 percent, in my  
26

1 opinion, is totally unreasonable and it's very  
2 curious that this huge increase coincides so much  
3 with this explosive development growth we're having  
4 around us right now also. The water company should  
5 be able to get the rates they need to do reasonable  
6 service, but to have us pay the impact of their  
7 developments is totally unfair.

8           And in closing, when I was in kindergarten  
9 I learned something called the Golden Rule and it  
10 seems like too many people now days have kind of  
11 changed the meaning for those that have the gold  
12 makes the rules. And I hope the Public Service  
13 Commission is just that and not the public  
14 development commission.

15           Thank you.

16           JUDGE GOODWILL: Thank you, sir.

17           Taft Zacriso? I'm sorry, sir, to  
18 mispronounce.

19           MR. ZACRISO: I was going to say  
20 something, but these gentlemen have covered it quite  
21 well. And I also don't live in a million dollar  
22 home.

23           JUDGE GOODWILL: Thank you, sir.

24           MS. SCHMID: Neither do I.

25           MR. SIMPSON: Neither do I.

26

1 JUDGE GOODWILL: Lini -- I'm sorry, sir, I  
2 just couldn't read your writing on your last name.

3 MR. LAUTO'O: Lauto'o.

4 JUDGE GOODWILL: Lauto'o? If you would go  
5 ahead and state your name and address for the record,  
6 sir.

7 MR. LAUTO'O: Lini Lauto'o, 6702 East 950  
8 South.

9 JUDGE GOODWILL: And the spelling on your  
10 name is L-I-N-I and then is it L-A-U-T-O-'O?

11 MR. LAUTO'O: Yes.

12 JUDGE GOODWILL: Thank you, sir. Would  
13 you like to provide a sworn or unsworn statement?

14 MR. LAUTO'O: Unsworn.

15 JUDGE GOODWILL: All right. Go ahead,  
16 sir.

17 MR. LAUTO'O: Basically I'm opposed to the  
18 rate increase, but I understand that business is  
19 business. But this is just ridiculous, 125 percent.  
20 And I am pissed that you two made the statement of  
21 million dollar homes. That was a totally wrong,  
22 wrong way of putting it because none of us over here  
23 are millionaires and none of us live in million  
24 dollar homes.

25 Now, people all have the perception that

26

1 we do and people all have the perception that we are.  
2 But 125 percent? And like you said, a dime, would it  
3 go to 20 would I be pissed? You're darn right.

4 MS. SCHMID: You would? Okay.

5 MR. LAUTO'O: If it went up 20 cents, yes.  
6 Any increase unreasonable is unreasonable. And 125  
7 percent is totally unreasonable.

8 Thank you.

9 JUDGE GOODWILL: Thank you, sir.

10 Blaine Green? Sir, if you would please  
11 state your name and address for the record.

12 MR. GREEN: My name is Blaine Green. I  
13 live at 916 South 6800 East.

14 JUDGE GOODWILL: Would you like to make  
15 sworn or unsworn statement?

16 MR. GREEN: Unsworn.

17 JUDGE GOODWILL: Okay. Go ahead, sir.

18 MR. GREEN: I would like to talk a little  
19 bit about -- well, to start with some of the mail I  
20 got. I got a letter in the paper -- or in the  
21 mailbox that told me to only flush my toilet when I  
22 had to. I was just wondering, do you guys think I  
23 run by and flush it every time I go down the hall or  
24 what? What does it mean, only flush your toilet when  
25 you need to?

26

1                   Another thing, I've been after Ron  
2                   Catanzaro forever about my water pressure. I have  
3                   135 pounds of water pressure at my house. I went out  
4                   this morning. I can put a valve on it every day, any  
5                   type of the day, I have 135 pounds of water pressure.

6                   Another thing, the water that runs in  
7                   front of my place, it goes out and it goes up, out to  
8                   the road, up to the well where it's capped off, it  
9                   can't go no farther. So this lady here and me are  
10                  the last two on that line and there's dead water up  
11                  that. Where does that water go that sits there and  
12                  sits there and sits there. I would like somebody to  
13                  answer that question too.

14                  That's just about all I got.

15                  JUDGE GOODWILL: All right, sir.

16                  MR. GREEN: One more thing. In this  
17                  letter they sent to me I was told to put a regulator  
18                  on my house. I got two of them, but the ones that  
19                  needs to put the regulator on is these guys need  
20                  their regulator to work in their water line. And I  
21                  talked to the man that worked for them, the last one  
22                  up on the hill, and he said, "They won't let me put a  
23                  new one in." He says, "I just have to work on this  
24                  until it works." And he says, "Before I get downtown  
25                  it will stop." And apparently it has because my

26

1 water pressure is 135 pounds, way too much for  
2 anybody to have.

3 JUDGE GOODWILL: All right, sir. Thank  
4 you.

5 And I meant to mention to Mr. Sini as well  
6 earlier, both you and he have talked about some  
7 customer -- some service quality issues that you have  
8 with the company, and I understand those. Our forum  
9 here tonight is primarily to deal with the water rate  
10 increase that's been proposed.

11 MR. GREEN: I know. But I don't think  
12 they should get an increase until they fix their  
13 system.

14 MR. SINI: Exactly.

15 JUDGE GOODWILL: Okay. And that's noted.  
16 But I did want to make sure that you were aware too  
17 that, if you desire, you can contact Rhea Peterson at  
18 the Division of Public Utilities with any customer  
19 service or service quality complaints that you have.

20 MR. SINI: Your Honor, I went through this  
21 whole exercise. She says that's not their  
22 purveyance, it's under the Drinking Water Quality of  
23 the State. I've been through, I filed a complaint  
24 and everything and they turned me away. Just for  
25 your information.

26

1 JUDGE GOODWILL: Okay.

2 MR. SINI: On everything that I read  
3 tonight I filed a written complaint and they turned  
4 me back and said I had to deal with the Drinking  
5 Water --

6 JUDGE GOODWILL: Did they say the Drinking  
7 Water --

8 MR. SINI: -- of the state. So there's  
9 your answer.

10 JUDGE GOODWILL: Fair enough.

11 MR. SIMPSON: Your Honor, we have the  
12 investigation of that matter and we can provide it to  
13 the Commission that he's speaking of. The notes of  
14 that do not show that he was deferred to any other  
15 entity. So we'll be happy to provide that to the  
16 Commission.

17 JUDGE GOODWILL: Thank you, sir.

18 Gary Rhodes? Sir, if you would please  
19 state your name and address for the record.

20 MR. RHODES: My name is Gary Rhodes. Our  
21 address will be 6378 East Quail Lane.

22 JUDGE GOODWILL: And your last name is  
23 R-H-O-D-E-S?

24 MR. RHODES: Yes. I'll be speaking for my  
25 lovely bride and myself.

26

1                   JUDGE GOODWILL:  Would you like to make a  
2  sworn or unsworn?

3                   MR. RHODES:  Unsworn.

4                   JUDGE GOODWILL:  Go ahead, sir.

5                   MR. RHODES:  I appreciate the opportunity  
6  of visiting with people.  We're planning on moving up  
7  to this area into a million dollar home and we're not  
8  millionaires.  I wish we bought homes when you guys  
9  did, but we're having to face the ungodly price of  
10 materials, labor, land, but we're excited to be up  
11 here.

12                   So far the service that we've received  
13 from Ski Lake -- or from the water company has been  
14 wonderful.  We just left Park City where my water fee  
15 was \$19,000.  I'm excited to be up here and so I  
16 don't want to say anything because I haven't got  
17 anything to respond about the rate increases.  The  
18 service has been wonderful so far.

19                   JUDGE GOODWILL:  Thank you, sir.

20                   Eileen Rhodes was listed, but I guess  
21 that's your wife that you just spoke on behalf of?

22                   MR. RHODES:  Yes.

23                   JUDGE GOODWILL:  The last name on this  
24 list is it Lon Castleton?

25                   MR. CASTLETON:  Right.

26



1                   JUDGE GOODWILL:  Sir, could you please  
2     state your name and address for the record?

3                   MR. CASTLETON:  Lon Castleton, 6574 East  
4     1100 South, Huntsville.

5                   JUDGE GOODWILL:  Would you like to provide  
6     sworn or unsworn statement?

7                   MR. CASTLETON:  Unsworn is fine.

8                   JUDGE GOODWILL:  Go ahead, sir.

9                   MR. CASTLETON:  I'm against the rate  
10    increase primarily because it's 125 percent.  And the  
11    stated reason that I see here for the rate increase  
12    is, one, that we haven't had a rate increase, which  
13    to me that doesn't really matter.  And, number two,  
14    the stated reason here is to make water more  
15    expensive so that we'll conserve.

16                   And, you know, I'm the one that found the  
17    pipe leaking on the 9th of September, water was  
18    flowing out, and I found it at three o'clock in the  
19    afternoon and it had been flowing pretty steadily  
20    because it was clear down the hill.  So it had been  
21    flowing long before that.  So conservation ought to  
22    start with the water company, I would think.

23                   I don't mind paying a rate increase that's  
24    incremental and has some substance to why the rate is  
25    being increased, but it does appear that the increase  
26

1 is to subsidize new development.

2 And that's all I have to say.

3 JUDGE GOODWILL: Thank you, sir. That's  
4 all I have on the people who signed the list  
5 indicating they wanted to speak. Do others wish to  
6 make a statement?

7 Come on up to the microphone, sir, and  
8 please state your name and address for the record.

9 MR. BOOTH: My name is Glen Booth, 6756  
10 East 11000 South.

11 On that rate increase --

12 JUDGE GOODWILL: I'm sorry, sir, would you  
13 like to make a sworn or unsworn statement?

14 MR. BOOTH: Unsworn.

15 JUDGE GOODWILL: Go ahead.

16 MR. BOOTH: On that rate increase, one of  
17 the reasons they were increasing the water rate was  
18 for new water meters. I don't know about anybody  
19 else that lives here except new buildings, I didn't  
20 get a new water meter. Did anybody? No. So why are  
21 we paying for new water meters?

22 MR. CASTLETON: For the new developments.

23 MR. BOOTH: For the new developments?

24 Those houses that he showed in those photographs,  
25 none of those are lived in. They have been built

26

1 this year. Do you want to know who is building  
2 those?

3 JUDGE GOODWILL: For the record, would you  
4 indicate who you're pointing to?

5 MR. BOOTH: Cantanzaro is building those.

6 JUDGE GOODWILL: I'm sorry, who?

7 MR. BOOTH: Cantanzaro is building them,  
8 the owner of the water company.

9 JUDGE GOODWILL: Thank you.

10 MR. BOOTH: And just on a side note, I  
11 sure as hell don't make a million dollars. And I can  
12 guarantee you you make three or four times more than  
13 that. So don't tell me it doesn't affect me.

14 And, you know, two water tanks, the system  
15 has been working perfectly with one water tank for,  
16 Blaine, 30 years? Why do we need two now? I don't  
17 get it. Because we're expanding. Are we paying for  
18 the expansion or is the developer? That irritates  
19 me.

20 That's all I have to say.

21 JUDGE GOODWILL: Thank you, sir. Anyone  
22 else like to speak?

23 Okay. We'll move kind of back into our  
24 evidentiary portion now and with the parties that  
25 we've got up front. Folks are welcome to stay or  
26

1 leave as you choose. Depending on the time -- we've  
2 got about 45 minutes until we need to be out of here,  
3 but depending on the time, if somebody wants to  
4 provide a Public Witness Statement at the end, we'll  
5 try to give you that opportunity. But there are no  
6 guarantees because we do want to try and make sure we  
7 get through everything.

8 With that, I'll turn back to the parties.

9 Mr. Smith, do you have anything by way of  
10 rebuttal?

11 MR. SMITH: I do. I was wondering if we  
12 could take a short break.

13 JUDGE GOODWILL: Sure. We'll take five  
14 minutes.

15 (Recess taken.)

16 JUDGE GOODWILL: All right. Let's go back  
17 on the record. I'll turn to you, Mr. Smith.

18 MR. SMITH: Thank you.

19 We do have some items we would like to  
20 discuss and some testimony and evidence we would like  
21 to present.

22 First of all, we would like to present a  
23 copy from the Public Service Commission's website  
24 that sets forth Mr. Sini's Complaint and the results  
25 of that. And as Mr. Simpson earlier noted, it was

26

1 not deferred to another agency. According to Ross  
2 Hudson, he says, "I, Ross Hudson, have researched  
3 this complaint and find no violation of Utah State  
4 Code, Commission rule or Lakeview Water Corporation  
5 tariff."

6 That was the finding of his investigation  
7 based on that complaint. And so I would like to  
8 submit that for the record if I may.

9 JUDGE GOODWILL: All right. I think what  
10 we'll do is mark that Lakeview Exhibit 1. Now, given  
11 its subject, my inclination is to mark it as such and  
12 make it a part of the record, but to not admit it  
13 into evidence due to its relevance to the current  
14 issue of water increases.

15 MR. SINI: Your Honor, could I add one  
16 thing? I have, in turn, now reported it to the  
17 Drinking Water Division of the State of Utah and they  
18 are going to pursue that with Mr. Cantanzaro.

19 JUDGE GOODWILL: Great. Thank you, Mr.  
20 Sini. I appreciate that.

21 So we will mark that as Lakeview  
22 Exhibit 1, but not admit it into evidence.

23 MR. SMITH: Another just minor point,  
24 there was a public comment made about there have been  
25 other increases of rates for Lakeview Water Company.

26

1 And I think the record is pretty clear that we have  
2 never had an increase since our inception. The first  
3 rates were approved in 1982. So this is the first  
4 rate case in 25 years.

5 Also, some questions about the system and  
6 about shut-off valves and things like that. Rather  
7 than have me address that, we do have a witness here  
8 that is prepared to discuss the system and how it  
9 works. His name is Mark Babbitt, he's a Professional  
10 Engineer. He's with the Great Basin Engineering firm  
11 and he's been the system engineer for the Lakeview  
12 Water Company for I think almost its entire history.

13 With that, we would like to have him sworn  
14 and I have some questions for him to respond to some  
15 of the evidence given about the water tanks and  
16 things like that.

17 JUDGE GOODWILL: Okay. I want to try to  
18 just keep focused and not go too far afield of the  
19 rate increase issue.

20 MR. SMITH: I'll do my best to stay right  
21 on the rate increase issue. That's what he's here  
22 for.

23 JUDGE GOODWILL: Let's go ahead and do  
24 that then. Mr. Babbitt, I'll ask you to stand at the  
25 microphone there so you can be heard while you're  
26

1 giving your testimony. If you'll please stand and  
2 raise your right hand I'll just swear you in.

3 Do you solemnly swear the testimony you're  
4 about to provide shall be the truth, the whole truth  
5 and nothing but the truth, so help you God?

6 MR. BABBITT: Yes, I do.

7

8 MARK BABBITT,

9

10 called as a witness, was examined and

11 Testified as follows:

12

13 DIRECT EXAMINATION

14 BY MR. SMITH:

15 Q. Could you state your name and business  
16 address for the record?

17 A. Mark Babbitt, Great Basin Engineering.  
18 I'm the Vice President and Principal of the company  
19 and it's at 5746 South 1475 East, Number 200 in  
20 Ogden, Utah.

21 Q. And what type of engineering do you do?

22 A. I'm a civil engineer and we deal primarily  
23 with land development, water systems, some sewer  
24 systems.

25 Q. Do you have a degree in engineering?

26

1           A.     Yes, I do.  A Bachelor's of Science in  
2     Engineering from the University of Utah in 1979.

3           Q.     Do you hold a Professional Engineer  
4     designation from the State of Utah?

5           A.     Yes, I do.

6           Q.     Any other states?

7           A.     I've got four or five other states.

8           Q.     How long have you been a Professional  
9     Engineer?

10          A.     Since 1984.

11          Q.     And how long have you been involved in  
12     working with Lakeview Water Company?

13          A.     Probably since about -- the water company,  
14     since 1982.

15          Q.     And what are your duties or what's your  
16     responsibilities involved with the water company at  
17     the present time?

18          A.     Primarily to evaluate the system, make  
19     sure that it's up to standards from a source  
20     standpoint, a capacity standpoint, a storage  
21     standpoint, help to identify the type of materials  
22     that are used in construction of the system and water  
23     lines.

24          Q.     Have you been involved in the design of  
25     improvements that have been made to the system since  
26



1 1982?

2 A. Yes, I have.

3 Q. Would you step up to the easel and take a  
4 moment and just point out kind of the main features  
5 of the -- first of all, identify what that is. We  
6 would like to have that marked as an Exhibit,  
7 identify that Exhibit. I don't know what Exhibit  
8 Number we're to.

9 JUDGE GOODWILL: Lakeview Number 2.

10 Q. (BY MR. SMITH) Okay. We'll have that  
11 marked as Lakeview Number 2. Just identify what  
12 Lakeview Exhibit 2 is and then we'll go from there.

13 A. This is basically representative of the  
14 overall area that's been included in the water system  
15 since it was put together in 1982. There was an  
16 application with a legal description that identified  
17 the parcels that were there and I'll --

18 Q. If it would be possible, I think it would  
19 be helpful to the Judge if you could stand on the  
20 other side of the Exhibit so you're not blocking his  
21 view to the Exhibit as you point things out.

22 A. All right. Sorry. Again, north is to the  
23 top of the project. This is, again, the overall map.  
24 This is 39, Highway 39 that comes across the front  
25 here. This is the old Snow Basin Road.

26

1                   JUDGE GOODWILL: Running through the  
2 middle of the Exhibit?

3                   THE WITNESS: Yeah, right through and down  
4 a little bit of the property. This area right  
5 through here was the original area that was  
6 developed, and it's called Valley Lake Estates.

7                   JUDGE GOODWILL: That's to the east side?

8                   THE WITNESS: That's to the east  
9 primarily.

10                  Q.       (BY MR. SMITH) And about how old is that  
11 area?

12                  A.       The first phases were done in 1965. I  
13 think the last phase was done in the early '70s. And  
14 that would have encompassed an area right in through  
15 here. This area that's coming through a strip right  
16 through here is called Ski Lake Estates and this area  
17 up on the top is called The Summit at Ski Lake.

18                  JUDGE GOODWILL: That's all kind of the  
19 central eastern portion and the southeastern portion  
20 of the plat?

21                  THE WITNESS: That's correct. Across Snow  
22 Basin Road is what's called The Chalets at Ski Lake  
23 and it encompasses an area right through this area,  
24 everything basically west of Snow Basin Road over to  
25 I think that's a quarter section line over here. And

26

1       then to the north, this strip right here is called  
2       Lakeside Village, and it was referenced or talked  
3       about, and that's the group that Kier Corp. is  
4       managing that was brought up earlier.

5           Q.       (BY MR. SMITH) That's an existing  
6       condominium project?

7           A.       Yes. There's 85 units in that particular  
8       project. And then this is what's called Edgewater  
9       Beach Resort and right now there's a four-plex, a  
10      four-unit building under construction at the moment.

11           JUDGE GOODWILL: Just for the record,  
12      those two developments you just mentioned to the  
13      north of Route 39, Edgewater being the one  
14      westernmost of those two developments?

15           THE WITNESS: That's correct.

16           Q.       (BY MR. SMITH) And it's The Chalets that  
17      we're talking about, I think you've pointed those  
18      out, but could you point those out again?

19           A.       Again, this is the Chalets and the area  
20      that the building is occurring in right now, right  
21      through this area, which is up more close to the  
22      north, the northeast corner of the area.

23           Q.       As far as your understanding, does that  
24      depict the service area of the water company?

25           A.       Yes, it does.

26

1           Q.     Anything that has been changed or moved  
2     either in or out of the water service area since  
3     you've been involved in 1982?

4           A.     There's a parcel down here that's not part  
5     of the development, it never has been part of that  
6     property.  There's a piece that was sold or conveyed  
7     that is, but there's a piece here that is not.  So  
8     there's a little land over there.  But the overall  
9     area was established and we have a legal description  
10    that was prepared back in again about '82, I believe,  
11    that defines the water boundary.

12           JUDGE GOODWILL:  And that portion that's  
13    not included is the extreme southeast corner,  
14    basically, as depicted on that map?

15           THE WITNESS:  That's correct.

16           Q.     (BY MR. SMITH)  So the Ski Lake Chalets,  
17    are they within or without the service area of the  
18    water company?

19           A.     They're definitely within it.

20           Q.     Could you now just take a minute and point  
21    out some of the main features of tanks and wells of  
22    the water company?

23           A.     Okay.  Again, the water company, there was  
24    a reservoir and a well constructed that served the  
25    area, and that was constructed I believe at the time

26

1 this was done, '62 is when the well was drilled. And  
2 that particular well was over here on this side of  
3 Snow Basin Road which would be, again, west and  
4 partway south.

5           There was an initial reservoir that was  
6 constructed back there right on the westerly boundary  
7 of the district and that served water for what was  
8 called Pine View Pines that was back at this location  
9 where Lakeside Village is now and then it served all  
10 of this area over here. And that's the early  
11 original part of the system.

12           Later on, and this would have been in I  
13 think the early '80s, there was another well that was  
14 drilled over in this corner which is on the far east  
15 side, northeast corner. And when that well was  
16 drilled, in addition to that well there was another  
17 reservoir that was constructed up on top. That's a  
18 52,000 gallon reservoir, and then the 52,000 gallon  
19 reservoir on that site and the two wells that are  
20 serving the system right now.

21           Early on the requirements from the  
22 Department of Drinking Water, they didn't require you  
23 to have anything more than water to handle culinary  
24 needs of the development and some minimal irrigation  
25 needs. From a storage standpoint, there was 400

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1 gallons required for culinary storage and 100  
2 required for irrigation storage. And that's how a  
3 lot of this was set up. There really wasn't the  
4 requirement from them for fire protection, for fire  
5 hydrants to be put in, installed in systems.

6 As they've developed and rules have come  
7 along, you've had to upgrade your systems to handle  
8 other areas as they've been included into your areas.  
9 When this reservoir, this first one in '82 was  
10 installed, I believe we had 60,000 gallons of fire  
11 protection employed between the two reservoirs, the  
12 two small reservoirs.

13 In 2003 when the other reservoir was  
14 designed, which is a -- it's a 449,000 reservoir up  
15 here, they were requiring us to have a minimum of  
16 120,000 gallons of storage. And as some of these  
17 developments took place, especially Lakeside Village  
18 where they had put multiple units in one building,  
19 the Weber County Fire Department was requiring us to  
20 have 180,000 gallons of storage available for fire  
21 protection.

22 Q. How much, if we were to take out the 2004  
23 tank, how much storage is available without the 2004  
24 tank?

25 A. A little over 104,000 gallons.

26

1           Q.     So my understanding is that without the  
2     2004 tank there is not sufficient storage to meet the  
3     fire flow requirements of Weber County?

4           A.     You wouldn't have fire flow protection  
5     based on Weber County requirements right now.

6           Q.     And that's for the existing buildings  
7     within the service area of the company? We're not  
8     talking about anything new or that hasn't been built?

9           A.     That's correct. Of the systems, this  
10    reservoir is a little bit bigger. We initially  
11    designed this reservoir to 275,000 gallons, we felt  
12    to handle the site, handle the service area. As we  
13    got into construction there were some soils that were  
14    underneath that particular reservoir that needed to  
15    be replaced with imported structural fill so that the  
16    tank wouldn't settle or crack or be damaged over  
17    time.

18                   And we had a bid that came in to remove  
19    the materials and to construct the tank, I think it  
20    was \$256,000. When we ran into those difficulties we  
21    worked with the contractor. He basically told us  
22    that it would sure be a lot better if we could just  
23    maybe extend the tank down and not import that  
24    material and so we started seeing if we had an option  
25    to do that. And as it turned out, by doing some

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1 redesign work, extending the tank down, we had to  
2 make sure that the overflow elevations on this tank  
3 matched the existing tank, we added eight foot of  
4 depth to the tank which increased the volume from 275  
5 to 449 and the contractor actually came in \$3,000  
6 less than the original bid. And so he came up with  
7 an extra, roughly, 150,000 to 175,000 gallons of  
8 storage at \$3,000 less than we would have done  
9 otherwise.

10 So there was a huge benefit in extra  
11 storage by actually reworking the design after the  
12 bid was in. And we had to maintain the elevations of  
13 the tank at that particular location.

14 So the tank -- and, again, the larger the  
15 tank is the less it costs per gallon to construct.  
16 So there's some tradeoffs in that.

17 Q. The question I have about the two 52,000  
18 gallon tanks that have been there for -- how long  
19 have those two tanks been located there?

20 A. One I don't know the exact time frame,  
21 other than it had to be installed prior to this  
22 subdivision improvements being installed, and the  
23 subdivision was improved in 1965 for the first phase.  
24 So it was sometime mid '60s.

25 Q. How about the other one?

26



1           A.     The second tank I think was constructed in  
2 either 1982 or 1983.

3           Q.     Do the water tanks just last forever or do  
4 they have a life and need to be replaced at some  
5 point?

6           A.     Well, they need to be maintained.  Again,  
7 it's a concrete tank.  The actual length of them, at  
8 some point they need to be replaced.  You know, the  
9 time frame could be anywhere from 20 to 50 years, it  
10 just depends.

11          Q.     So it's possible that the age of the two  
12 52,000 gallon tanks, that they may be nearing the end  
13 of their life and need to be replaced with the 2004  
14 tank?

15                   MR. CUMBERLAND:  Objection to what's  
16 possible.  Anything is possible.

17                   JUDGE GOODWILL:  You can go ahead and  
18 speak to your opinion.

19                   THE WITNESS:  All right.  Ultimately one  
20 tank is older than the other one, it has been  
21 repaired more frequently than the other one.  I don't  
22 know that we've had hardly any repairs on this upper  
23 tank, but the tank that's on the far west side we've  
24 had some repair work that's already had to be done on  
25 it.  So I can't give you an exact time frame, but at

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1 some point they'll have to come out of service.

2 Q. (BY MR. SMITH) Okay. How about, you  
3 mentioned that one of the subdivisions was built in  
4 the 1960s; is that right?

5 A. That's correct, Valley Lake Estates was.

6 Q. If you take improvements that are 40 plus  
7 years old, do they need to be repaired, replaced  
8 maintained? And I'm not talking about tanks, I'm  
9 talking about PVC pipe, things like that.

10 A. The infrastructure of the water lines in  
11 those areas, there is a time frame on those. The  
12 longer they're in place, the more susceptible they  
13 are to needing repair. Materials 40 years ago aren't  
14 as good as the materials today from a longevity  
15 standpoint and a service standpoint and at some point  
16 there will need to be some repair or replacement on  
17 some of those lines.

18 Q. Okay. The question I have, there have  
19 been some questions raised about how much water  
20 rights in acre-feet that the company needs. Have you  
21 had a chance to review that and come to any  
22 conclusions as to how much water the current -- when  
23 I talk about the company, I'll talk about the current  
24 company -- of either existing or committed  
25 connections, people that would be in the standby

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1 connection area?

2 A. Not on a -- I guess on a regular basis I  
3 do try to evaluate the three things that determine  
4 the number of connections and deal with the system,  
5 and one of them is water rights. Based upon the lots  
6 that are approved and available for sale, meaning  
7 that they've been recorded, including the condominium  
8 lots, there are 211 connections that are I want to  
9 say committed. But more than committed, they've  
10 either been transferred, ownership of properties, or  
11 they're available for somebody to actually purchase  
12 that property now. So we have 211 connections  
13 available. I think there's 136 connections that are  
14 active on the system right now, they're right now  
15 drawing water out of it. But based upon those  
16 numbers we need I believe it's 147 acre-feet of water  
17 to satisfy the culinary needs and the irrigation  
18 needs of the lots.

19 Now, each of the lots are set up a little  
20 bit differently in that some have restricted use on  
21 them of 10,000 square feet per lot and some of them  
22 at 5,000 per square foot per lot for landscaping and  
23 some of them at 4,000 square feet per lot for  
24 landscaping. So they've been adjusted over time to  
25 try to provide enough landscaping, but not too much  
26

1 on all the future development. And as the  
2 development has increased in the future, actually the  
3 area that they're allowing to be landscaped has  
4 actually decreased.

5 Q. Okay. And is there a guarantee that if  
6 you have -- let's say you have just barely enough  
7 acre-feet for the needs of the company, is that  
8 prudent to have that amount or is there some sort of  
9 a safety factor there?

10 A. In all of the systems that I've been  
11 involved with the design we've tried to have at least  
12 a buffer zone. We've look at roughly 25 percent. I  
13 don't know if that's an exact number from everybody,  
14 but we do look at a roughly -- a little bit extra to  
15 make things work.

16 Now, part of the things with the water  
17 system the way it was set up, when the water rights  
18 were purchased or transferred to Dr. Cantanzaro back  
19 in '79 or '80 when he purchased a lot of his  
20 property, he was able to purchase or have a lot of  
21 water rights come with it at a very minimal cost as  
22 he purchased the company. And through Weber Basin  
23 the costs, every year they go up as water is leased  
24 through Weber Basin.

25 Q. Let me show you what's been marked as  
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1 Intervenor's Exhibit 4. Have you had a chance, have  
2 you seen this Exhibit before?

3 A. Yeah, I have seen something very similar  
4 to it.

5 Q. Okay. And I think what's the current --  
6 are you familiar with what the current rate is for  
7 Weber Basin contract water per acre feet?

8 A. Currently it's \$243 an acre-foot per year.

9 Q. If you were to take \$240, I've got a  
10 calculator here, and let's see, if we were to take  
11 the calculation of 243 times roughly what, 180  
12 acre-feet?

13 A. Well, 180 acre-feet is currently in the  
14 name of Lakeview Water Company.

15 Q. Approximately 43, \$44,000 a year under  
16 those current rates?

17 A. That's correct.

18 Q. And you understand that currently in the  
19 rate base we have less than that for an annual outlay  
20 for water rights for costs?

21 A. Yeah. What happens with Weber Basin is  
22 you lock in your cost when you sign your agreement  
23 with Weber Basin as to the cost rate for the water.  
24 The only thing that changes with Weber Basin is the  
25 administration fees from year to year. The current

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1 rates for the water that are under contract with  
2 Lakeview Water I believe are, what, \$83 an acre-foot  
3 right now.

4 Q. So we're paying \$83 an acre-foot instead  
5 of \$243 because we locked in those rates a long time  
6 ago?

7 A. That's correct.

8 Q. Thank you.

9 Can you talk about the importance of  
10 redundancy and what that means in a water system?

11 A. Typically what you want to make sure on --

12 MR. CUMBERLAND: Let me register an  
13 objection at this point. This sounds clearly like  
14 expert testimony, and we have gone back and forth  
15 about the necessity for one another to identify  
16 experts. Counsel has steadfastly refused or failed  
17 to identify any experts and now it sounds to me like  
18 we're listening to expert testimony, and I object to  
19 it because I was not notified in advance.

20 MR. SIMPSON: Your Honor, Mr. Babbitt was  
21 in papers that the Intervenor submitted to the DPU.  
22 He has known about Mr. Babbitt for years. Mr.  
23 Babbitt is here in a capacity to explain the water  
24 system. We are not using him to postulate on any  
25 future increases.

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1                   MR. SMITH: I'm not even going to ask him  
2 what his opinion is on redundancy, I just wanted him  
3 to explain what that concept is.

4                   JUDGE GOODWILL: I'll allow it.

5                   THE WITNESS: Typically with redundancy  
6 you're trying to make sure that you've got  
7 essentially a backup system to handle or cover for  
8 your initial system so if there is a problem you can  
9 try to minimize it or eliminate it, if possible, by  
10 having some additional sources or storage or lines  
11 available to distribute water through the system.

12                   The State right now requires any new water  
13 systems to have at least two wells, anything over a  
14 certain size, and this would easily qualify for that.  
15 We need to have at least two sources for our system.

16                   MR. SMITH: Your Honor, that's all the  
17 questions I have unless you want to hear more about  
18 service issues. I know they've been brought up, but  
19 I don't think they're very relevant to what we're  
20 trying to do. But he certainly can answer any  
21 questions that anybody has about service issues.  
22 Shut-off valves, those sorts of things, Mr. Babbitt  
23 is prepared to talk about those things. I don't  
24 think we need to go into that, but if your Honor does  
25 or if anybody else does, he certainly can go into

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1 that and he can talk about the system and how it  
2 works and all that kind of information.

3 JUDGE GOODWILL: I don't think we'll go  
4 into that right now. I understand people's concerns  
5 and I encourage you to follow-up on those. I think  
6 right now I want to stick to the system and its  
7 impact on the rates.

8 With that, Mr. Cumberland, do you have  
9 questions for Mr. Babbitt?

10 MR. CUMBERLAND: Just one, actually.  
11 Well, one and one follow-up.

12 CROSS-EXAMINATION

13 BY MR. CUMBERLAND:

14 Q. How many functioning wells are there  
15 serving Lakeview Water?

16 A. Two.

17 Q. Two? Where are they on that map?

18 A. One of them is right here, right behind  
19 Blaine Green's house.

20 JUDGE GOODWILL: The extreme northeast  
21 corner?

22 THE WITNESS: The northeast corner of  
23 3900. And the other one is over in this particular  
24 are right here.

25 Q. (BY MR. CUMBERLAND) Which is the one  
26



1 that's pumping water that's contaminated with  
2 arsenic?

3 A. Which one is contaminated with arsenic?

4 Q. Yeah.

5 A. At the moment -- well, when they were all  
6 approved, none of them were beyond or --

7 Q. The question right now is which one is the  
8 one that --

9 A. Which one exceeds the limit?

10 Q. Yeah.

11 A. This one over here exceeds the limit on  
12 arsenic. It's also the smaller well and it's the one  
13 that gets used the least.

14 MR. CUMBERLAND: A question for Counsel,  
15 is that Exhibit 1.1 the map you haven't furnished to  
16 me? Yes or no.

17 MR. SIMPSON: Sir, at the time that you  
18 and I had the conference after the last meeting we  
19 talked about this issue in detail, and as part of  
20 that conversation I told you that we provided five  
21 copies of this to the DPU. And you said that you  
22 would get one from them.

23 MR. CUMBERLAND: That's a lie. I have no  
24 further questions.

25 JUDGE GOODWILL: Ms. Smith, anything for  
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1 Mr. Babbitt?

2 MS. SCHMID: Nothing.

3 JUDGE GOODWILL: Thank you, sir.

4 We need to be out of this room in eight  
5 minutes. I'm aware that that might -- well, let me  
6 ask. How does that impact where we stand, all three  
7 parties? Do you have anything else, Mr. Smith?

8 MR. SMITH: I have two more witnesses that  
9 I hope to be able to call, I don't know if we'll have  
10 time. One is the owner, Dr. Cantanzaro, of the  
11 company, I have some questions for him and then  
12 Krystal Fishlock, who is on the phone, is our last  
13 witness.

14 JUDGE GOODWILL: I sure wish we could get  
15 to her because she's spent all this time on the  
16 phone, but I really don't see how we can do that this  
17 evening. In the interest of efficiency, I hate to  
18 say let's all come back and do this again, which if  
19 we do for the evidentiary portion of the hearing  
20 would be in our hearing room in Salt Lake City. But  
21 to make sure that we get everything we need to get on  
22 the record as well, I have some questions as well, I  
23 haven't even asked the Division what they still have  
24 that they would like to present, and Mr. Cumberland  
25 may have some rebuttal of his own, I think we're

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1 going to need to do that.

2 MS. SCHMID: I agree.

3 JUDGE GOODWILL: And rather than to move  
4 into anything else substantive at this point, I think  
5 it makes sense to talk about when we can do that  
6 next. I don't want this to continue on month after  
7 month. I know that the company, the Division, I'm  
8 sure Mr. Cumberland does not, but we want to make  
9 sure everybody gets a fair hearing and that the  
10 Commission ends up with all the evidence it needs to  
11 make a decision.

12 So with that in mind, I think we need to  
13 schedule something or at least talk about scheduling  
14 something further into the future.

15 MS. SCHMID: Should we go off the record  
16 for a minute?

17 JUDGE GOODWILL: We can do that. Before  
18 we do that, let me think -- let's go off the record  
19 and we'll come back on.

20 (Recess taken.)

21 JUDGE GOODWILL: Let's go ahead and back  
22 on the record.

23 While we were off the record we discussed  
24 scheduling for the continuance of this hearing. Mr.  
25 Smith is going to contact the Commission secretary,

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1 Julie Orchard, to discuss possible dates. Ms.  
2 Orchard will work with me and then I will contact  
3 each of the parties by e-mail with a proposed date  
4 and see if we can agree to something in the not too  
5 distant future, hopefully in the next couple of  
6 weeks, to try to wrap up this evidentiary hearing.

7 I will ask when we get that date, and I  
8 don't know when that date will be, but I will ask  
9 that at least three days prior to that hearing date,  
10 unless the date is -- unless it simply can't be done,  
11 but three days prior to that hearing date each party  
12 inform the other party, I don't care if it's by  
13 e-mail, telephone or in person, what witnesses you  
14 intend to call, generally what areas you intend to  
15 explore, and if there's any other documentary  
16 evidence that you intend to offer into evidence so  
17 that we don't run into the situation that we did  
18 tonight and as we did at the first hearing with  
19 parties seeing for the first time at hearing evidence  
20 that they would like to respond to. And if that is  
21 not done, then we might well have a serious issue of  
22 not admitting that evidence when it's offered at  
23 hearing.

24 Anything else we need to take up on the  
25 record this evening before we adjourn?

26

1 MS. SCHMID: Just a point of  
2 clarification. So would that mean that we would need  
3 to tell, for example, if the Division were going to  
4 respond to the hearing memorandum, we would need to  
5 tell Mr. Cumberland what issues we were going to  
6 respond to?

7 JUDGE GOODWILL: I think it's fair for  
8 the -- I guess the short answer is no. If you're  
9 going to be responding to Intervenor Exhibit 1.1, the  
10 issues that are encompassed therein, Mr. Cumberland  
11 is on notice as to what those issues are, they're  
12 presented in the memorandum. So If you want to  
13 respond to briefs, just do that. But if there's  
14 anything outside of that based on testimony that's  
15 been presented and that sort of thing, I want to make  
16 sure all parties are aware of that before we come  
17 back.

18 MR. SMITH: That sounds fair.

19 JUDGE GOODWILL: Okay. We'll go ahead and  
20 adjourn. Thank you very much.

21 (The taking of the hearing was  
22 adjourned at 8:41 p.m.)

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C E R T I F I C A T E

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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 110, 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 14th day of November, 2007.

\_\_\_\_\_  
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