

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the)
Application of Lakeview)
Water Corporation for) Docket No. 06-540T01
Approval of its Proposed)
Water Rate Schedules and) Commissioner Goodwill
Water Service Regulations)

November 19, 2007 - 10:40 a.m.

Location: Heber Wells Building
 160 East 300 South
 Salt Lake City, Utah

Reporter: Lanette Shindurling, RPR, RMR, CRR
Notary Public in and for the State of Utah

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FOR THE DIVISION:

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PAUL HICKEN

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Examination by Ms. Schmid

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DPU 11/14/07 letter to PSC from Division of

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

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3 JUDGE GOODWILL: We'll go on the record.

4 This is the public Service Commission
5 hearing in the matter of the application of Lakeview
6 Water Corporation for approval of its proposed water
7 rate schedules and water service regulations, Public
8 Service Commission Docket No. 06-540T01.

9 I'm Steve Goodwill, administrative law
10 judge for the Commission, and I've been assigned by
11 the Commission to hear this matter.

12 Notice of this hearing was issued by the
13 Commission on the 22nd of October, 2007. Now,
14 today's hearing is a continuation of the evidentiary
15 hearing that was held on September 25th, 2007, which
16 was itself a continuation of a hearing begun on
17 August 7th, 2007.

18 At the conclusion of the September 25th
19 session Lakeview water was in the midst of presenting
20 some evidence, and I believe we still have those
21 witnesses available here today to testify. However,
22 prior to starting this morning's hearing I had some
23 informal discussion with the Division, the Company,
24 and the intervenor, Mr. Cumberland, and the parties
25 felt it was useful to discuss among themselves the

1 Division's memorandum that was filed on November 16,
2 2007 regarding the Division's proposed three-year
3 phased increase of rates.

4 The parties discussed that for about an
5 hour, and just prior to going on the record here this
6 morning the Division indicated that the parties have
7 some agreement which reflect to the Division's
8 proposal.

9 With that, I'll turn -- well, first let's
10 go ahead and take appearances of all present, and
11 we'll start with the Company.

12 MR. SMITH: Thank you. This is Craig
13 Smith, and assisting me is Brad Simpson on behalf of
14 the Company, Lakeview Water Company. We also have
15 the owner, Ron Catanzaro, here with us today as well.

16 JUDGE GOODWILL: Thank you. And
17 Ms. Fishlock is on the phone with us, I believe?

18 MR. SMITH: That's correct.

19 JUDGE GOODWILL: Okay. And for the
20 Division?

21 MS. SCHMID: Patricia E. Schmid, assistant
22 attorney general, representing the Division.

23 MR. HICKEN: And Paul Hicken, utility
24 analyst, representing the Division.

25 JUDGE GOODWILL: And I'll note for the

1 record that we have Mr. Cumberland, the intervenor,
2 with us who has previously identified himself on the
3 record as well.

4 With that, I'll go ahead and turn to you,
5 Ms. Schmid.

6 MS. SCHMID: Thank you. The Division
7 would like to re-call Mr. Paul Hicken. Mr. Hicken
8 has been previously sworn in this proceeding.

9
10 PAUL HICKEN,
11 called as a witness, having previously duly sworn,
12 testified as follows:

13
14 EXAMINATION

15 BY MS. SCHMID:

16 Q. Good morning, Mr. Hicken. How are you?

17 A. Fine, thank you.

18 Q. And you recall that you have been
19 previously sworn in this proceeding; is that correct?

20 A. Yes.

21 Q. Last week you filed a memorandum which we
22 have noted is DPU Exhibit 2, and that is dated
23 November 14, 2007, and circulated that to the
24 parties. Is that correct?

25 A. That's right.

1 Q. In this memorandum premarked as DPU
2 Exhibit 2, you propose a phased-in rate -- a rate
3 increase over three years; is that correct?

4 A. That's right.

5 Q. Do you have an analysis and summary of
6 this that you would like to present today?

7 JUDGE GOODWILL: Ms. Schmid, if I could
8 interrupt. I'm sorry. One moment, please.

9 I know it's been a while, but I think
10 we're actually at Division -- DPU Exhibit 3. DPU
11 Exhibit 2 was I believe Mr. Hicken's prepared
12 testimony from the 7 August hearing, with DPU Exhibit
13 1 being the original Division memorandum of 6 August.

14 MS. SCHMID: Thank you very much. Could
15 we change my references to the November 14th
16 memorandum to DPU Exhibit 3, and we'll mark it as
17 such in the copy that's been distributed today.

18 (Exhibit DPU-3 was marked.)

19 JUDGE GOODWILL: We'll do that. Sorry for
20 the interruption. Go ahead.

21 MS. SCHMID: I appreciate that. And then
22 we'll note that the attachments attached to the
23 memorandum dated November 14, 2007, now DPU Exhibit 3
24 for identification, previously marked as DPU Exhibit
25 2, we'll need to go through and change it to DPU

1 Exhibit No. 3.1 from 2.1, 3.2 from 2.2, 3.3 from 2.3,
2 3.4 from 2.4, 3.5 from 2.5, 3.6 from 2.6, 3.7 from
3 2.7, and finally, 3.8 from 2.8.

4 JUDGE GOODWILL: Yes, thanks. I think it
5 will be sufficient with what we have on the record
6 now to go ahead and do that.

7 MS. SCHMID: Perfect. Would it be
8 appropriate at this time for the Division to move the
9 admission of what has now been marked as DPU Exhibit
10 3 and its attachments, DPU 3.1 through 3.8, the
11 memorandum dated November 14th, 2007?

12 JUDGE GOODWILL: Sure. Are there any
13 objections to their admission?

14 MR. SMITH: No objection by the Company.

15 MR. CUMBERLAND: No objection.

16 JUDGE GOODWILL: Okay. We'll go ahead and
17 admit them.

18 Q. (BY MS. SCHMID) Mr. Hicken, do you have
19 an analysis and summary?

20 A. Yes, I do.

21 Q. Please proceed.

22 A. Thank you. The purpose of my testimony
23 today is to discuss an incremental rate phase-in
24 period for the proposed rate increase requested by
25 Lakeview Water Corporation. My previous analysis

1 showed that the proposed rate changes were just and
2 reasonable.

3 I have done further analysis to show how
4 the proposed rates could be phased in over a
5 three-year period in order to soften the impact on
6 the customers and provide the needed revenue to the
7 company.

8 I chose a three-year period for rate
9 phase-in because it brings the rates up quickly to
10 where they need to be in order to give the water
11 company the revenues need to recover their costs and
12 provide an authorized rate of return. The water
13 company has been using rates that were set 25 years
14 ago, and they have not recovered their costs for a
15 number of years.

16 Rather than spread out the rates -- the
17 rate increase equally over three years, I chose to
18 increase the base rate by \$10 in the first year, \$8
19 in the second year, and \$1 in the third year. This
20 proposal brings the water company back to a
21 profitable level quickly without burdening the
22 customers with a full increase all at once.

23 The model uses several assumptions based
24 on historical growth patterns and cost figures over
25 the last several years. I used seven years because

1 the DPU had these annual reports on file, and seven
2 years covers cycles of both strong and weak economic
3 growth.

4 The figures are shown in DPU Exhibit 3.2.
5 As shown in this exhibit, customer growth averaged
6 about 10.5 percent per year, and operation expenses
7 averaged about 12.4 percent per year. It is assumed
8 that half of the new customers each year would be
9 single family connections and half would be
10 multifamily connections.

11 It is also assumed that with the new
12 connections each year, 60 percent of the connection
13 fees would be booked as revenues and 40 percent of
14 the fees would be booked as contributions in aid of
15 construction.

16 The analysis holds standby customers
17 constant at 20 per year based on company estimates.
18 Planned additions and repairs are hard to project,
19 but based on historical costs over the last several
20 years and normalized for the life of the asset, the
21 average cost for planned additions is about \$14,967
22 per year.

23 The forecasting model shown in DPU Exhibit
24 3.1 starts with the year 2006, because this is the
25 last year for which expenses and revenues were known.

1 Based on customer growth which has historically
2 averaged 10.5 percent over the last seven years, the
3 model projects revenues and expenses for the next
4 five years.

5 The phase-in period for the basic water
6 service spreads over three years beginning in 2008
7 with a \$10 increase, which brings the base rate to
8 \$26; and an \$8 increase in 2009, which brings the
9 base rate to \$34; and finally, a \$1 increase in 2010,
10 which brings the base rate to \$35. The model does
11 not increase the base rate to \$36 as proposed,
12 because it shows the company could be profitable at
13 the \$35 rate after three years.

14 The other proposed rates for tiered usage,
15 connection fees, and standby fees would be effective
16 in the first year rather than phased in over three
17 years.

18 The estimated revenue requirements for
19 2007 through 2011 are shown in DPU Exhibit 3.3. This
20 analysis includes an authorized rate of return on the
21 rate base, and it covers the estimated taxes and
22 operating expenses. This exhibit shows the rate base
23 decreases over the next few years, but the operating
24 expenses increase each year. Consequently, the
25 revenue requirement increases on an average of 5 to 6

1 percent a year.

2 The rate design shown in DPU Exhibits 3.4
3 through 3.8 demonstrates the impact of the rate
4 phase-in on the company. DPU Exhibit 3.4 shows the
5 estimated revenue shortfall of nearly \$80,000 during
6 2007 prior to the implementation of the proposed
7 rates.

8 In 2008, after the first year of the newly
9 implemented rates, the model still shows a revenue
10 shortfall of \$22,700. After the second year of rate
11 phase-in, the model shows a loss of \$5,500 for the
12 company.

13 Finally, in 2010, with the third year of
14 the phased-in rates, the model shows the company with
15 positive revenues. In 2011 the model shows the
16 company over earning by about \$3,000.

17 The Division concludes that allowing for
18 increased rates phased in over three years balances
19 both the interests of the consumers and the water
20 company. As a result, the DPU recommends a phased-in
21 approach be adopted by the Commission.

22 Q. Just a couple follow-up questions,
23 Mr. Hicken. In the phased-in rate proposal with the
24 Division, I note that there is a connection fee with
25 60 percent being booked as revenues and 40 percent

1 being booked as contributions in aid of construction.

2 Is this right?

3 A. That's right.

4 Q. Is it your testimony that this results in
5 a just and reasonable rate and is in the public
6 interest in these unique circumstances?

7 A. Yes, it is.

8 Q. And Mr. Hicken, also, and we had just a
9 brief discussion about this before, one way for the
10 Commission to implement a tiered rate is -- and is it
11 true that one way for the Commission to implement a
12 tiered rate is to have the rate increase approved but
13 a declining credit given over the next few years?
14 So for example, the entire rate increase up to the
15 \$35 could be approved by the Commission with an
16 appropriate credit to reflect the resulting \$26 fee
17 for year 2008 and then a smaller credit in 2009 to
18 bring the rate to \$35. Is that correct?

19 A. That's right.

20 Q. And do you know that -- would you be
21 surprised if I said that was the sort of phase-in
22 credit relationship that the Commission used in the
23 last PacifiCorp rate case to deal with the coming on
24 line of the Lakeview power plant?

25 A. No, I wouldn't be surprised.

1 MS. SCHMID: Thank you.

2 That concludes my questioning of Mr.
3 Hicken, his summary, and he's now available as
4 needed. Thank you.

5 JUDGE GOODWILL: Mr. Smith, any questions
6 for Mr. Hicken?

7 MR. SMITH: Just a couple of questions. I
8 would first like to thank Mr. Hicken and the Division
9 for their efforts to reach a compromise, and we
10 appreciate those efforts. Just a couple of
11 clarifying questions as well.

12 First of all, Mr. Hicken, if the company
13 is to have some extraordinary costs like for the
14 treatment for its water that's coming due, your model
15 doesn't take that into account; is that correct?

16 THE WITNESS: That's correct.

17 MR. SMITH: I think that's all the
18 questions I have. Thank you.

19 JUDGE GOODWILL: Mr. Cumberland, any
20 questions for Mr. Hicken?

21 MR. CUMBERLAND: I have no questions.

22 JUDGE GOODWILL: Mr. Hicken, I just have a
23 very few.

24 With respect to the rates, then, I know
25 you talk about the proposed rates beginning to take

1 effect in 2008. What do you mean when you say that?
2 Is that the -- the proposed rate, specifically the
3 \$26 proposed base rate, would that take effect --
4 well, I guess in 2008, all the tiered rates as well.
5 Would that take effect with the January billing, or
6 would it be reflected in the January usage that would
7 be shown in the February billing?

8 THE WITNESS: In my analysis it would take
9 effect in the January usage, which I think may be
10 billed in February. Is that right? Yes. It doesn't
11 consider usage for December, it considers usage
12 starting in January.

13 JUDGE GOODWILL: Okay, thank you.

14 Now, I was a little unclear on your
15 discussion with Ms. Schmid about the way in which the
16 Commission might approve these phased-in rates. When
17 I read the Division's memorandum I assumed that it
18 would simply be -- the Division would approve, for
19 instance, the \$26 base rate for 2008, a \$34 base rate
20 for 2009, \$35 base rate thereafter. Is that what you
21 intended? I'm just a little confused about your
22 discussion concerning credits with Ms. Schmid, how
23 that would work.

24 MR. HICKEN: Can I defer that to
25 Ms. Schmid?

1 JUDGE GOODWILL: Sure. From the
2 Division's perspective, that's fine. We'll try not
3 to testify, but go ahead.

4 MS. SCHMID: I will just report on
5 historical fact.

6 JUDGE GOODWILL: Sure.

7 MS. SCHMID: For example, in the -- and
8 interestingly, it has the same name. But in the
9 PacifiCorp rate case that was settled I believe in
10 2006 where the Lakeview power plant was going to come
11 on line, resulting in a need for revenues to bump up
12 and rates to be increased, what the Commission chose
13 to do was to approve the rates as if Lakeview had
14 been on line, say, January 1st when the new rates
15 went into effect, but give a credit until it went on
16 line. That precluded the need for any arguable
17 review of a rate increase at the time when, say, a
18 tariff sheet would be filed to effect the rate
19 increase as to whether or not the rates were just and
20 reasonable at the time the tariff sheet was filed.

21 In the Lakeview case, as the Commission
22 can see from its order, the Commission decided that
23 the rates were just and reasonable at the time. They
24 approved the entire increase. Probably clear as mud.

25 JUDGE GOODWILL: So in the PacifiCorp case

1 the entire rate increase was shown, but then a
2 separate line with credit on the customer's bill?

3 MS. SCHMID: Correct. So the effect, as
4 the Commission can see from its order, so I'm not
5 testifying, is that the impact upon the customers was
6 less than the full amount of the rate increase until
7 a period of time had passed.

8 JUDGE GOODWILL: All right. Thank you for
9 that clarification.

10 Anything else from the Division?

11 MS. SCHMID: Nothing.

12 MR. HICKEN: No.

13 JUDGE GOODWILL: I think next we'll turn
14 to you, Mr. Smith.

15 MR. SMITH: Thank you. First of all, I
16 would like to ask that the testimony of Crystal
17 Fishlock be admitted. I know there was an objection
18 to that. I assume under the circumstances the
19 Intervenor would like to withdraw that objection.

20 JUDGE GOODWILL: First of all, that's the
21 testimony that was filed with the Commission on the
22 14th of November; is that correct?

23 MR. SMITH: That's correct.

24 JUDGE GOODWILL: Okay. Let's go ahead and
25 mark that for identification purposes, Lakeview

1 No. 3. And having asked for its admission, I'll go
2 ahead and ask, are there any objections to its
3 admission?

4 MS. SCHMID: No objection from the
5 Division.

6 MR. CUMBERLAND: I guess I will withdraw
7 my motion to strike under the circumstances.

8 JUDGE GOODWILL: And that was your motion
9 provided in writing to the Commission,
10 Mr. Cumberland. I don't have the date of filing, but
11 it was last week as well; is that right?

12 MR. CUMBERLAND: Correct.

13 JUDGE GOODWILL: Okay. We'll go ahead and
14 admit Lakeview No. 3, then. And Mr. Cumberland, if
15 you want to speak to anything that was in your filing
16 last week, you'll certainly have that opportunity if
17 you choose to.

18 Mr. Smith, anything further?

19 MR. SMITH: Only if you feel like it would
20 be helpful to have it. Let me tell you who else we
21 have here, just so you know who is available. I'm
22 just trying to make sure we provide enough
23 information and enough testimony and evidence that
24 the finding of just and reasonable rates can be made
25 based on the stipulation or the agreement that we

1 have. So I'm not trying to belabor points, but I
2 just want to make sure that if you have questions or
3 needs.

4 So let me just basically explain who else
5 is here and what information they have. I'll be very
6 brief about that.

7 JUDGE GOODWILL: Sure.

8 MS. SCHMID: Also then also, perhaps would
9 it be appropriate at that time for Mr. Smith and his
10 clients to make a statement in support of the
11 Division's memorandum?

12 MR. SMITH: Yeah. I'm planning on doing
13 that as well. Thank you.

14 In addition to Crystal Fishlock, who has
15 been the CPA doing the numbers and has been involved
16 in this and is on the phone, and we've had her -- and
17 we basically prefiled her testimony just to save
18 time. We didn't know how much time this proceeding
19 would take today.

20 Secondly, we also have Marc Babbit. He
21 testified at the last hearing. He's a professional
22 engineer who's been the engineer for Lakeview. The
23 only thing he is here to kind of follow up on is if
24 there were any questions that anyone might have
25 additionally. I know we kind of ran out of time when

1 we were up at Huntsville.

2 Also, there was -- at the very end of the
3 Huntsville proceeding there was a question raised
4 about heavy metals, some levels of heavy metals in
5 the water. We're aware of those. We're working on
6 those. We expect to have about \$120,000 expense this
7 time of year to bring the count into compliance with
8 the new EPA regulations on the amount of arsenic in
9 the water. Those are levels that have been decreased
10 by the EPA. We've had a three-year waiver, but that
11 runs out this year and we expect to have that.

12 That's an additional expense that's not
13 been projected in anything we've seen, but we know
14 we're going to face that this year to make sure we
15 comply with drinking water requirements. And he's
16 here able to testify about that if that's necessary.

17 We also have with us Mr. Jim Banks, who is
18 the operator of the system; and also Mitch Winegar
19 with Utah Pump, who is kind of the technical advisor
20 to the system. There were some questions raised
21 about this isn't being properly managed and why was
22 water coming -- there was questions about, or
23 allegations that were made that water was being
24 wasted, and they're here to testify that that's just
25 part of the normal operations for a system that does

1 not chlorinate. Those are normal, regular operations
2 that need to be done to make sure the water quality
3 is proper and are here to answer any questions or
4 concerns anyone has about those issues.

5 Also with us is Dr. Catanzaro, the owner
6 of the Lakeview Company. He's prepared to testify if
7 necessary about the fact that his other company, Ski
8 Lake Corporation, has been subsidizing and will
9 continue to subsidize, has been subsidizing Lakeview
10 Water Company because it has had a revenue shortfall
11 because it has not had a rate increase in 25 years.

12 I don't know if any of that testimony is
13 needed by the Commission. If it is, we're happy to
14 present that. We are here in support of and agreeing
15 to the tiered rate system as a compromise and
16 understand that that is a compromise, but we're
17 supporting that and they are willing to enter into
18 that stipulation with the Division.

19 And I don't know if the Intervenor is
20 going to enter into the stipulation or just not
21 object to it, however he's going to act. But we're
22 doing that -- I just wanted to make sure that it was
23 clear that we expect to have some more expenses, and
24 probably will be back there a lot sooner than 25
25 years for our next rate increase because of

1 additional costs and expenses.

2 Also, we have some additional new
3 maintenance expenses coming up, because some of our
4 system is 40 years old and is in the point needing to
5 be replaced. But that's who else is here, is
6 prepared; and I'll leave that to the Commission if
7 you need any testimony on those topics to help you
8 make the findings that you need to make as the
9 Commission.

10 JUDGE GOODWILL: That's fine. Thank you.
11 And I appreciate your proffer on the additional
12 evidence and testimony that you have, and I think
13 that's sufficient at this point.

14 And just to make sure that the record is
15 clear: you referred to the company's support of the
16 tiered rate structure and so forth. I take it the
17 company supports the three-year phase-in that the
18 Division has proposed as outlined in DPU Exhibit 3 as
19 well?

20 MR. SMITH: That's correct. We've been
21 given a copy of DPU Exhibit 3, and we are in support
22 of that tiered rate increase as it is reflected in
23 that exhibit.

24 JUDGE GOODWILL: And the company feels
25 that if the Commission were to order such a phase-in

1 using the numbers provided by the Division, that that
2 would be a just and reasonable result in this matter?

3 MR. SMITH: That's correct.

4 JUDGE GOODWILL: Okay, great. Thank you.

5 If you have nothing further at this time,
6 I think we'll turn to Mr. Cumberland.

7 MR. SMITH: Thank you.

8 JUDGE GOODWILL: Mr. Cumberland, do you
9 have anything you would like to say? I would like to
10 hear your thoughts on the Division's proposed rate
11 phase-in. Anything else you would like to add for
12 the Commission's consideration?

13 MR. CUMBERLAND: Thank you, your Honor. I
14 have a question about the proposal, and that is, does
15 the phase-in apply only to the base rate, or does it
16 somehow apply to the -- what I think the company has
17 called the tiered rates, the rates for usage over the
18 minimum? Is there any application of the phase-in
19 to those rates, or are those rates going to be --
20 does the Division propose approval of those rates as
21 they are for immediate implementation in January of
22 '08?

23 MR. HICKEN: Yes. My analysis proposes
24 that those tiered rates be enabled in January of the
25 first year of 2008 and that the base rate be phased

1 in over three years.

2 MR. CUMBERLAND: So there's no phase-in as
3 to the tiered rates?

4 MR. HICKEN: That's correct.

5 MR. CUMBERLAND: I just wanted to be sure
6 I understood that.

7 With that, while I -- I'm reluctant for my
8 own reasons to stipulate to the justice and
9 reasonableness of the requested rates, I can
10 represent to the Commission that I will not object to
11 them, oppose them or appeal any finding of justice
12 and reasonableness as to those rates. And I will
13 stipulate along with the Company and the Division to
14 the implementation of the phase-in as proposed by the
15 Division.

16 JUDGE GOODWILL: Okay. Thank you,
17 Mr. Cumberland. Anything else you would like to add?

18 MR. CUMBERLAND: No.

19 JUDGE GOODWILL: Anything further from the
20 parties that we need to take up this morning?

21 MS. SCHMID: One question, if I may, for
22 Mr. Cumberland.

23 When you were talking with Mr. Hicken you
24 talked about tiered rates. Was that -- and just so
25 everything is clear: the tiered rates you were

1 referring to were the gallons of use?

2 MR. CUMBERLAND: The rates that apply to
3 usage over and above the minimum allocation.

4 MS. SCHMID: Thank you.

5 JUDGE GOODWILL: Okay. If there's nothing
6 further, we will go ahead and adjourn. Thank you
7 very much.

8 MR. SMITH: Thank you.

9 MS. SCHMID: Thank you.

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

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REPORTER'S CERTIFICATE

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

I, Vicky McDaniel, Registered Professional Reporter and Notary Public in and for the State of Utah, do hereby certify:

That the foregoing proceedings were taken down by Lanette Shindurling in stenotype on November 19, 2007, at the place herein named, and was thereafter transcribed by me and that a true and correct transcription of said proceedings, to the best of my ability, is set forth in the preceding pages.

WITNESS MY HAND AND OFFICIAL SEAL this 19th day of January, 2009.

Vicky McDaniel, CSR, RMR
Notary Public
Residing in Salt Lake County