

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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In the Matter: Dammeron) TRANSCRIPT OF
Valley Water Works -) PROCEEDINGS
Request for a Conservation)
Rate to be Added to its) Docket No.:
Tariff) 07-2025-T01
)
)

March 25, 2008 * 1:34 p.m.

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

Before: Steve Goodwill,
Administrative Law Judge

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

2 FOR DAMMERON VALLEY WATER WORKS:

3 Brooks Pace,
4 DAMMERON VALLEY WATER WORKS
5 285 Pinion Hills Drive
6 Dammeron Valley, Utah

7

8 FOR DIVISION OF PUBLIC UTILITIES:

9

10 Patricia E. Schmidt,
11 ASSISTANT ATTORNEY GENERAL
12 160 East 300 South, #500
13 Salt Lake City, Utah 84114

14

15 ALSO PRESENT:

16

17 Gary G. Sackett, Esq.,
18 Jones Waldo Holbrook & McDonough
19 Representing Douglas Markham and
20 Andrea Gasporra
21 Carol Thorpe - Office Manager, Dammeron
22 Valley Water Works (via telephone)

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24 Barbara Hjelle (via telephone)

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

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3 JUDGE GOODWILL: This is a Public Service
4 Commission hearing in the matter of the request of
5 Dammeron Valley Water Works to add a conservation
6 rate to the tariff.

7 Public Service Commission Docket Number
8 07-2025-T01.

9 I'm Steve Goodwill, the Administrative Law
10 Judge for the Public Service Commission. And I have
11 been assigned by the Commission to hear this matter.

12 Notice of this hearing was issued by the
13 Commission on February 22nd, 2008.

14 As stated in the notice, the plan for this
15 afternoon is to convene this evidentiary hearing and
16 to proceed with it until approximately 2:30, at which
17 time we'll recess and move straight into the Public
18 Witness hearing scheduled to begin at that time. At
19 the conclusion of the Public Witness hearing, we will
20 reconvene this evidentiary hearing, if necessary.

21 And I've had a brief discussion concerning
22 that proposed schedule with the parties present in
23 the hearing room prior to going on the record.

24 At this time I'd like to go ahead and take
25 appearances. We'll start with Dammeron Valley.

26

1 Sir, if you'll please state your name and
2 address for the record.

3 MR. PACE: Brooks Pace, 285 Pinion Hills
4 Drive, Dammeron Valley, Utah.

5 JUDGE GOODWILL: And Mr. Pace, your
6 position with Dammeron Valley Water is?

7 MR. PACE: Well, I'm the President of the
8 Dammeron Corporation, which owns the Water Company.

9 JUDGE GOODWILL: All right. Thank you.
10 And for the Division?

11 MS. SCHMIDT: Patricia E. Schmidt,
12 Assistant Attorney General, representing the Division
13 of Public Utilities.

14 JUDGE GOODWILL: Anyone else present
15 wishing to make an appearance here today?

16 MR. SACKETT: Your Honor, I'm Gary
17 Sackett. I'm here representing the interests of
18 Douglas Markham and Andrea Gasporra. And we have not
19 yet formally intervened.

20 If it is appropriate, I would like to
21 formally move to intervene on behalf of those two
22 individuals who are, as you know, complainants in a
23 matter that also involves Dammeron Valley Water
24 Works. And they have an interest that's here
25 represented by any other party.

26

1 JUDGE GOODWILL: So Mr. Sackett, just to
2 be clear, the Markham/Gasporra matter that you
3 mentioned is a complaint currently pending before the
4 Commission in a different docket.

5 Regarding the request to intervene in this
6 docket at this time, I'm not prepared to grant that
7 intervention given that the -- that your clients have
8 not sought to do so before the hearing. There may be
9 some opportunity or some reason to continue this
10 hearing beyond today. And certainly if we do that,
11 the Commission would look at any request to intervene
12 at that time. My concern is we just make sure we
13 don't unduly prejudice or delay the proceedings based
14 on your intervention request just now issued.

15 And certainly I'll also give you an
16 opportunity on their behalf to participate in the
17 Public Witness to the extent that you feel that it's
18 necessary at that time. And if you have any
19 concerns, we can address those at the conclusion of
20 the hearing as well, if you feel there are matters
21 that must be brought before the Commission.

22 MR. SACKETT: Okay. I am unaware of any
23 Commission rule that requires advance notice of a
24 motion to intervene.

25 JUDGE GOODWILL: Given that there was no
26

1 intervention deadline in this docket, I agree with
2 you there is no standing Commission rule on that
3 matter.

4 Let's just see how -- I am concerned about
5 allowing parties to intervene at the beginning of
6 hearing, however, and then trying to raise issues of
7 evidence or otherwise that prejudices the other
8 parties who have been participating or would
9 unnecessarily delay the hearing.

10 However, I am more than willing to hear
11 from you as the hearing progresses if you feel there
12 is a matter you need to raise, questions you feel
13 need to be asked or if we need to readdress the
14 intervention at another time in this proceeding.

15 MR. SACKETT: Okay. Thank you, your
16 Honor.

17 JUDGE GOODWILL: With that, I guess, Mr.
18 Pace, it makes sense to turn to you first, since this
19 is Dammeron Valley's request that we are here
20 addressing this afternoon.

21 I have read the matters filed in this
22 docket, include the Dammeron Valley request and your
23 subsequent correspondence to the Commission.
24 However, I would like you to give kind of a brief run
25 down of what Dammeron Valley is requesting. And

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1 although it's not yet before the Commission as a
2 filed exhibit, your thoughts on the Division's
3 recommendation as filed with the Commission.

4 Before you do that, if you'll go ahead and
5 stand and raise your right hand, I'll go ahead and
6 swear you in.

7 BROOKS PACE,
8 called as a witness, being first duly sworn,
9 was examined and testified as follows:

10

11 JUDGE GOODWILL: Go ahead, sir.

12 MR. PACE: Well, simply spoken, it's a --
13 we're calling it a conservation rate. And it would
14 be based on a .45 or 400 -- .45-acre feet or 400
15 gallons a day tapping.

16 What we have discovered in the 32 years
17 that we've been operating this water company is
18 regardless of the tapping size, most people don't use
19 more than about a .45, that is somewhere between 400
20 and 600 gallons, even on very large lots, say
21 five-acre lots. The smallest lots are three-quarter
22 acre lots and most of them are one acre lots. And
23 generally it's old farm ground, so it's very fertile
24 soil. No reason that they don't have gardens. In
25 fact, most do. But still, they aren't really using

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1 more that 400 or 500 gallons, unless they own
2 irrigation shares. We have an irrigation component
3 to this system where we sell irrigation water real
4 cheap. They have to use their entire culinary
5 allotment rate, then they can go into this irrigation
6 rate. If they continue to use it, they come back
7 into an overage rate, if they didn't have an
8 irrigation share.

9 The issue -- there is a lot of reasons
10 that this makes sense for Dammeron Valley. Obviously
11 it allows our water to go further. But also very
12 importantly, the fact is if we allocate an
13 800-gallon-a-day tapping or a 1200-gallon-a-day
14 tapping or in some cases some of our early
15 subdivisions, the five-acre lots, actually had a
16 1600-gallon-a-day tapping, that is two times .89, and
17 then they are only using 400 or 500 or 600 gallons a
18 day, we have unused water that's been allocated to
19 these tapplings. And it's really water that's under
20 threat of, you know, according to current laws in the
21 State of Utah, us having to forfeit water. So that's
22 been a problem I've known about for 15 years. It was
23 explained to me by the water rights people years ago,
24 that some day I may be subject to an audit and these
25 big tapplings are going to come back and haunt me.

26

1 So one thing this would do is help balance
2 the existing system; that is, if I had people on the
3 conservation rate and they went slightly over, they
4 would just be using water that wasn't used by other
5 customers. And it would help the overall balance in
6 the system.

7 But if you'll look at it, the rate, it's
8 actually using a carrot rather than a stick to
9 achieve conservation; that is, we're giving people an
10 opportunity if they're actually only using around
11 400 gallons a day and they want to convert to this
12 rate to actually save about \$12 a month or \$144 a
13 year. If they don't convert -- or if they do convert
14 to the rate and they even go a bit over and use what
15 they would be entitled to as if they had an
16 800-gallon-a-day tapping but they only do it in the
17 summer, they're still going to save money because
18 they'll be saving the \$12 through the winter.

19 So we think it will be a popular rate.
20 It's not -- it's going to be mandatory on the future
21 subdivisions. On the existing subdivisions -- and
22 there are about 420 lots subdivided under the total
23 Master Plan. On the face of Dammeron, we're
24 currently developing 500 lots, about 320 homes or so.
25 Those people will not, of course, be required to

26

1 convert. If they have two .89 tappings and they want
2 to keep them, they will have every right to. If they
3 have a .89, or whatever their tapping is, they can
4 stay on their current rate. We're offering them to
5 voluntarily convert to it if it seems to make sense
6 to them. And we think it will to a certain limited
7 number. Some of the subdivisions are in a hillside
8 that's solid rock and there is no landscape -- it's
9 all totally landscaped with native landscaping.
10 You'd have to haul in soil to actually have a garden,
11 if you do. But they're very small gardens. There is
12 almost no lawns. So those people it would probably
13 make total sense to. We think there is maybe 40 or
14 50 of those.

15 The others, I think in general, there may
16 be a few, but most of those people on the larger lots
17 out in the Valley probably won't convert.

18 So it will generally apply to the future
19 subdivisions. We have 560 acres of SITLA land, State
20 Institutional Trust Land Administration land, which
21 we are negotiating a development lease on. And
22 they've agreed to let us do the same density as the
23 rest of Dammeron Valley, two acres per lot. And so
24 it'll amount to an additional 280 lots. Those people
25 will be required -- they will be offered only the

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1 conservation rate.

2 And then, you know, you can see -- I can
3 give you many examples of how it would work, but I
4 think most of it's in my written discourse. So if
5 there is anything specifically you would like me to
6 address, I'll be happy to.

7 JUDGE GOODWILL: Okay. Thank you.

8 Ms. Schmidt, do you have any questions for
9 Mr. Pace?

10 MS. SCHMIDT: I do. And they're
11 interesting questions.

12 EXAMINATION BY

13 MS. SCHMIDT:

14 Q. Mr. Pace, some of these are just for our
15 general knowledge.

16 In Dammeron Valley, is there the same
17 source for both irrigation and culinary water?

18 A. Yes.

19 Q. Is irrigation -- is both irrigation and
20 culinary water sent to the lots through the same
21 pipes or is it separate piping?

22 A. Same pipes.

23 Q. If someone turns in part of their water
24 right or their water allocation to Dammeron Valley,
25 are they going to be compensated in any way for such

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1 relinquishment?

2 A. Other than the fact that they can save
3 \$144 a year if they are actually not going into
4 overage, no.

5 Q. Okay. Your proposed tariff has an
6 administrative fee of \$25 for conveying water rights.

7 What sort of administrative burden is
8 involved in the conveyance of water rights on the
9 side of Dammeron Valley? In other words, what would
10 the \$25 cover on Dammeron Valley's side?

11 A. Right. In our tariff already we have a
12 \$25 administrative fee for a new connection. So it's
13 really just an administrative fee to register the
14 owner of the right. We have certificate books. Some
15 of the rights are owned by deed. Whatever it takes.
16 We maintain who those owners are. If they own the
17 rights by deed, it's even more complicated. We have
18 to, you know, make sure that they are, you know --
19 the problem is, water rights are not being -- you can
20 file the deed at the County, but water rights does
21 not necessarily pick up the recordation anymore.
22 They used to, but they don't anymore.

23 So you can't really depend on the County
24 records or the Division of Water Rights' records in
25 order to know who owns the water right.

26

1 JUDGE GOODWILL: Mr. Pace, I'm sorry to
2 interrupt you.

3 If you could please make sure your
4 microphone is turned on. The green light is turned
5 on.

6 And please speak into it to make sure
7 we're picking it up.

8 THE WITNESS: Do I need to back up?

9 JUDGE GOODWILL: If you could a little.

10 THE WITNESS: I think what I'm saying is
11 the -- what was I saying, Patricia?

12 Q. (By Ms. Schmidt) You were talking about
13 the \$25 administrative fee.

14 A. It's actually much more difficult to keep
15 track of the irrigation water than the culinary
16 shares because there is no deeding, there is no
17 certificates, there is simply a pertinence to law.

18 The irrigation shares can be sold, leased
19 or transferred to other people in Dammeron Valley.
20 That is they can't be sold or transferred outside of
21 Dammeron Valley, but to any other subdivided lot in
22 Dammeron Valley, those shares can be leased or
23 transferred.

24 So this -- if they are certificated, it's
25 pretty straight forward. If they are a deeded right,

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1 it's a little more complicated. And it's certainly,
2 I think, worth \$25 to somebody making those
3 transactions for us to keep track of their water
4 rights, is what it comes down to.

5 Q. In your presentation this afternoon, you
6 mentioned that water not used possibly could be
7 forfeited.

8 Would it change your support for this
9 conservation tariff if you learned there was a Utah
10 bill recently passed -- and I'm not sure of its
11 status with regard to being signed by the Governor --
12 that I believe eliminates the possibility of
13 forfeiture for a water company?

14 A. Actually, that's not true. House Bill 51
15 applies to water that's being -- and I don't know
16 that I know the bill totally, but as I understand it,
17 what they are really talking about is if you have a
18 master planned subdivision of, say, 500 lots and
19 you've only developed 250 of the lots, you don't
20 necessarily have to keep that other 250 lots under
21 use in irrigation. They'll actually treat you more
22 like a municipality and allow you to just sort of
23 bank that for the future master planned lots.

24 Q. Okay.

25 A. But I think the situation that I laid out

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1 is totally different than that.

2 Q. Okay.

3 A. It's just actually allocated water that
4 isn't being used.

5 Q. And then lastly you mentioned the
6 possibility, or probability, of developing State
7 Trust Lands land?

8 A. Right.

9 Q. Where will the water come from to support
10 that development?

11 A. We'll expand our service area. It will be
12 the exact same system.

13 Q. And who has the water rights currently to
14 support that development? Does Dammeron Valley Water
15 Works, the Water Company itself, have sufficient
16 water rights support that development?

17 A. They are actually being held in a holding
18 company called Stoddard Land Company, LLC. There is
19 495-acre feet that they hold.

20 MS. SCHMIDT: Thank you.

21 JUDGE GOODWILL: I've got a few questions,
22 Mr. Pace.

23 EXAMINATION BY

24 JUDGE GOODWILL:

25 Q. Just to pick up on what Ms. Schmidt just

26

1 asked, so the Stoddard Land Company, I believe you
2 referred to it as, that has the 495-acre feet of
3 water, that's what Dammeron Valley would use for
4 future development?

5 A. Right.

6 Q. Any water rights turned over to Dammeron
7 Valley Water Works by current customers, those rights
8 aren't necessary to support Dammeron Valley's planned
9 future development?

10 A. No.

11 Q. I would like to just turn to the rates
12 themselves for a moment.

13 As I understand it, Dammeron Valley's
14 current rates, not what you've requested for in the
15 conservation tariff, but the current rates have a
16 culinary rate that's essentially 20,000 gallons --
17 for the first 20,000 gallons, it's a flat \$30 fee?

18 A. Right.

19 Q. There are certain customers that own
20 irrigation shares, or irrigation rights, that are
21 residents in Dammeron Valley, who in order to, under
22 the current structure, use those irrigation -- use
23 water under those irrigation rights, must first use
24 the 20,000 gallons per month; is that right?

25 A. Actually, they need to use their entire
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1 allotment. So if they have two .89s, they actually
2 have to use a total of 48,000 -- well, excuse me --
3 yes. They have to use a total of 48,000. But we
4 only bill every two months.

5 This could get confusing.

6 Q. That's okay.

7 A. So I'm going to talk monthly because it's
8 simpler to understand. But when the guy gets his
9 bill, of course it's for two months.

10 If he has two 800-gallon-a-day rights,
11 meaning 48,000 gallons, he has to use both those
12 before he goes onto the irrigation rate.

13 So when years back, when we first adopted
14 the irrigation rate, it was in about 1984 or
15 something. It's been a long time. 20-plus years.
16 We gave all those people with those big tappings an
17 opportunity to make a one-time conversion back to a
18 single .89, or 800-gallons-a-day. So they weren't
19 sort of penalized. They owned an irrigation share,
20 which was very cheap, yet they had to use 48 times
21 \$1.50, so \$60 worth of water before they got the
22 opportunity to buy the cheap water. So we allowed a
23 one-time conversion back. Many did it, many didn't.
24 Probably about 50/50 kept the larger rights, not
25 wanting to give up anything because if they are big
26

1 users and they even go over their irrigation right,
2 as I mentioned in the beginning, they then go into an
3 overage rate. So a lot of people have kept those
4 large rights and they use that entire culinary rate
5 before they get an opportunity to go to the
6 irrigation rate.

7 As this applies to the conservation
8 tariff, in the beginning the Division proposed that
9 if you owned a conservation right, you couldn't own
10 an irrigation right. But that -- we had to -- and
11 that's why in my letter of March 12th I recommended
12 four other things we ought to consider. The first
13 three are really technical. The third one is a whole
14 new subject and maybe we can't hear it today.

15 But the first one was that if a person is
16 on the conservation tariff and he uses -- and he
17 winds up owning and leasing, however he comes by an
18 irrigation right, he still has to use the full
19 24,000 gallons before he goes into the irrigation
20 rate.

21 So do you have that paragraph in front of
22 you?

23 Q. Yes.

24 A. So you can see -- you want me to explain
25 it further?

26

1 Q. Yes. Why don't you go ahead.

2 A. He has to use, of course, the 12,000 he's
3 allotted for his \$18. Then he has to use 12,000 more
4 at \$2. So he's now paid a total of \$42. And then he
5 can start using his irrigation right.

6 The other people that have, say, one
7 tapping, they've paid \$36 before they can start using
8 their irrigation right.

9 So it's a little bit of a disadvantage for
10 the conservation guy. But remember, all winter you
11 won't be irrigating and he'll be saving \$12 a month
12 all winter. So that \$6 premium in the summer is --
13 actually he still could save money on the
14 conservation tariff.

15 Q. Do you recall -- can you explain for me
16 why the current tariff is structured the way it is
17 such that folks need to use their entire culinary
18 allotment before moving to the irrigation?

19 A. Well, that was actually a thing that came
20 out back in the '80s when we proposed the irrigation
21 rate was they could see -- I mean, there was no other
22 way to not just totally hammer the revenues of the
23 Water Company if you let them use their irrigation
24 rate first because didn't know whether you would be
25 paying -- you know, the irrigation rate is revenue

26

1 neutral, it's 25 cents for 1,000 gallons, which is
2 what we consider about the cost of pumping or
3 repairing the pumps. Probably maybe even lose a
4 little bit of money on it. But it's certainly not a
5 revenue producer.

6 So the culinary is what generates the
7 money to pay the salaries, the power bill, the
8 repairs and maintenance, the incomes, et cetera. And
9 the -- so we're dependent. That's why I say we have
10 to have people use their full culinary allotment
11 before they get this cheap water.

12 Q. And using the terms in the current tariff,
13 I think you were explaining before, if people have
14 one share or two shares or one right or two rights,
15 we've got one tapping, one and a half tapping and two
16 tappings; that's what you're referring to?

17 A. That's what I'm referring to. In my
18 second paragraph there I'm proposing that we simplify
19 the tariff by getting -- the one and a half tappings
20 is a very confusing term to the new comers in the
21 Valley. It may be confusing to almost anybody that
22 looks at it.

23 So we would like to number the tariffs
24 from the smallest allocation to the largest. And
25 just have them numbered, rather than called a one and
26

1 a half tapping or a two tapping or a one tapping.

2 And that's just for clarity.

3 Q. Now the proposed conservation tariff, if
4 that were approved, would it in any way affect the
5 rates we just spoke about for those who choose not to
6 enter into the conservation tariff?

7 A. Absolutely not. They can stay on their --
8 I mean, we would be -- if we ever decided to raise
9 rates, we would do it for everybody. We're still
10 being very consistent in the base \$1.50 per 1,000
11 gallon charge. That applies to everybody. And if we
12 -- that's our base rate. If we ever changed it for
13 any number -- any one of the numbers on the tariff,
14 we would change it for all of them.

15 So it wouldn't affect them. No.

16 Q. The rates would stay the same?

17 A. Right.

18 Q. The necessity of using all of your
19 culinary water allotment prior to moving to the
20 irrigation would stay the same?

21 A. Stay the same. And it would even be a
22 little more difficult for the conservation rate
23 holder because he would actually have to pay some
24 overage, buy some overage water before he went onto
25 the irrigation rate. Per my paragraph one, in the

26

1 March 12th letter.

2 Q. Per your new proposal in the March 12th
3 letter?

4 A. Right.

5 Q. As the conservation rate is currently
6 proposed, how would the overage be -- first of all,
7 just to clarify, under the conservation rate, there
8 is no irrigation rate?

9 A. No irrigation rate in the one and a half
10 tapping or the one tapping. The irrigation thing is
11 a thing over and above that the person actually has
12 to acquire the right to that irrigation water.

13 Q. As proposed under the conservation rate,
14 the customer would simply get their first 12,000
15 gallons for \$18; the next 12,000 for \$2 per 1,000
16 gallons; anything over that would be \$3 per 1,000
17 gallons?

18 A. Right. Well, and -- yes. If you add an
19 irrigation rate between the second tier and the third
20 tier, he could use his irrigation water.

21 But then if he used all of his base rate
22 for \$18, then the next 12,000, for \$24, that's \$42,
23 he now would get 40,000 gallons for \$10. And then he
24 would go back into a \$3 rate.

25 Q. Okay. I'm not sure that I understood that

26

1 from reading the new conservation rate.

2 So a person can enter into the
3 conservation rate without giving up their irrigation
4 share or rights?

5 A. Right. We -- the thing is, like I said, I
6 have no control who owns them because they are freely
7 tradable within the Valley. They can't sell them to
8 the person in the neighboring community, but anybody
9 in the Dammeron Valley subdivisions, it's an open
10 market. They trade hands all the time. That's what
11 that \$25 charge is about for us to help track it.

12 So what I was saying is in the beginning,
13 the Division had proposed with the conservation rate,
14 you could not own an irrigation share. But that had
15 a built-in problem in that I can't control who owns
16 an irrigation share.

17 So my paragraph one of the March 12th
18 letter was how I proposed handling it.

19 JUDGE GOODWILL: Let me find that again.
20 One moment, please.

21 Okay. Thanks. I'm sure I'll probably
22 have more questions for you as we go on. But I think
23 now it makes sense just to go --

24 Is that all you have, Mr. Pace, for now?

25 MR. PACE: Yes, sir.

26

1 JUDGE GOODWILL: Okay. We'll turn to the
2 Division.

3 Ms. Schmidt.

4 MS. SCHMIDT: Thank you. The Division has
5 one witness in this matter.

6 The Division calls Ms. Shauna
7 Benvegna-Springer as the Division's witness.

8 Could Ms. Benvegna-Springer please be
9 sworn in?

10 JUDGE GOODWILL: Sure. If you could
11 please rise and raise your right hand, I'll go ahead
12 and swear you in.

13 SHAUNA BENVEGNA-SPRINGER,
14 called as a witness, being first duly sworn,
15 was examined and testified as follows:

16

17 JUDGE GOODWILL: Thank you. Please be
18 seated.

19 EXAMINATION BY

20 MS. SCHMIDT:

21 Q. Good afternoon. Could you please state
22 your name and business address for the record.

23 A. Shauna Benvegna-Springer. I work for the
24 Division of Public Utilities, at 160 East 300 South,
25 Salt Lake City, Utah.

26

1 Q. And what is your title with the Division
2 of Public Utilities?

3 A. I am a utility analyst.

4 Q. Have you been involved on behalf of the
5 Division in this docket?

6 A. I have.

7 Q. And is it true that prior to your
8 involvement there was a Division employer named Paul
9 Hicken involved in this docket?

10 A. There was.

11 Q. Have you had a chance to review the
12 memorandum he filed, dated February 8, 2008, in this
13 docket?

14 A. I have.

15 Q. Thank you. Did you prepare what's been
16 marked as Exhibit DPU 1, which is a memorandum, dated
17 March 24th, to the Public Service Commission, from
18 the Division of Public Utilities, entitled, "In the
19 matter of the Request of Dammeron Valley Water Works
20 to add a conservation rate to its tariff? And in
21 addition to the memorandum there is not an Exhibit
22 1.1, but there is a 1.2, 1.3, 1.4, 1.5 and 1.6.

23 So did you prepare those?

24 A. I did.

25 Q. Do you have any corrections that you would
26

1 like to make to that DPU 1.1?

2 A. Yes. Under the conservation rate
3 paragraph, it says, "1 tapping," we should ignore
4 that.

5 And we're consolidating this all under new
6 connections. So all tapplings would be considered
7 under the conservation rate.

8 Q. So I just cross out the "1 tapping" phrase
9 that's closer to the left-hand margin?

10 A. Yes.

11 Q. Also with respect to the February 8th
12 memorandum, you have read and reviewed that on behalf
13 of the Division of Public Utilities; right?

14 A. That is correct. Yes.

15 MS. SCHMIDT: At this point, the Division
16 would like to seek admittance of DPU 1.0, with its
17 attached Exhibits 1.2, 1.3, 1.4, 1.5 and 1.6.

18 And also the February 8th memorandum
19 entitled "Dammeron Valley Water Works - Request for a
20 conservation rate to be added to their tariff, Docket
21 Number 07-2025-01, prepared by Paul Hicken, and
22 marked for identification as DPU Exhibit 2.0.

23 JUDGE GOODWILL: Mr. Pace, any objection
24 to their admission?

25 MR. PACE: I wish I could see the
26

1 document. I don't know if I've ever seen that.

2 MS. SCHMIDT: Haven't you received those?
3 Right -- right here is the February 8th letter. And
4 right here in front of you is the memorandum, dated
5 the 24th, which is DPU 1.0, with its attached
6 exhibits.

7 MR. PACE: Okay. But we haven't addressed
8 my March 12th issues, which I guess is my only
9 concern probably with what you have added. But I
10 still feel the March 12th concerns, the first three
11 items there.

12 MS. SCHMIDT: As the proponent, you can
13 have the ability to discuss those at this hearing
14 today.

15 MR. PACE: Okay.

16 JUDGE GOODWILL: So no objection, Mr.
17 Pace?

18 MR. PACE: No.

19 JUDGE GOODWILL: Okay. We'll go ahead and
20 admit DPU Exhibit 1, with its attachments, and DPU
21 Exhibit 2.

22 (DPU EXHIBITS-1.0 AND 2.0 WERE ADMITTED.)

23 MS. SCHMIDT: Thank you.

24 Q. (By Ms. Schmidt) Ms. Benvegna-Springer,
25 do you have a brief summary that you would like to

26

1 give today?

2 A. I do.

3 Q. Please proceed.

4 A. The Division makes a recommendation to go
5 ahead and approve the conservation tariff as proposed
6 with two -- with three exceptions.

7 First, that we would like to have
8 clarification language placed into the tariff that
9 states: "All customers of record of the effective
10 date of the conservation rate have a voluntary option
11 to exercise the use of the conservation rate.
12 Customers of record who do not wish to exercise the
13 conservation rate will remain with the current
14 tariffs as approved on June 2004 or as amended by the
15 Public Service Commission."

16 The second exception we would like
17 approved by the Commission for this rate would be the
18 understanding that Dammeron Corporation, since it is
19 a parent, would subsidize any losses incurred by the
20 Water Company, Dammeron Valley Water Works, for the
21 next four years.

22 And its come to my attention that we have
23 a third connection -- or a third exception, which
24 would be to ensure that Dammeron Valley Water does
25 have the proper water rights available to them. And

26

1 we would request proof of that.

2 Just by way of explanation for our
3 recommendation, there has apparently been some
4 confusion with some of the homeowners as to whether
5 or not they have to go to this current rate or
6 whether they do -- they can stay with the current
7 tariffs. And so that's the main reason for the
8 explanation of the language added to the tariff.

9 Second, with regards to doing an analysis
10 on the conservation rate for the past four years and
11 looking at draft financials for the fifth year, which
12 would be 2007, Dammeron Valley Water Works has
13 produced a net profit. With the change of the
14 conservation rate, it does project that they would be
15 having losses. And those losses would then need to
16 be subsidized in some fashion. And so Mr. Pace has
17 indicated that Dammeron Corporation would subsidize
18 those losses and keep the Company whole.

19 Just in summary, as far as the impact to
20 the customers, there is roughly 440 customers, based
21 on the 200 -- the 2006 information. Of those 440
22 potential customers, 313 of them are currently being
23 served, 91 are stand by customers, 14 of the lots are
24 ready to be hooked up and 22 are still unfinished
25 lots. Through our analysis, it shows that there

26

1 would be probably 90 customers who would possibly
2 take advantage of this conservation rate. So we do
3 see that as an advantage to the customer.

4 Therefore, we recommend that the
5 conservation rate be approved.

6 MS. SCHMIDT: Also, the Division would
7 like to request the Commission to take administrative
8 notice of what has been marked as DPU Exhibit 3.0.
9 It is my understanding that this memorandum has been
10 filed with the Commission in a companion docket
11 addressing a billing dispute by Dr. Markham and Ms.
12 Gasporra.

13 MR. SACKETT: She's also a doctor, by the
14 way.

15 MS. SCHMIDT: Doctors Markham and
16 Gasporra.

17 And we would request that this be admitted
18 as it does relate to the February 8th memorandum
19 previously admitted as DPU Exhibit 2.0.

20 JUDGE GOODWILL: Ms. Schmidt, could you
21 kind of point me, in DPU Exhibit 3.0 for
22 identification, to the section relevant to today's
23 proceeding?

24 MS. SCHMIDT: Yes. When we look at DPU
25 2.0, February 8, at the bottom of the first page we

26

1 see -- oh, I'm sorry.

2 I believe that this addresses existing
3 rates and how they can be just and reasonable.

4 JUDGE GOODWILL: You're referring to DPU
5 Exhibit 3.0?

6 MS. SCHMIDT: Uh-huh. And I believe
7 although it perhaps may be tangentially connected, I
8 believe that because the issues surround the same
9 water company, it might be helpful to have it
10 admitted in this docket.

11 JUDGE GOODWILL: I'm not inclined to admit
12 DPU 3.0 as evidence in this docket. I understand
13 your request that the Commission take administrative
14 notice.

15 Given that this was a filing with the
16 Commission in a separate docket and the Division's
17 assertions in this memo have not been put to any
18 scrutiny in a hearing, such as today's, I'm not
19 inclined to take administrative notice to the extent
20 that the Commission would base any of its findings in
21 this proceeding on any information or assertions made
22 in DPU Exhibit 3.0.

23 I'll also just note that the
24 reasonableness of current rates has already been
25 decided by this Commission. And while I am aware
26

1 that customers have raised complaints with respect to
2 current rates, perhaps in the Markham and Gasporra
3 complaint, and also via some e-mail filings to the
4 Commission in the last few days in this hearing, I
5 don't think that's a matter that's really up for
6 discussion or reconsideration at this point.

7 So unless there is something that really
8 impacts whether or not the proposed conservation rate
9 should be addressed or should be approved, I'm not
10 inclined to really take notice of DPU Exhibit 3.0 for
11 any purpose at this time.

12 Do you have anything further, Ms. Schmidt?

13 MS. SCHMIDT: Not regarding DPU
14 Exhibit-offered-but-not-accepted 3.0.

15 However, I would like to note that Ms.
16 Benvegna-Springer is now available for
17 cross-examination.

18 JUDGE GOODWILL: Okay. Thank you.

19 Mr. Pace, do you have any questions for
20 the DPU witness?

21 MR. PACE: Well, no questions. We've
22 talked about it. I see how she's arrived at it. I
23 don't think it's going to be as painful as she's
24 concluded. But if it is, we will subsidize the
25 Company as we've been doing for 32 years.

26

1 JUDGE GOODWILL: So you don't necessarily
2 agree with the projected shortfall of \$30,056; is
3 that what you're saying?

4 MR. PACE: Well, she's believing that 90
5 people will convert. And I just can't imagine 90
6 people will actually change to the conservation rate,
7 knowing people's attitudes towards water. They don't
8 want to give up this blanket water right. But some
9 will.

10 JUDGE GOODWILL: Thank you.

11 EXAMINATION BY

12 JUDGE GOODWILL:

13 Q. Ms. Benvegna-Springer, concerning the
14 anticipated switch over of 90 customers to the
15 conservation rate, how did you arrive at that number
16 and what customers did you identify as the people
17 wanting to switch?

18 A. What we did was we took a look at the
19 utilization schedule from 2006 of water for all of
20 the customers and took a base line of anybody who
21 would be using basically 120,000 gallons of water a
22 year or less. And that totaled up to about 88
23 customers.

24 When I talked with Ms. Thorpe, she had a
25 number of 93. And so we took a round number of 90.

26

1 MS. SCHMIDT: Pardon me. And Ms.
2 Benvegna-Springer, could you please identify with
3 whom Ms. Thorpe works?

4 THE WITNESS: Ms. Thorpe is, I believe, an
5 office manager with Dammeron Valley Water Works.

6 Q. (By Judge Goodwill) And you references
7 180,000 gallons?

8 A. 120.

9 Q. Excuse me. And how did you arrive at that
10 number? Why did you use that number?

11 A. It's basically taking the amount of 10,000
12 gallons for 12 months. And if you're using that much
13 each month, more than likely you're going to convert.

14 MR. PACE: If you're only using that
15 amount.

16 THE WITNESS: Yeah.

17 MR. PACE: If you're using over that, then
18 you may be going into overages.

19 Carol, who is on the phone, and can speak
20 for herself, we've offered people to call up and
21 we'll do an analysis for them and tell them whether
22 we think they'll save money if they convert. So what
23 we determined in doing 15 or 20 analyses, is that
24 it's very simple. You won't convert if you're
25 already going into overage all the time. You want to

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1 keep the biggest right you possibly can to save your
2 average rate.

3 If you live within your allocated amount,
4 which Laura's come up with 120,000 a year, you'll
5 probably convert. And then you might not do it just
6 because you say I don't want to give up the water
7 right or my kids may inherit this lot and they may
8 want to do a bigger garden.

9 You know, there is a lot of reasons --
10 that's why I think 90 is a little high. 90 is the
11 only ones really probably going to make sense. That
12 is, we did an analysis for them. There is only about
13 90 to 93 that we would recommend that they could save
14 money if they convert. But like I said, I think it
15 would be optimistic to even think half of them may do
16 so.

17 But that's conjecture. I don't know.

18 JUDGE GOODWILL: Well, just to be clear,
19 Mr. Pace, because when you throw out the terms "water
20 rights" and so forth, you said, "some folks may not
21 want to give up their water right." But you
22 testified earlier, people aren't actually going to
23 give up their water rights.

24 Do you mean they don't want to give up
25 their right to use -- their fully -- your current
26

1 irrigation prices?

2 MR. PACE: No. Not irrigation. Culinary.
3 Remember the \$1.50 per thousand, which is our base
4 rate, applies to the person with the one tapping, to
5 get you confused on the one, one and a half and two,
6 up to 24,000 a month. On the one and a half tapping,
7 you're looking at 36,000 a month. And if he has two
8 full tapplings, per our current tariff, he can use
9 48,000 of that base rate before -- if he has an
10 irrigation share, then he pays irrigation and then
11 goes into overage. If he has no irrigation, then he
12 goes into overage there.

13 So just to make it simple, if you have one
14 tapping you go into overage after only 24,000 per
15 month. If you have full tapplings, you don't go into
16 overage until 48.

17 So the right I'm talking about is not a
18 WUC right. It's just a culinary right per the
19 internal mechanisms of our system and as approved by
20 the Public Service Commission.

21 JUDGE GOODWILL: So this is where we get
22 into your paragraph one of your March 12th letter, I
23 guess. If people move to the conservation tariff and
24 also have an irrigation right, they would use the
25 24,000 gallons under the culinary rate before moving

26

1 to their irrigation right?

2 MR. PACE: Exactly.

3 JUDGE GOODWILL: If they stay, under the
4 current rate structure, they would use 48,000 --

5 MR. PACE: Well, if they have two
6 tappings.

7 But if they have one, they would use 24,
8 but they would buy it for \$36, rather than the guy on
9 the conservation tariff, who would pay \$42 for that
10 24,000 gallons.

11 JUDGE GOODWILL: Okay. So what the people
12 would be losing is the lower rates that they
13 currently enjoy?

14 MR. PACE: Right. For an increment of the
15 water.

16 JUDGE GOODWILL: For an increment of the
17 water. Right. Okay.

18 Q. (By Judge Goodwill) And Ms.
19 Benvegna-Springer, in general, what would happen if
20 less than 90 customers decide to switch to the
21 conservation rate? What would that do to the
22 Company's profit or loss?

23 A. It would decrease their loss. It would
24 still encumber a certain amount of loss dependant
25 upon the number that would switch.

26

1 I went with the worse case scenario,
2 assuming that all of them -- if all of them went that
3 would potentially hit that ceiling, then this would
4 be the outcome.

5 Q. So for each customer that switches to the
6 conservation tariff, each current customer that
7 switches, the Company essentially loses money,
8 according to your analysis?

9 A. That's right. In the short -- for a short
10 period of time.

11 But the growth that would be coming on,
12 that would eventually offset that and would bring the
13 Company back into profit. And so that's why we were
14 requesting it for a four-year period of time.

15 JUDGE GOODWILL: Ms. Schmidt, anything
16 further at this time?

17 MS. SCHMIDT: Nothing further.

18 JUDGE GOODWILL: Okay. Let's go ahead and
19 go off the record for a moment.

20 (Evidentiary Hearing briefly suspended at
21 2:26 p.m.)

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1 (Public Witness Hearing commenced at 2:41
2 p.m.)

3

4 JUDGE GOODWILL: On the record in the
5 matter of the Request of Dammeron Valley Water Works
6 to add a conservation rate to its tariff.

7 Public Service Commission Docket Number
8 07-2025-T01.

9 We're moving now to the Public Witness
10 portion of today's proceedings.

11 I apologize for the brief delay in getting
12 started with Public Witness.

13 I believe we have at least one customer on
14 the telephone who would like to make a statement
15 during this session.

16 Do we have anybody in attendance here in
17 the hearing room who wants to make a statement during
18 this Public Witness proceeding?

19 And I know, Mr. Sackett, we had discussed,
20 and we also discussed while we were off the record,
21 that we wanted to give you that opportunity.

22 Why don't we turn to you first. Again,
23 you're representing Doctors Markham and Gasporra in
24 another complaint matter that's currently before the
25 Commission. And I believe you had some concerns --

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1 or they had some concerns that you wanted to
2 represent here today with respect to Dammeron
3 Valley's rate increase.

4 So again, identify yourself and make your
5 statement.

6 MR. SACKETT: Yes. I'm Gary Sackett,
7 representing Dr. Markham and Dr. Gasporra, who are
8 customers on the Dammeron Valley Water Works system.

9 And as we have discussed, they are the
10 complainants in another docket, 07-2025-01.

11 I'll keep this relatively brief.

12 In that docket, the Division of Public
13 Utilities issued a report to the Commission that was
14 responsive to the Hearing Officer's -- Administrative
15 Law Judge's request that the Division conduct an
16 investigation and an audit. And that was issued by
17 memo, dated September 11th of 2007. And two items in
18 it are worthy of noting in this docket.

19 The first is that there was a conclusion,
20 at least at that time, by the Division that Dammeron
21 Valley Water administration and billing is fraught
22 with errors. And then they go on to explain a little
23 about why they thought so. And then there were a
24 series of recommendations. Some of which are not
25 relevant here, but one of which is relevant here.

26

1 And that is Recommendation Number 4 from the Division
2 was that they recommended that the requested tariff
3 be denied, and that's this tariff proceeding they
4 were talking about, until such time that DVWW can
5 provide clear and convincing evidence that its
6 billing and collection practices are accurate and the
7 Company is in full compliance with its filed tariffs.

8 Now that complaint docket has not been
9 completed yet. So to the extent that there is a
10 recommendation on the record in that proceeding that,
11 frankly, has not seen the test of time or the test of
12 cross-examination or the test, frankly, of what is
13 the effect of the subsequent memorandum that was
14 filed in that docket, and which was denied admission
15 as evidence in this docket, we don't know. And it
16 seems to me that until that matter is cleared up, it
17 does leave a cloud on this proceeding.

18 So I'm not suggesting, and the
19 complainants in that docket are not suggesting, that
20 this is a bad tariff provision per se, but only that
21 there is unfinished business to be taken care of.

22 Secondly, the Markhams -- let me just
23 refer to them as "Markhams." They are husband and
24 wife. The Markhams have some of the same concerns
25 that have been indicated by a Ms. Hjelle in her

26

1 filing with the Commission. And I don't know what
2 the other e-mails would have contained that your
3 Honor has referred to earlier, but the provisions in
4 the footnotes of the proposed tariff that speak to
5 what appear to be arbitrary -- arbitrary authority
6 left in the hands of the water works company to
7 require that customers who own water shares can't use
8 their water shares seems questionable. Now maybe it
9 doesn't affect those who don't convert, but we
10 haven't decided yet which customers would or would
11 not convert. And it wasn't, frankly, clear in that
12 tariff provision whether or not it would apply to all
13 customers. There does seem to be some suggestion
14 that Dammeron Valley thinks it has the authority to
15 simply curtail water at its judgement about what
16 conditions require.

17 So that's an unanswered question we have.

18 Finally, I guess, I don't see that
19 anything that's been done here suggests there is any
20 exigent circumstance that requires this to be
21 approved or disapproved immediately. And the
22 suggestion that the customers here, the affected
23 parties here are, frankly, in Washington County.
24 They are not here. And to the extent that there have
25 been concerns raised, and Ms. Hjelle, I think, has

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1 made the suggestion that it might be appropriate, in
2 fact I believe it is appropriate considering where
3 the customers are, to hold the proceeding in St.
4 George, or in around, somewhere in Washington County,
5 that would give customers of the Water Company a real
6 chance to participate.

7 Those are our concerns. And I would also,
8 I guess, raise more formally the objection that I
9 think that the Markhams should have been allowed even
10 at the beginning of this proceedings to be formally
11 admitted as interveners in this case, that there are
12 really no requirements of the Commission that would
13 preclude their being admitted as formal interveners.
14 And no party, so far as I can tell, would have been
15 prejudiced by it.

16 Thank you.

17 JUDGE GOODWILL: Thank you, Mr. Sackett.
18 And in as much as the Public Witness Hearing is
19 typically used as a forum to provide customers an
20 opportunity to get answers to their questions from
21 the Company involved, I would be happy to allow you
22 to ask the questions you just raised.

23 And I'm sorry I didn't note them myself.
24 I had intended to do some of that when we returned to
25 the Evidentiary Hearing. But if you would, feel free
26

1 to ask those questions to Mr. Pace and/or the
2 Division representatives.

3 MR. SACKETT: Okay. When we return to the
4 evidentiary portion?

5 JUDGE GOODWILL: No. Go ahead and do that
6 now.

7 Basically the way I'm operating, and I
8 know it's kind of an hybrid thing, is you are here
9 representing your clients who are customers. And it
10 sounds to me you are representing if your customers
11 were here, they would like to ask these questions.
12 And so go ahead and ask them and we'll see if we can
13 get some answers.

14 MR. SACKETT: Okay. Thank you, your
15 Honor.

16 Mr. Pace, can you help me understand a
17 little bit about the footnotes in the proposed
18 tariff? In particular, the footnote that says --
19 number two. It says, "All customers may be required
20 to discontinue irrigating if required to do so by
21 Dammeron Valley Water Works."

22 How is that decided and who makes the
23 decision?

24 Let me ask them one at a time.

25 Who makes that decision or who would make

26

1 that decision?

2 MR. PACE: Mother nature would make that
3 decision for us and/or just a catastrophe beyond our
4 control.

5 Look, I believe irrigation water for every
6 community is an important set aside for the drought
7 years, for the time a pump goes out, for any other
8 natural catastrophe. So I'm not trying to be
9 dictatorial with it. We have never, ever generally
10 told everybody to turn off. However, in the summer,
11 if a pump goes off -- we have big irrigation users
12 and smaller irrigation users. Some have as many as
13 20-acre feet and most of them just have one-acre
14 foot. We have never asked a one-acre foot person not
15 to irrigate. But we will go if we have a pump down
16 and we're afraid our tanks are going to go down
17 through the night, we will go to the big users and
18 say, "Please don't irrigate for a few days."

19 So I'm just seeing irrigation water being
20 non-essential and a good place to build drought
21 resistance or catastrophe resistance into the water
22 system.

23 And as we're independent, we aren't
24 connected to any other neighboring community, we
25 can't tap into St. George or the Conservancy District

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1 line. We are totally out on our own. And we to
2 build -- I have -- in the existing community of
3 Dammeron Valley, the 500 lots we're developing, we
4 have set aside 50 acres for irrigation. It's mainly
5 along the highway so it has the double benefit if
6 some day, when people are using it, it will keep the
7 highway frontage green.

8 It's also because we are a rural community
9 and we'd like to see people be able to have
10 additional water at a cheap rate to grow gardens, et
11 cetera.

12 But underneath it all is this protection
13 for the culinary customers. So that Ms. Hjelle and
14 Mr. Sackett are concerned that we're taking to
15 ourselves too much power in this, I think it's only
16 good planning. We're certainly not going to misuse
17 that right.

18 MR. SACKETT: Don't you have tariff
19 provisions already in existence that provide for
20 force de jour kinds of situations?

21 MR. PACE: Like what?

22 MR. SACKETT: Well, as you just described,
23 the example of a pump going out?

24 MR. PACE: We have redundancy; is that
25 what you mean? We have a redundancy in storage and a

26

1 pump.

2 MR. SACKETT: No. I'm talking about your
3 tariff. Aren't there provisions in your tariff that
4 would provide you with some authority to deny water
5 where you have, for example, a pump outage or
6 something of that kind?

7 MR. PACE: I don't believe we do.

8 Do you think we do, Patricia?

9 MS. SCHMIDT: I do not know. I haven't
10 looked at that.

11 MR. PACE: I mean, it's a simple tariff.
12 It's all written out. It's two pages.

13 No. We don't.

14 MR. SACKETT: It's actually more than two
15 pages, Mr. Pace.

16 MR. PACE: I've got it right here if you
17 would like to look it over?

18 JUDGE GOODWILL: I think the answer is
19 sufficient. You don't have that provision -- you
20 believe you have that provision.

21 MR. PACE: This is the entire tariff.
22 It's two pages.

23 JUDGE GOODWILL: So to answer Mr.
24 Sackett's question, though, Dammeron Valley, you or
25 somebody within your company, would make that

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1 decision to say, "Hey, Irrigation User, don't
2 irrigate"?

3 MR. PACE: Yes.

4 MR. SACKETT: And what would be the
5 standard for that?

6 MR. PACE: Just that we had a pump out and
7 our emergency pumps -- we have redundancy in our
8 pumps. We can serve the Valley with about 300
9 gallons a minute. We can pump 1,200 gallons a
10 minute. But like I say, we aren't near a neighboring
11 city that can help us out. I don't want to be
12 trucking it up in diesels some day and so I --
13 redundancy is the name of the game. I'm planning to
14 drill another well that'll add another 1,200 gallons
15 pumping capacity to the system. Redundancy is what
16 it's all about in water companies.

17 But because we're isolated, we have no
18 other -- you know, we're served by a remote power
19 line. We even bought a generator that can pump water
20 and we have it sitting up there for use if the power
21 goes out. We've never had to use it. But we take
22 this business very seriously. And I'm just saying
23 that if my big pump goes out in the middle of July
24 and I'm going along okay, even with the big pump out
25 and my two small pumps, they can cover things. But

26

1 if one of those goes out, I'm in trouble. And I'll
2 make the decision.

3 MR. SACKETT: Okay. And I think customers
4 understand that.

5 I think what I'm having some trouble with
6 is the provision -- that is the next sentence of that
7 footnote that says, "The irrigation water is our
8 drought insurance." And I'm not sure -- does that
9 still apply only to these kinds of mechanical
10 conditions over which you don't have control if they
11 go bad on you?

12 MR. PACE: I think the word "drought"
13 could have been expanded to say, "drought or other
14 catastrophic condition that for a short time causes
15 us not to be able to pump the entire amount of water
16 that might be currently being used."

17 And I think it could also add the caveat
18 at the end that "This will only be applied in extreme
19 circumstances to ensure that the culinary customers
20 do not go without."

21 MR. SACKETT: So would you object to a
22 tariff provision -- and by the way, Mr. Pace, the
23 tariff is really more than just the rates. It's the
24 whole collection of conditions that govern your
25 operation.

26

1 But would you object to a tariff provision
2 that made more clear about what kinds of conditions
3 would allow you to terminate water availability?

4 MR. PACE: Not at all.

5 MR. SACKETT: Okay. Thank you.

6 MR. PACE: Within reason, of course, I
7 say. I mean, I think you still hopefully understand
8 why I think the provision is important.

9 MR. SACKETT: Yes, sir.

10 MR. PACE: As long as we didn't jeopardize
11 that, I wouldn't mind clarification at all.

12 MS. THORPE: Can I interject something,
13 please?

14 This is Carol Thorpe.

15 JUDGE GOODWILL: Let's go ahead and put
16 you under oath, Ms. Thorpe. And let's do that first.

17 I realize you are over the phone, but if
18 you would please rise and raise your right hand. And
19 let me know when you are doing so.

20 MS. THORPE: I have.

21 CAROL THORPE,
22 called as a witness, being first duly sworn,
23 was examined and testified as follows:

24

25 JUDGE GOODWILL: Thank you.

26

1 Now Ms. Thorpe, go ahead and identify who
2 you are and what your association with Dammeron
3 Valley is?

4 MS. THORPE: Okay. My name is Carol
5 Thorpe. I am the Manager of Dammeron Valley Water
6 Works.

7 My response is that we are trying to
8 manage a water system with the Public Service
9 Commission's help. If you have attorneys in there
10 trying to make us have to weave through all kinds of
11 holes when we have an emergency and we have to clear
12 it through the Public Service Commission -- we have
13 asked our customers to stop using water. We didn't
14 ask the irrigation customers. We asked our customers
15 to stop all outside watering. There was a fire
16 burning near our well, so we could not pump water.

17 When we have emergency situations like
18 that, we have to have the ability to be able to
19 react, not to be fit into this little mold. I mean,
20 sometimes I -- Brooks has -- the way Brooks has
21 worded it, it actually says what we need. We need to
22 be able to ask our customers to cease outside
23 watering in order to service inside, actual drinking
24 and living part of the water end of it.

25 JUDGE GOODWILL: Okay. And well, I'll go
26

1 ahead and ask it now.

2 I had intended to ask this question
3 anyway, and it's been raised by Mr. Sackett, and
4 given your testimony and that of Mr. Pace, I'll ask
5 both or either one of you, Mr. Pace or Ms. Thorpe,
6 why would you not just put in the tariff provision
7 that customers may be required to discontinue
8 irrigation?

9 I think what's raised some of this concern
10 is the fact that it's stated as: "Customers owning
11 irrigation shares may be required to discontinue
12 irrigation." But it's my understanding that all
13 customers use their -- may use their water for
14 irrigation or outdoor purposes.

15 So is there any reason the tariff
16 shouldn't just say, "All customers may be required to
17 discontinue irrigation use"?

18 MR. PACE: Carol brought up a point that
19 was not in my mind, and I don't know why it's not in
20 my mind because when summer comes, that's all I think
21 about is fires because we live in a fire zone.

22 But that's absolutely true. And that
23 would be a good way to word it. It wouldn't even
24 have to refer to irrigation. It could just say, "the
25 Company may require customers to discontinue outside
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1 watering." So whether they have an irrigation share
2 or not.

3 Yes. Last summer we had fires burning
4 within a half a mile of the homes in the Valley. And
5 we had helicopters -- they had put a temporary tank
6 by our wells and they were taking a lot of water to
7 fight the fire. And yes, we did ask all customers to
8 discontinue outside watering for a couple of days
9 last summer and the summer before that.

10 So that would be a good way to word it and
11 then it wouldn't single out just the irrigation
12 customers.

13 JUDGE GOODWILL: Okay. And I know -- and
14 I understand there may be some customers who own
15 irrigation shares who feel that that would
16 nonetheless be a constraint on their right to use
17 that irrigation share, and if there are any of those
18 present on the telephone or in the hearing room, we
19 can certainly address that or hear their concerns.
20 But I wanted to make sure I understood from the
21 Company what your intent was with respect to this
22 provision and whether or not it could be broadened in
23 the way we just discussed.

24 I'm sorry, Mr. Sackett. I cut in on you.

25 MR. SACKETT: No. That's fine. That's a

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1 good clarification and an expansion of the
2 questioning.

3 I have similar questions about Footnote 3
4 to the proposed tariff in which it says, "the Water
5 Company may offer to customers from time to time the
6 right to use water over and above the tariff
7 allocation at the irrigation rate. This will
8 generally be used to help landowners keep the native
9 foliage healthy."

10 I have similar questions about that. Who
11 will decide when the time comes in deciding from time
12 to time the right to use and what will be the
13 standards that would be used?

14 MR. PACE: Last summer it was an extremely
15 dry summer and so we had to water. And so we felt
16 that it was fair to offer, to everyone, an additional
17 acre foot. If they had zero, they had one acre foot
18 they could use. If they had 10-acre feet, they had
19 11-acre feet they could use at the irrigation rate.

20 So it's -- I won't say it's arbitrary
21 because I wouldn't do it and jeopardize our revenue
22 stream if I weren't encouraging people to green up
23 the Valley just to make us less fire threatened.

24 So it will be the management of the Water
25 Company that'll make the decision to do it. But if

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1 we ever do do it and this tariff provision is
2 approved, it would apply to everyone.

3 MR. SACKETT: Okay. And how would you
4 decide? That is to say, what would be the standard
5 for deciding now it's time to allow this?

6 MR. PACE: If it doesn't rain from now
7 until the first day of July, we will probably do it.

8 MR. SACKETT: Well, that's not exactly a
9 standard; is it? It's a sort of Kentucky windage, as
10 they say; isn't it?

11 MR. PACE: I think it is a little bit.
12 And this winter's been very wet down there. So we're
13 going to grow a huge amount of grass this spring,
14 whether it rains again or not. And that's my fear
15 about the summer. It's the grasses that are the fire
16 danger. So you can call it what you want, but I'm
17 just trying to do the right thing for the Valley.

18 We live in a rural area. We have pinion
19 trees that are -- you know, a spark on them and they
20 explode in fire. They are loaded with pinion pitch
21 and when they are dry, they are very dangerous. We
22 live in a dangerous forest. It's beautiful. And six
23 months of the year I sleep all night, but all summer
24 long it's a huge risk. We haven't -- for five or six
25 years, I can't remember a summer that we haven't had

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1 fires burning within a mile of Dammeron Valley. And
2 if the winds comes up, you just don't know. It can
3 travel a mile in a half hour.

4 So I think keeping and giving additional
5 cheap water to people is a good practice to fight
6 that. I don't even think Barbara Hjelle would
7 propose that we fight that one. I mean, we are very,
8 very nervous about fires in this particular area.

9 MR. SACKETT: Yeah. I think everybody is.

10 But it strikes me that this may be
11 discriminatory in some way. That is to say, you
12 would be giving very low cost water to someone who
13 didn't have irrigation shares, where someone who has
14 irrigation shares and who has presumably paid good
15 value for them will really not be able be advantaged
16 by that kind of declaration --

17 MR. PACE: No. He'll get the extra acre
18 foot also. He'll get the extra 40 gallons per month
19 also.

20 MR. SACKETT: But is it likely -- it's
21 really an empty -- an empty grant because he would
22 already have enough water in his existing three or
23 whatever it is water shares?

24 MR. PACE: It may be. But for me to look
25 at it any other way to say, "Well, this poor sot that

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1 doesn't have an irrigation share, we're not going to
2 be able to give it to him because these guys have
3 multiple irrigation shares." I mean, your reasoning
4 is flawed.

5 MR. SACKETT: You've indicated that the
6 parent company, Dammeron Corporation, would make up
7 any shortfall in revenues that this proposed
8 conservation tariff will produce; is that right?

9 MR. PACE: We make up any shortfalls from
10 any cause. We can't budget how many pumps are going
11 to go out. We can -- you know, we have been
12 operating this company since 1976. I think our first
13 tariff was approved in 1977. So for over 30 years,
14 we've been operating this company. In the beginning,
15 we had five customers. Do you think we were breaking
16 even? No. We subsidized this company for almost
17 every year. And if you add the depreciation into it,
18 we've probably had almost no years that we'd really
19 be in the black.

20 So absolutely. We will continue to
21 subsidize this company for whatever it takes for well
22 beyond the four years.

23 MR. SACKETT: So I guess that means that
24 if you were to, as Dammeron Valley Water Works, come
25 to this Commission for a rate increase, it would not

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1 be founded on any aspect of the shortfall that this
2 tariff might have produced; is that correct?

3 MR. PACE: That is correct.

4 MR. SACKETT: Okay. And Mr. Pace, have
5 you had communications from other water users in
6 connection with this tariff provision that were in
7 the nature of objections?

8 MR. PACE: We had a hearing that --
9 Dammeron Valley Landowners Association had a special
10 hearing they called for March 11th. About 12 people
11 showed up. Ms. Hjelle didn't show up. Nobody from
12 the Gasporra family showed up.

13 The people that came were only there for
14 information. There was not one person complaining
15 about it. Until Ms. Hjelle raised her complaint, no
16 one has ever raised the issue. Her complaint has no
17 basis in if she doesn't want to convert, she's not
18 out anything. So the real issue is everybody when
19 they come to understand, realize we're giving them
20 the option to maybe save a few bucks. But they
21 absolutely do not have to leave their existing
22 tariff.

23 And that's why I think the Commission and
24 the Division decided that a hearing wasn't necessary
25 down there.

26

1 But if the Commission wants to hold a
2 hearing in Southern Utah, in Dammeron Valley or
3 somewhere in St. George, I certainly would not oppose
4 it.

5 MR. SACKETT: Actually, you didn't answer
6 my question.

7 My question was, have you received e-mails
8 or any other indication --

9 MR. PACE: No. Other than from --

10 MR. SACKETT: Let me finish the question,
11 Mr. Pace.

12 -- other than from Ms. Hjelle, that
13 indicated that they were opposed or objected in some
14 way to the proposal?

15 MR. PACE: I have -- I left home yesterday
16 morning. Up until that time, I had not received
17 anything.

18 Carol is on the phone. Have we received
19 other complaints? Has Barbara stirred other people
20 up?

21 MS. THORPE: No. Not that -- I've had
22 phone calls from customers, but just more asking how
23 it would affect them. So no complaints.

24 MR. SACKETT: Thank you. That's all I
25 have.

26

1 JUDGE GOODWILL: Ms. Hjelle, are you on
2 the line with us?

3 MS. HJELLE: I am.

4 JUDGE GOODWILL: Okay. Thank you.

5 I'd like to turn to you now. And just to
6 go -- because Mr. Sackett was here representing some
7 complainants that are before the Commission in
8 another matter, wanting to ask them their questions
9 -- ask their questions because it might have some
10 impact on that complaint, I tried to treat him as an
11 attorney rather than as public witness. As such,
12 I've yet to really explain the Public Witness aspect
13 for people who would like to speak today. Let me do
14 that now and then I'll turn to you.

15 In making a statement in this proceeding,
16 you have the opportunity to be either sworn or
17 unsworn. Sworn statements can become evidence that
18 the Commission may use in deciding whether or not to
19 approve the requested tariff changes in this docket.
20 And if you wish to make a sworn statement, I'll swear
21 you in. You can make your statement. And then
22 you'll be subject to questioning by the attorneys --
23 or excuse me, by the representatives of Dammeron
24 Valley, as well as by the attorney for the Division
25 and myself.

26

1 Unsworn statements on the other hand,
2 cannot be used as evidence in deciding this matter,
3 but would be used by the Commission simply to inform
4 the Commission about the level of public sentiment
5 regarding the proposed tariff changes.

6 So I'll ask you now, would you like to
7 make your statement sworn or unsworn?

8 MS. HJELLE: I would like to make my
9 statement sworn.

10 JUDGE GOODWILL: Okay. And I realize
11 you're on the telephone with us, but if you would,
12 please, stand and raise your right hand. Let me know
13 when you're doing so, I'll swear you in.

14 MS. HJELLE: I'm ready.

15 BARBARA HJELLE,
16 called as a witness, being first duly sworn,
17 was examined and testified as follows:

18
19 JUDGE GOODWILL: Thank you, Ms. Hjelle.

20 If you'd please state your full name and
21 address for the record. And then go ahead and make
22 your statement.

23 MS. HJELLE: My name is Barbara Hjelle,
24 H-J-E-L-L-E.

25 JUDGE GOODWILL: Just one second, ma'am.

26

1 I'm going to turn up the volume on the telephone to
2 make sure we can hear you better.

3 I'm sorry to interrupt you.

4 MS. HJELLE: That's all right. Tell me
5 when.

6 JUDGE GOODWILL: Okay. I've probably
7 increased the volume as much as I can. If you would
8 just speak as loudly as you can and go ahead and
9 continue.

10 MS. HJELLE: Okay. My name is Barbara
11 Hjelle. I live at 375 Juniper Road, Dammeron Valley,
12 Utah.

13 I am participating in this hearing as a
14 consumer speaking on my own behalf and not on anybody
15 else's behalf. I have forwarded e-mails I've
16 received. I have not tried to stir anybody up, but I
17 have felt that there has been very little information
18 disclosed about this matter.

19 I had to work on March 11th, and could not
20 attend the hearing, for which we received very short
21 notice and which I was unable to attend the one that
22 Brooks set up.

23 Most people apparently didn't attend
24 either.

25 I also feel that there has been very much
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1 confusion in my mind about the nature of this tariff
2 based on the information available in the notice and
3 in the documents that were available to me as I was
4 preparing for this. And that's been part of my
5 problem in preparing.

6 I do not oppose water conservation and I
7 do not oppose Brooks' general goals for the Water
8 Company and I do not think that Brooks is a bad water
9 manager. But I have concerns about the basis for
10 some of the charges that are being imposed on
11 existing users and the incremental burdens that are
12 being added to those users over time. Obviously my
13 major reason for getting involved in this matter
14 comes from the footnotes where the Water Company
15 purports to be able to cut off water for irrigation
16 without meaningful standards that will govern that
17 action. And I set forth arguments and written
18 objections and I hope that those can be considered
19 fully so that I don't have to repeat them here.

20 If I do need to repeat them here, I'd
21 appreciate it if you would let me know. I think that
22 would make it pretty lengthy, though.

23 JUDGE GOODWILL: Sure. And we do have
24 those and they are part of the Commission record.
25 And they are available for the Commission to review.

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1 MS. HJELLE: Thank you.

2 So I do believe very strongly that I don't
3 have any objections to the standards that Mr. Pace
4 has suggested or that have come out of the discussion
5 with Mr. Sackett. I think those could be defined
6 very readily, but I think that they should be
7 defined.

8 As far as the rest of it, I think that
9 there is some confusion in the rate case and I think
10 that it would be good if more information could be
11 made available prior to adopting this tariff. I
12 don't accept that the Dammeron Corporation is totally
13 subsidizing this water company, but I can't get
14 enough information out of the documents available to
15 me to know for certain whether I am right or wrong.
16 However, in documents that were submitted to the
17 Division of Water Resources in connection with a loan
18 that he received, a 250,000 gallon water tank has
19 been built to serve largely a new development and
20 existing users are paying for that. There is a
21 profit to be made by a developer who is selling lots
22 and that profit -- those lots would not sell for the
23 price they sell for but for the water that's
24 available in the system that we, the existing users,
25 are paying for. So I don't think that's accounted

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1 for in this rate case.

2 I've had some people contact me with grave
3 concerns because they see water running down the dry
4 washes around Dammeron Valley out of the water tanks.
5 While his pumping costs are only about \$7,000,
6 nevertheless there is some concern that that portion,
7 if there is water being pumped out of the wells and
8 into these tanks and run down the washes, maybe
9 that's not necessarily something that should be
10 included in the revenues that he receives from water
11 users. I don't know. You know, maybe there is a
12 good explanation for that.

13 He has filed water rights applications
14 with the State, commingling, as far as I can tell,
15 the usage of the Water Company and the Dammeron
16 Corporation. Maybe that's just fine, but there,
17 again, it has raised a question in my mind whether
18 there are some benefits to the Dammeron Corporation
19 that aren't being disclosed in these documents.

20 So I am mostly asking for full disclosure
21 before the tariff is adopted.

22 I don't -- could not understand from the
23 rate case, which of course came out to me today, but
24 in my brief opportunity to review it, I could not
25 understand how the total picture works on the

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1 overages. If the irrigation water being delivered is
2 solely accounted for at \$0.25 a thousand, and if
3 indeed some people go over their 40,000-gallons
4 allotment, or 80,000 in a two-month period, then
5 there is additional revenues to the Company that may
6 not be accounted for in this rate case. And I cannot
7 tell whether it's there or not. The same thing is
8 true with the water revenues. I could not tell from
9 the spreadsheet whether there are additional revenues
10 or not. Maybe they are all accounted for. But
11 again, I'm just asking for better disclosure before
12 this goes to final decision of the Commission.

13 I don't think people understand this
14 tariff. I do not understand this tariff. I do not
15 understand this tariff after the discussion I have
16 heard today. So I guess my request would be that we
17 get a full and complete tariff, the footnotes are
18 clarified. And for example, there has been no
19 disclosure that I am aware of to any resident of
20 Dammeron Valley about a \$25 charge for processing the
21 sale or lease of any irrigation right. That was news
22 to me today. His documents that went to the Division
23 of Water Resources, I was unaware of these additional
24 water holdings until today. And I don't know that
25 that's necessarily relevant. But it is relevant to

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1 the question of whether or not the irrevocable
2 decision to go to this lower rate is made irrevocable
3 primarily because the developer desires to have that
4 water available for future use. We paid for that
5 water. The water system has been in affect since
6 1975. And there again, if water is going to be
7 converted for new development, what about irrigation
8 water right holders who kick up to \$2 a thousand
9 after 40,000 gallons in any given month? That, I
10 think, should be revisited for fairness. Because
11 those users have been paying for that system over
12 many years. And I'm not sure that \$2 a thousand is a
13 fair rate after your first 40,000 gallons.

14 Then I'm still concerned about the issue
15 of whether this water is really needed for future
16 development.

17 But on the forfeiture issue, I would also
18 request that that be investigated thoroughly. That
19 HB-51 be understood before the issue of forfeiture is
20 relied upon as a basis for this need. Because I did
21 not understand the statute the way that Brooks
22 understands it. He made be right. I may be wrong.
23 But I don't think there is adequate understanding of
24 how badly he needs to acquire this water back in
25 order to prevent forfeiture.

26

1 So -- and again, I think that if the
2 footnote would say something like in cases of fire,
3 extreme drought which affect water supply for
4 domestic use, loss of water supply due to well
5 failure, water may be cut off on a -- outside
6 irrigation may be curtailed on a temporary basis, all
7 such limitations should be of the shortest duration,
8 those sorts of details in these footnotes would be
9 extremely beneficial. And from the discussion, I'm
10 not sure that Brooks would really object to that sort
11 of thing. I am not suggesting, as Carol seemed to
12 infer from earlier conversation, that somehow there
13 should be a permission or an advance requirement that
14 the Public Service Commission approve it. But if
15 there is a standard, then the residents are able to
16 understand what their rights are. And everybody is
17 clear on how these things are going to happen. I
18 think that's to everyone's benefit.

19 So I very -- you know, he said 400 to
20 600 gallons, well, if it's 400 gallons, that's the
21 minimum requirement, as I understand, that the State
22 has for indoor use. If people are using 600 gallons,
23 they are not going to have any benefit from this
24 conservation tariff.

25 I know there were a number of people who

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1 have communicated confusion to me. I think this
2 should be clarified in greater detail. I think the
3 tariff, whatever is being proposed, should be
4 published as a whole. Right now it looks to me like
5 it's piecemeal.

6 But I would like to repeat again, despite
7 of Mr. Pace's allegations against me, I am here fully
8 as a customer. I don't think my job has any
9 relevance to this. I think Mr. Pace is a good water
10 manager. General speaking, I think there is some
11 confusion in the record and I think we're entitled as
12 customers to have that confusion clarified.

13 Thank you.

14 JUDGE GOODWILL: Thank you, Ms. Hjelle.

15 Mr. Pace, do you have any questions for
16 Ms. Hjelle?

17 MR. PACE: Could I go through her issues
18 quickly?

19 JUDGE GOODWILL: Well, if you have
20 specific questions that you would like addressed to
21 her based --

22 MR. PACE: I don't have questions of her
23 at all. I don't.

24 JUDGE GOODWILL: Okay. Then we won't do
25 that.

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1 MR. PACE: I want to respond to her. But,
2 no. No questions.

3 I understand her position.

4 JUDGE GOODWILL: Ms. Schmidt, do you have
5 any questions for Ms. Hjelle?

6 MS. SCHMIDT: No questions.

7 JUDGE GOODWILL: Okay. Thank you, Ms.
8 Hjelle.

9 Do we have any other -- anyone else on the
10 line or in the hearing room who wishes to make a
11 statement during this Public Witness session?

12 (No verbal response.)

13 JUDGE GOODWILL: Okay. Since we have
14 none, we'll go ahead and adjourn the Public Witness
15 session. And I'd like to move right back into the
16 evidentiary portion of this hearing.

17 And I know this process seems a little
18 convoluted, but given the persons and the parties who
19 have shown up today and the last several days, I'm
20 just trying to keep things as procedurally straight
21 as we can.

22 (The Public Witness Hearing was adjourned
23 at 3:20 p.m.)

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1 (The Evidentiary Hearing resumed at
2 3:20 p.m.)

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4 JUDGE GOODWILL: Now that we are back in
5 the evidentiary portion, and I understand that both
6 the Division and the Company have provided all the
7 evidence and testimony that they would like to
8 provide -- first of all, let me state that the folks
9 on the line are welcome to stay on the line and
10 listen to the remainder of this, if you choose to do
11 so.

12 But I have a few questions that have been
13 raised throughout the discussions here this
14 afternoon. And then I'll give the parties an
15 opportunity to ask any additional questions that they
16 might have of each other as well.

17 Mr. Pace, one question that I had as a
18 read the proposed conservation tariff was in Note 1,
19 the statement that "existing customers may apply to
20 convert to the conservation tariff, but once
21 converted will not be allowed to convert back to the
22 original tariff rate."

23 What's the Company reason for wanting that
24 provision in this tariff?

25 MR. PACE: Well, we feel like people have
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1 got to make a decision. If they are going to convert
2 to the conservation tariff and save money thereby, we
3 can't then be subject to them coming in, say,
4 25 years from now and saying, "Oh, I guess we'll go
5 back to our larger allocation." That is, we need to
6 know where we stand, what the bottom line is, how
7 much water we actually have committed to. So if they
8 lower their allocation, it lowers our absolute
9 commitment to them.

10 So it isn't something you can have them
11 really flipping back and forth.

12 But the reality is, and it needs to be
13 emphasized, is that it's totally voluntary for them
14 to convert in the first place. And we're not talking
15 a huge amount of money they are going to save, as I
16 explained to Mr. Sackett when we were off the record
17 earlier. Even if the Gasporra's converted, at most
18 they would probably save \$20 or \$25 a year. That's
19 the reality of it. But for a lot of people, living
20 on a very narrow budget and using under 400 gallons,
21 30 bucks a year amounts to something. So I -- you
22 know, it's really more. As I said earlier, if they
23 really stay within their 400, they are going to save
24 \$144 a year. But I don't think Gasporras ever would
25 because they are big irrigation users and it's so

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1 easy to go over on those big users. And even though
2 they're not using their water right now, I wouldn't
3 recommend them converting.

4 But I think there are at least 90 people
5 it's going to make sense for it. And they'll
6 actually save money and conserve water.

7 JUDGE GOODWILL: Now you stated that, and
8 I don't mean to put words in your mouth, so if there
9 is a better way to say it than what I'm going to do,
10 go ahead and correct me. But I think you stated that
11 the reason then for not allowing people to convert
12 back was so that the Company knew and could plan, I
13 take it, how much water it needed to have available?
14 Is that --

15 MR. PACE: Well, we have -- okay. Just to
16 make it simple. We have approximately, for the
17 entire Dammeron development, and water we acquired
18 with the land and over the 30 years of developing it
19 about a 1,000-acre feet. 500-acre feet is
20 essentially allocated to Dammeron Valley. But
21 250-acre feet of that is really tied up in
22 irrigation. So half of the water for Dammeron Valley
23 is irrigation. Now whether anybody agrees with me or
24 not, I think it's good protection in the system for
25 me to have half as my water that I can actually ask
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1 to turn off. So I think it's the way to run a water
2 system.

3 And in the future, I intend to do the same
4 thing. In the future development, I intend to create
5 some -- I would like to promote agriculture in
6 Southern Utah, in Utah in general. I think it's a
7 shame we're losing our agriculture. And again, I see
8 agriculture has a drought resistant or catastrophe
9 resistant sort of protection because we could always
10 turn off the carrot crop for awhile while you carry
11 on with your culinary.

12 So I -- but in the end, we have to look
13 down the road when I've used all 1,000-acre feet.
14 Then the system is at that sort of max. Now I can't
15 be in a situation where somebody comes in many years
16 later, when we've now allocated all of the water out,
17 we've developed all the land we're ever going to
18 develop, I can't have somebody who comes in and says,
19 "Well, back in 2008, I did convert back to that
20 conservation tariff, but now my kids have taken over
21 the house and I really want to go back to that larger
22 tariff." So that's my reasoning. And I think, you
23 know, you just put me in a position where forever
24 into the future, I would be subject to people wanting
25 to increase their allocation. It's one thing to

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1 decrease. I can suck it up and put it in irrigation
2 or whatever. But I can't have people having the
3 arbitrary right to come in and increase their
4 allocation.

5 JUDGE GOODWILL: And I'm just having
6 trouble understanding that point. Why the
7 irrevocable nature of decision is in the public
8 interest, would it benefit both customers and the
9 Company or who it would benefit. And I just want to
10 walk through -- because I'm not challenging you, I
11 just don't really -- I just don't understand.

12 If I am a customer currently on Dammeron
13 Valley's current rates, my usage isn't restricted in
14 any manner except by the amount that I'm willing to
15 pay for water in any given month.

16 MR. PACE: Right.

17 JUDGE GOODWILL: The same would be true if
18 I moved to the conservation rate. I can still use as
19 much water as I'm willing to pay for.

20 Now I understand on the proposed language
21 for the conservation rate that it talks about
22 .45-ache feet annual consumption, which is
23 400 gallons per day, that's the State minimum
24 requirement for drinking water, or culinary water
25 service.

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1 How -- does the Company then get to claim
2 only that much water for that given user if they
3 switch to conservation, so that in essence frees up
4 some amount of water for --

5 MR. PACE: If somebody converted from --
6 that had the bigger allocation and converted?

7 JUDGE GOODWILL: Yes.

8 MR. PACE: Yes. It does.

9 And here is another example. And I'll
10 apologize to Mr. Sackett. There are the pages of
11 text behind the tariff sheets. And in those
12 paragraphs -- I don't have it with me actually, but
13 back in the '80s, when we created the irrigation
14 rate, we gave, as I explained earlier in this
15 hearing, the right to those people with two or one
16 and a half tappings to convert back to one tapping so
17 they could get to the irrigation rate after using
18 only 24,000 gallons per month rather than 48.

19 Do you remember that part of the
20 discussion?

21 JUDGE GOODWILL: Right.

22 MR. PACE: But in the wording, and maybe
23 Mr. Sackett can find it, it specified that if they
24 did convert back to the one tapping, they couldn't go
25 back to the two later. That is, it was irrevocable.

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1 So the same reasoning applies here. It's
2 actually already in the back up pages to the tariff
3 that Mr. Sackett referred to earlier.

4 So it's consistent with what we did
5 20 years ago when we gave people an opportunity to go
6 to a different allocation. But not go back up to the
7 higher one.

8 Right now, I can say, well, for one year,
9 two years or eight years or something, I can give a
10 period of time where they could flip back and forth
11 because we have the excess water we haven't yet
12 developed. But I hope you can see eventually it
13 would be a very big hardship on the system to have
14 700 users out there that each had the right to go --
15 or many had the right to increase their allocation.

16 JUDGE GOODWILL: But I thought you
17 testified earlier that the Company, be that Dammeron
18 Valley Water Works or Dammeron Corporation, has
19 sufficient water rights to support whatever planned
20 development is on the horizon?

21 MR. PACE: Yeah. Yes.

22 JUDGE GOODWILL: So how does -- how does
23 the irrevocable nature of this decision help that?

24 MR. PACE: Well, we wouldn't be able to
25 plan.

26

1 Let's say that 40 people that had two-acre
2 feet -- the two .89s, the right to use 48,000 a
3 month. Let's say 50 of them came in and converted
4 back to the conservation rate. So they each gave up
5 essentially one and a half .89s. That would be
6 basically 60-acre feet, if they had the right to
7 convert back, that I would have to hold in the event
8 they might convert back. So I wouldn't be able to
9 allocate it out as an irrigation share or a culinary
10 share or anything. It would have to be water I'd
11 have to hold in perpetuity in the event that you
12 might request going back to your old, higher
13 allocation.

14 Am I making myself clear?

15 JUDGE GOODWILL: Right. I'm struggling
16 with whether this is a benefit to Dammeron Valley's
17 ability to continue to grow and to develop, or
18 whether in some way a benefit -- a necessity of a
19 water company's operations, and some way a benefit to
20 customers.

21 MR. PACE: I think it certainly gives the
22 Water Company the use of water that currently isn't
23 being used. Remember, in the beginning, I said I had
24 all these people that had a right to possibly as much
25 as 1600 gallons per day, yet -- analyzing those that
26

1 don't have irrigation shares only, if they have
2 irrigation shares, it changes it altogether. But we
3 analyzed all the people who didn't have irrigation
4 shares in the various subdivisions and none of the
5 subdivisions had an average usage of over 600 gallons
6 a day. And many of them were down 450, 440, that
7 sort of thing.

8 So we had all these allocated rights out
9 there that are not being used. And that -- and I
10 think -- well, I don't know that Mr. Hart could help
11 me with this one at Drinking Water, but the people at
12 Water Rights would well understand that these
13 allocated -- maybe Barbara has gotten -- maybe House
14 Bill 51 does cover this, but I don't believe it does.
15 I believe those unallocated rights, as explained to
16 me by the Division of Water Rights many years ago,
17 were going to come back and haunt me some day, those
18 big shares that I gave out if they just weren't being
19 used. You use it or lose it. That's what I'm
20 talking about.

21 So there is that benefit to the water
22 system.

23 And you know, we're going to be able to
24 develop the same amount we would develop before. We
25 would just be able to create an abundance of
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1 irrigation water. I hope out of the additional 500
2 feet we're developing with, we'll also be able to set
3 aside at least 200-acre feet in irrigation out of
4 that 500.

5 So all that would happen is I wouldn't
6 have the abundance of irrigation water and I would
7 run the threat of the water engineer, in my mind,
8 someday coming in and saying, "Jeez, you know, it's
9 near 2080 and we're really dry in this county and
10 you've got all of this water allocated that isn't
11 being used. We've got Winchester Hills down here
12 that's pretty desperate, we're going to take" -- you
13 know, it's hypothetical at best. But I just say --
14 it's a balancing of the system that I think is
15 important and a good practice. That I believe Water
16 Rights would back me up on that.

17 MR. SACKETT: 2080.

18 MR. PACE: I'm a little younger than you.

19 MS. THORPE: May I interrupt again?

20 JUDGE GOODWILL: Who is speaking?

21 MS. THORPE: This is Carol Thorpe. I'm
22 sorry.

23 One of the other reasons that it would
24 benefit the Water Company to have that irrevocable is
25 having the customers swap back and forth. And it
26

1 would become a nightmare if it was an open option.
2 If we give these customers one chance at it and if
3 they change, great. If they don't change, that's
4 fine, too. Otherwise, like I said, we're going to
5 have them flip-flopping and it'll become this great
6 nightmare.

7 JUDGE GOODWILL: I guess it's fair to
8 characterize it then as not allowing customers to
9 switch back again to what are now the current rates
10 be administratively easier for the Company and
11 provides the Company a more firm knowledge of what
12 water it has to make available for its customers; is
13 that right?

14 MR. PACE: The second reason is the big
15 one. The first one is an issue that Carol brings up
16 because in an extreme situation, you can have a guy
17 say in September, "Well, I think I'll go on the
18 conservation rate and save \$12 a month all winter."

19 And then in July, "Well, I think I'll flip
20 back." So that would be a bit of a hassle. I'm not
21 saying that that would really happen.

22 But the biggest reason is we've got to
23 know how much water we have to allocate for our
24 future development, both irrigation and culinary.
25 That's the real reason.

26

1 I mean, if you wanted to solve this
2 particular small, little impasse, because I can see
3 it's disturbing you, just take paragraph two or
4 paragraph one right out. Don't give the existing
5 rate payers the right to convert at all. Make them
6 stay where they are. Because that's the thing that
7 we know is going to be the biggest cost on the
8 revenue. But I think it's only fair to offer it to
9 them. But I'm just saying if not allowing them to
10 convert back bothers, don't allow them to convert in
11 the first place. Then we don't have the problems.

12 JUDGE GOODWILL: Understood.

13 I take it from our prior discussion
14 regarding Footnote 2, you wouldn't have any problem
15 with the general wording suggested by Ms. Hjelle in
16 the Public Witness testimony to put in more specific
17 examples of when the Company may require customers to
18 discontinue irrigation?

19 MR. PACE: Well -- and I think it was, Mr.
20 Sackett, I'm not sure, maybe it was Barbara that
21 mentioned it, but yeah, if we could lengthen it by
22 giving all the examples of when we might do that so
23 people understand it. Or it might be just as well to
24 just say that the Company reserves the right to ask
25 customers to not do outside irrigating. And then it
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1 would cover everybody, whether they had an irrigation
2 right are not.

3 Because Carol is right. I had forgotten.
4 Last summer and the summer before last, when they
5 were really sucking a lot of water to the helicopters
6 to fight the fire, we asked everybody to not irrigate
7 outside.

8 And I think that should be the prerogative
9 -- I mean, it's got to be the prerogative of the
10 delivery side of a water company. You've got to have
11 the prerogative to deal with your catastrophes in
12 some way. And that I think is more fair to just say
13 that the Company has a right to ask all customers to
14 discontinue irrigating.

15 However, the reality of it is, we just
16 start with the big ones. There is no need to put out
17 a general alert and scaring everybody. We've got,
18 like, four or five people that have these large --
19 probably ten people who have these larger five to
20 20-acre feet rights. Those are the ones we really
21 would go after.

22 I mean, there are occasions that we've
23 come up and found water running, being wasted, over
24 irrigating, and we got a fire going and our tanks are
25 going down that we just turned the water off

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1 ourselves. I mean, you know, when you get into those
2 sort of situations, you don't really want to, well,
3 what does the tariff give us the right to do. You're
4 kind of in an emergency situation. And I think
5 that's all we're asking for here. We have rarely,
6 rarely, rarely applied it.

7 JUDGE GOODWILL: And with respect to Note
8 3, I think you indicated, and I just want to confirm,
9 that in offering customers from time to time the
10 right to use additional water, that -- you're
11 referring to all customers? You wouldn't go out and
12 say, "Mrs. Smith, we're offering it to you, but Mr.
13 Jones, we're not offering it to you?"

14 MR. PACE: No. This will be blanket to
15 every single person. Absolutely. And as Mr. Sackett
16 said, to some people it won't be that big of a
17 benefit to you because they've already got a lot of
18 irrigation water. But we would offer one additional
19 or two additional -- you know, one additional acre
20 foot, we define it as 40,000 gallons a month for
21 eight months. So we wouldn't say you can use your
22 whole acre-foot in one month because our peak
23 delivery capacity couldn't handle it.

24 So when we say we're going to give them
25 the right to an acre-foot, what we're really saying
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1 is we're going to sell you 40,000 gallons a month for
2 \$10, rather than \$60 for the next couple of months,
3 and encourage you to green up your yards and water
4 your sage brush and cut your grasses and help with
5 the fire problem.

6 JUDGE GOODWILL: I wanted to turn for a
7 moment to your letter that was referenced earlier
8 today, March 12th.

9 MR. PACE: Yes.

10 JUDGE GOODWILL: Where you had made some
11 additional recommendations, if you will, for the
12 proposed tariff. And I know you discussed these
13 earlier, but I just wanted to briefly go through them
14 again.

15 Why don't you just explain to me what
16 paragraph number one, how that changes the proposed
17 conservation rate that you originally filed in this
18 case?

19 MR. PACE: Well, it clarifies that --
20 well, in the beginning, the Division had proposed
21 that if a person were on the conservation tariff, he
22 could not own an irrigation share. But when that
23 came back -- wasn't our proposal. When that came
24 back to the Company, we thought, well, jeez, what
25 happens if he buys or leases a share from someone and

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1 we don't have anything to do with it, we can't say,
2 "Well, you can't use the irrigation rate." So what
3 we threw into it -- what the Division was trying to
4 do is protect our revenue. So what we did was say,
5 okay, he can't start using irrigation after only
6 12,000 gallons a month. He's got to use another
7 12,000. Which brings him on par with everybody else
8 on the tariff sheet. And he's going to pay a little
9 premium for the second 12,000. But then he'll get
10 his 40,000 gallons for the \$10.

11 It was just covering a little thing that
12 if we hadn't put it in, we'd have been back here a
13 few months later with somebody who would have come in
14 and said, "But I own this irrigation right. I paid
15 for this irrigation right." We would have had to
16 have found a way to deal with it.

17 So it was a clarification thing more than
18 anything.

19 JUDGE GOODWILL: And I understand that
20 number two is primarily just a clerical change --

21 MR. PACE: Right.

22 JUDGE GOODWILL: -- and wanting to
23 renumber?

24 MR. PACE: I think the Division agrees
25 with that. They've never liked the nomenclature of

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1 our tariff categories.

2 JUDGE GOODWILL: Now as I see it, and you
3 acknowledge that paragraph number four dealing with
4 bulk sale irrigation rate, may in your own -- by your
5 own understanding, require an additional hearing or
6 something new that might not be appropriate for this
7 rate proceeding?

8 MR. PACE: And it could be that even House
9 Bill 51 will obviate my need to do this irrigating.

10 JUDGE GOODWILL: Right. And number 4 is
11 really -- that goes to using the water to make sure
12 you keep the water?

13 MR. PACE: Right. But I think it is a
14 number enough issue that it probably is -- I think
15 the first three are adjustments that are prettily
16 easily understand and not going to have much -- any
17 negative effect on anyone.

18 I think the fourth one probably does need
19 its own day in court.

20 JUDGE GOODWILL: Right. I think it was
21 Mr. Sackett who stated during the Public Witness that
22 there didn't appear to be any exigent circumstances
23 requiring any decision to be made now in this matter.
24 He would prefer that the Commission deal with the
25 issues stemming from his clients' complaint and so

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1 forth and the auditing and so forth that the Division
2 had originally recommended in that complaint
3 proceeding. I understand that and I'm not saying,
4 yes, I agree with that, that's the right thing to do.
5 But I'm simply going toward his comment about the
6 exigent circumstances.

7 Is there a reason why, in your mind, for
8 the benefit of customers or the Company, the
9 Commission needs to make a decision now on this as
10 opposed to one, two, four months down the road if the
11 Commission were to feel it needed that additional
12 time to explore some of the issues raised by the
13 public witnesses in this matter?

14 MR. PACE: We would have no problem with
15 that.

16 JUDGE GOODWILL: Okay. My concern, as
17 well, is that as I read your suggestions in
18 paragraphs one and three, as well as four, and I
19 think they are good suggestions worthy of
20 consideration in conjunction with your overall tariff
21 request in this docket, but as I read them, they are
22 actually new rate provisions for which proper notice
23 hasn't been given in this matter, since your letter
24 was dated March 12th. And our notice of hearing went
25 out in February and at that time gave notice of the

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1 entire proposed tariff change.

2 MR. PACE: Uh-huh.

3 JUDGE GOODWILL: One and three would add
4 different terms to that proposed tariff, for which I
5 think the public probably hasn't been given
6 appropriate notice.

7 So my inclination is to go ahead and as I
8 said not for the matters necessarily raised by Mr.
9 Hackett --

10 MR. SACKETT: Sackett.

11 JUDGE GOODWILL: Sackett. I apologize,
12 sir.

13 But because we are looking at some new
14 tariff changes, I think it does makes sense to maybe
15 continue this hearing to another time.

16 And as we have done in previous years,
17 perhaps we should do that down at Dammeron Valley so
18 that neither you nor anybody else needs to travel
19 back up here to Salt Lake to participate.

20 And we would certainly try to do that as
21 expeditiously as possible. I think what we would
22 need to do is go out with a new notice of hearing
23 giving a date and time with -- if it is what you are
24 now proposing, numbers one, three and four from your
25 March 12th letter included in that proposed tariff.

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1 MR. PACE: One, two, three and four. I
2 mean, you can pass over two, but that's a good one
3 just to clean up --

4 JUDGE GOODWILL: For renumbering. But I
5 do want to make clear, my understanding as we move
6 forward, because Ms. Hjelle addresses this in her
7 comments, that the current tariff provisions, the
8 current rates that were approved by the Commission, I
9 believe in June of '04, are not at issue in this
10 docket. I know she has raised some concerns with
11 those rates. And specifically, I believe, although
12 there might be others, but one that I can think of
13 right now with respect to when the irrigation rates
14 kick in for customers.

15 Those are not at issue in this docket.

16 Customers remain free to challenge the
17 continuing reasonableness of any rate.

18 But if we continue this hearing and if we
19 move forward in looking at some revised language and
20 rates for this tariff, it is strictly the
21 conservation tariff as it is proposed that is at
22 issue and not your current rates -- not the Company's
23 current rates. So I don't want any continuation to
24 be construed otherwise.

25 I know at the end of this process, the
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1 Commission is free to condition any approval on any
2 way it sees fit and in the public interest. And so I
3 know that the Commission can certainly say, yes,
4 rates are approved except that Note Number 2 must be
5 changed as such or Note Number 3 must be changed as
6 such, along the lines that were discussed here today.

7 MR. PACE: Right.

8 JUDGE GOODWILL: And I appreciate the
9 Company's willingness to work with all parties to
10 come to some language that's acceptable.

11 Why I mention that is I think prior to any
12 hearing, any continued hearing in this matter, I
13 think it would make sense for the Company to work
14 with the Division and any customers who may come
15 forward with suggestions on proposed language so that
16 the Commission might have before it and might be able
17 to put in any public notice for further hearing the
18 -- what seems like reasonable language, given today's
19 -- what's been discussed at today's hearing. And I'm
20 just trying to work out in my head what makes sense
21 procedurally to go forward.

22 Do we want to wait some number of days or
23 weeks for that discussion to take place, and for --
24 maybe through the Division, a further Division
25 filing, the Division to come forward and say, "We've
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1 worked with the Company and with any customers who
2 chose to come forward, and here is now the proposed
3 language." And then the Commission can move forward
4 with noticing a hearing appropriately.

5 Does that make sense, Ms. Schmidt?

6 MS. SCHMIDT: Yes. It does, your Honor.

7 JUDGE GOODWILL: What do you think would
8 be an appropriate time to do that?

9 MS. SCHMIDT: 30 days perhaps.

10 JUDGE GOODWILL: Okay. Does that sound
11 good, Mr. Pace?

12 MR. PACE: Shauna, have you replaced Paul?

13 MS. BENVEGNU-SPRINGER: No. I work with
14 Paul.

15 MR. PACE: All right. Because if you were
16 brand new to it, maybe 30 days wouldn't be enough.
17 But I'm sure it's enough, from our end.

18 I think what the appropriate thing to do
19 is you either tell me to reword all the paragraphs or
20 you reword them the way you think they ought to be.
21 But let us look at them before you send them.

22 But I think we can do it in 30 days.

23 JUDGE GOODWILL: Again, all of this is not
24 to pre-judge in any way what's actually been proposed
25 to this point, the dollar amounts and all of those

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1 sort of things. But I hear the concerns that have
2 been raised and I appreciate the discussion we've had
3 regarding those concerns. Ultimately, at the end of
4 this process, the Commission will make the ultimate
5 decision as to whether or not any conservation rate
6 of any type should be approved. And then, of course,
7 the specific wording regarding the notes and so
8 forth.

9 Also, while we're on the record, Mr.
10 Sackett, to revisit the issue of intervention, given
11 it appears likely that we will now reconvene -- or
12 continue this hearing sometime probably two months
13 from now or more, given that we want to give proper
14 public notice once the Division has made its filing
15 with the Commission, certainly your clients, and Ms.
16 Hjelle, I know, who indicated an interest in
17 intervening last week when speaking with Commission
18 staff, are all free to submit any requests for
19 intervention as you deem appropriate.

20 MR. SACKETT: Okay. It's not adequate to
21 simply approve an oral request at this hearing?

22 JUDGE GOODWILL: I would prefer that we do
23 that in writing. And ultimately, the Commission
24 makes those intervention decisions, even in cases
25 that have been traditionally assigned to me. So I'd

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1 rather that be in writing and they have the
2 opportunity to review that and make that decision.

3 MR. SACKETT: That's fine.

4 JUDGE GOODWILL: Ms. Hjelle, did you hear
5 me as well on that?

6 MS. HJELLE: I did. I do have a couple of
7 comments and questions, if I could get an opportunity
8 at some point?

9 JUDGE GOODWILL: I would ask you to be
10 brief, only because we did at least today attempt to
11 limit your and Mr. Sackett's participation to the
12 Public Witness. And we are not in the Public Witness
13 now.

14 If you have any questions regarding
15 intervention or procedural matters, I'll certainly be
16 willing to address them. And I will permit you the
17 opportunity to make some brief, brief comments. But
18 please do be brief.

19 MS. HJELLE: Okay. They can be brief.

20 I do believe that HB-51 precludes the
21 State Engineer from initiating an administrative
22 procedure to forfeit water rights. So I think that
23 goes away.

24 I also am not -- I guess my question is,
25 is the fact that they're proposing a \$0.10 per

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1 thousand bulk sale irrigation rate for certain
2 situations, which are unclear to me, and if in fact
3 the additional water that will be secured to the
4 Company for some use or other, which is a little bit
5 unclear other than clarity and administration
6 clarity, is not going to be used for the benefit of
7 existing irrigation customers who have helped pay for
8 that system, then is it our obligation to file an
9 objection to the current tariff in another matter,
10 rather than try to raise that in this matter?

11 JUDGE GOODWILL: Yeah. Number one, I
12 don't want to give legal advice. And so I'm only
13 giving you my take at this point. And you are free
14 to agree or disagree and to file any legal matters
15 with the Commission that you think are appropriate.

16 But what I said, number one, is that the
17 Company's current rates that are now in affect, not
18 the conservation rate, but the current rates that are
19 in affect and have been affect for four years, the
20 reasonableness of those rates, either the dollar
21 amount, the usage amount or when the irrigation rates
22 and so forth kick in, those are not up for
23 reconsideration in this current proceeding. And I do
24 not feel that it would be appropriate that they be
25 reconsidered in this current proceeding.

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1 Now obviously, the Division looks at all
2 of the Company's rates in making its determination
3 and its recommendation regarding what the
4 conservation rate -- adding the conservation rate
5 would do to the Company's revenues. And either gain
6 or shortfall. So while those rates certainly are
7 analyzed as part of the Division's analysis in this
8 matter, the reasonableness of those rates has not
9 been brought forward as an issue in this matter. And
10 I think is ultimately a separate matter for a
11 separate docket if you or any other customers want to
12 challenge the ongoing reasonableness of those rates.

13 MS. HJELLE: Okay.

14 JUDGE GOODWILL: The issue you raised with
15 regard to the bulk sale irrigation rate that is
16 proposed in Mr. Pace's March 12th letter, it's my
17 understanding that the Company intends to move
18 forward with that request, and it makes sense to do
19 that in conjunction with the conservation tariff rate
20 that is currently proposed, since we are going to
21 continue this hearing to a later date. I would not
22 have -- I certainly would have recommended to the
23 Commission that the bulk sale irrigation rate is a
24 new rate for which appropriate notice has not been
25 given at this point were the Commission to move

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1 forward today in making a decision based on today's
2 hearing. Since we are not doing that, I think it
3 certainly makes sense, as long as appropriate notice
4 is given, to deal with that rate as well. And you
5 and all customers would be free either as interveners
6 or in a further Public Witness setting to make your
7 views known with respect to that proposed bulk sale
8 irrigation rate.

9 MS. HJELLE: I have one other question.
10 And if you want to recommend I deal with staff or
11 something, that would be fine. But given the lack of
12 detail in the disclosures that we've received, is
13 there a mechanism by which we can obtain the
14 underlying records so as to understand better what
15 the circumstances are here?

16 JUDGE GOODWILL: Generally parties who
17 intervene and are full participants in a docket are
18 able, through data requests, to seek information from
19 the Company involved, in this case Dammeron Water or
20 the Division of Public Utilities, whoever may be
21 holding the information that is sought. You could
22 certainly request it informally. But if you wanted
23 to make sure that as a matter of rights you have an
24 opportunity to request such information, you probably
25 need to be recognized as an intervener in these

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1 proceedings.

2 MS. HJELLE: Okay. Finally, I just would
3 say that although there may not be everything I
4 agreed with Mr. Pace on, if I can be of any help in
5 the drafting of the tariff to obviate any of my
6 concerns, I'd be happy to help.

7 JUDGE GOODWILL: Then I would just ask
8 that the Division make sure you are included to the
9 extent you want to be included in that process. As
10 any other customers who might come forward with
11 suggestions.

12 Mr. Pace?

13 MR. PACE: Well, I would just say that
14 certainly Barbara is an attorney. She has very big
15 experience in water matters. I would have no problem
16 with her receiving the draft and having her comments
17 at the draft stage.

18 And I think everything is a public record
19 because we file three reports a year, one to the
20 State auditor that's all the finances of the Water
21 Company, one to the Division of Water Rights, or DEQ
22 -- Bob, you can tell me which report we file with you
23 guys -- anyway that shows volume, the plant, the
24 various things. But there are three reports that are
25 filed with the State every year on this water

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1 company. And I think they're public record. So we
2 have copies of them. And if you want me to make them
3 available to Barbara, I could. Or if she just wants
4 to go to the State auditor and DEQ and the Division
5 of Water Rights she can probably get copies of those
6 reports going back 25 years.

7 MS. HJELLE: Thank you.

8 JUDGE GOODWILL: Anything further, Mr.
9 Sackett?

10 MR. SACKETT: I do have sort of follow up
11 procedurally.

12 In preparation for this hearing, I thought
13 I would be able to get a substantial part of what has
14 been filed in this case off of the Commission's
15 website. I found on the Commission's website a
16 single document that's attributable to this docket,
17 even though almost all of the proceedings and the
18 papers that have been filed in the complaint docket
19 are there. I'm trying to figure out why or whether
20 or not as a matter of sort of keeping costs down to
21 my client, why I can't get copies off of the
22 Commission's website.

23 JUDGE GOODWILL: And generally, you could.
24 I would ask that you get with the Commission's
25 secretary to find out exactly on that. I will simply
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1 say a lot of what's been talked about here today as
2 things that were filed with the Commission, have only
3 been filed since perhaps last Friday. I know that's
4 not true of all the documents. But a lot of what's
5 missing out on the website may just be because it's
6 only been filed with the Commission in the last
7 couple of days.

8 MR. SACKETT: Perhaps. The only thing
9 that I could find was the notice of this hearing on
10 the website.

11 JUDGE GOODWILL: Generally -- and to be
12 honest with you, I don't even know offhand exactly
13 what the rules are about what gets put out there and
14 not. Although most things that are file as part of a
15 docket should get out on the website.

16 And please take that up with the
17 Commission secretary. I'm sure we can get you
18 whatever documents you need.

19 MR. SACKETT: Thank you.

20 JUDGE GOODWILL: Anything further we need
21 to take up on the record this afternoon?

22 MR. PACE: No, sir.

23 MS. SCHMIDT: Nothing from the Division.

24 JUDGE GOODWILL: Thank you all for your
25 patience. I know this has sort have been a

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1 convoluted process, but I think we're making some
2 progress.

3 Thanks.

4 (Hearing concluded at 3:57 p.m.)

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1 REPORTER'S HEARING CERTIFICATE

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

I, Kelly Fine-Jensen, Registered Professional Reporter and Notary Public in and for the State of Utah, do hereby certify:

That prior to being examined, the witnesses were duly sworn to tell the truth, the whole truth, and nothing but the truth;

That said proceeding was taken down by me in stenotype on March 25, 2008, at the place therein named, and was thereafter transcribed, and that a true and correct transcription of said testimony is set forth in the preceding pages;

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

WITNESS MY HAND AND OFFICIAL SEAL this 1st day of April, 2008.

Kelly Fine-Jensen, RPR
Notary Public
Residing in Salt Lake County