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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the matter of the)
request of Dammeron Valley) Docket No. 07-2025-T01
Water Works to add a)
conservation rate to) Commissioner Goodwill
tariff)

June 13, 2008 - 9:30 a.m.

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

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

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

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FOR THE DIVISION:

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FOR INTERVENORS DOUGLAS MARKHAM AND ANDREA GASPORRA:

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INTERVENING AS A CUSTOMER OF DAMMERON VALLEY WATER:

11

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I N D E X

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WITNESS

PAGE

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Shauna Benvegna-Springer

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E X H I B I T S

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

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3 JUDGE GOODWILL: Let's go on the record in
4 the matter of the request of Dammeron Valley Water
5 Works to add a conservation rate to tariff, Docket
6 No. 07-2025-T01.

7 I'm Steve Goodwill, administrative law
8 judge for the Public Service Commission, and I've
9 been assigned by the Commission to hear this matter.
10 Today's hearing is a continuation of an evidentiary
11 hearing and public witness hearing begun on March
12 25th in Salt Lake City. Due to some issues raised
13 during the evidentiary hearing on March 25th, it was
14 determined that perhaps the parties needed to speak a
15 little more regarding the tariff, and we would go
16 back into hearing as we're doing here this morning in
17 St. George.

18 Notice of this hearing was issued by the
19 Commission on April 15th, 2008. Prior to going on
20 the record we had some brief discussion as to how we
21 would proceed this morning. I noted that we had
22 noticed the public witness hearing to begin at 11:30.
23 So if we're still in the evidentiary portion of the
24 hearing at 11:30, we'll go ahead and recess that, go
25 through the public witness portion and then go back
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1 on the record with the evidentiary hearing as needed.

2 Also indicated that we also decided that
3 we would turn first to the Division to discuss what
4 has transpired since our last hearing, the revised
5 tariff that has been filed and the Division's
6 recommendation on that tariff.

7 First, I would like to go ahead and get
8 the appearances of the parties here this morning.
9 We've got everybody at the table here in front of me,
10 so why don't we just start at my left and work our
11 way around the table. Ms. Hjelle, why don't you go
12 first and identify yourself for the record.

13 MS. HJELLE: My name is Barbara Hjelle,
14 H-j-e-l-l-e, and I have intervened as a customer of
15 Dammeron Valley Water.

16 MR. SACKETT: Gary G. Sackett,
17 representing Intervenors Douglas Markham and Andrea
18 Gasporra.

19 MR. PACE: Brooks Pace, president of the
20 Dammeron Corporation, owner of Dammeron Valley Water
21 Works.

22 MS. SCHMID: Patricia E. Schmid, assistant
23 attorney general, representing the Division of Public
24 Utilities.

25 MS. BENVEGNUM-SPRINGER: Shauna
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1 Benvegna-Springer, witness for the Division as the
2 utility analyst.

3 JUDGE GOODWILL: And I'll note for the
4 record that in our prior proceeding Mr. Pace and
5 Ms. Benvegna-Springer have been previously sworn.

6 And with that, I will turn to you,
7 Ms. Schmid.

8 MS. SCHMID: The Division requests that
9 Ms. Benvegna-Springer update the court on where the
10 matter stands. And I did not, unfortunately, bring
11 copies of the April 29th, 2008 memorandum of the
12 Division, but perhaps at a break I could get copies
13 of that, distribute it to the parties, and then later
14 seek to move its admission as an exhibit.

15 JUDGE GOODWILL: Okay. Who here among the
16 parties -- does everybody have a copy of that memo?
17 It looks like everybody has a copy, so we just want
18 to make sure that to the extent it's marked and/or
19 admitted, we make sure the court reporter has a copy.

20 MS. SCHMID: In that case, may I then
21 request its admission now?

22 JUDGE GOODWILL: Sure.

23 MS. SCHMID: Okay. As a preliminary
24 matter the Division would like to -- oh, I'll do a
25 couple foundation questions.

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1 EXAMINATION OF MS. BENVEGNU-SPRINGER

2 BY MS. SCHMID:

3 Q. Ms. Benvegna-Springer, are you still
4 employed by the Division of Public Utilities, and are
5 you still addressing the Dammeron Valley Water
6 conservation proposed tariff?

7 A. I am.

8 Q. Did you prepare or assist in the preparing
9 of a memorandum to the Utah Public Service Commission
10 dated April 29th, 2008?

11 A. I did.

12 Q. Do you have any changes or corrections to
13 this memorandum?

14 A. I do.

15 Q. Could you please go through those?

16 A. Yes. I have one correction. This would
17 be on page 5. About halfway down the page there's a
18 paragraph prior to the heading "Conclusion." It
19 states, "The Division, the Company, and the Customer
20 agree to the modified changes of the tariff and to
21 the company tariff notes."

22 Q. And in this context, to whom does the word
23 "customer" apply?

24 A. The customer applies to Barbara Hjelle.

25 Q. Barbara Hjelle. Thank you. Please
26

1 continue.

2 A. The modification I would like to make to
3 that is that she agreed to the form of the rate and
4 tariff note changes but did not agree to the
5 substance.

6 Q. And you learned of -- you had your
7 understanding clarified today, is that correct, or
8 just in the recent past?

9 A. Yeah, in the recent past we had that
10 discussion.

11 MS. SCHMID: Given this foundation and
12 with the change as noted today, the Division would
13 like to move, I believe it would be DPU Exhibit
14 No. 3.0 be admitted, and that would be the April
15 29th, 2008 memorandum from the Division, including
16 Philip Powlick, William Duncan, and Shauna
17 Benvegnu-Springer addressing the Dammeron Valley
18 Water Works conservation rate.

19 JUDGE GOODWILL: We'll go ahead and mark
20 that for identification as DPU Exhibit 3.0. Just to
21 clarify again on your correction, so I take it that
22 the paragraph should more properly read something
23 like, "The Division and the Company agree to the
24 modified changes of the tariff and the accompanying
25 tariff notes. The Customer agrees to the form of the
26

1 tariff and note but not to the substance"?

2 THE WITNESS: Correct.

3 JUDGE GOODWILL: Is that --

4 THE WITNESS: That would be correct.

5 MS. SCHMID: And if I may, there's also a
6 cover sheet and then a three-page exhibit. The first
7 sheet is noted revised sheet No. 3; the second sheet
8 is noted revised sheet No. 3A; and the third sheet is
9 revised sheet No. 3; and the Division also requests
10 admission of those exhibits and the accompanying
11 cover page.

12 JUDGE GOODWILL: All right. We will just
13 note that they are identified as Exhibit 1.1 to what
14 we have marked as DPU 3.0. And is there any
15 objection to the admission of DPU 3.0 as an exhibit?

16 MS. HJELLE: There was one exhibit I
17 couldn't find in the stuff that was given to me. I'm
18 not sure if it was part of that memo or not, but it
19 was Exhibit 1.6 and talking about other companies.

20 MS. SCHMID: I believe -- was that from
21 the prior hearing? I believe that it was, and I
22 believe that was on March 28. I have lots of copies
23 of that if you would like one.

24 MS. HJELLE: That would be great.

25 JUDGE GOODWILL: And that was previously

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1 admitted as DPU Exhibit 1.0, I believe, in the
2 exhibits.

3 With that, are there any objections to DPU
4 Exhibit 3.0?

5 MR. SACKETT: I don't have any objections.
6 I just note that you have marked the previous
7 memorandum as 3.0 in the last hearing.

8 JUDGE GOODWILL: Well, let's clarify that,
9 then. Thank you, Mr. Sackett.

10 I had just that we had two new exhibits
11 from the last hearing, the Division recommendation of
12 March 24 and then a memorandum I believe from
13 Dammeron Valley from February 8th. Was there
14 another --

15 MR. SACKETT: Well, there was a March 21st
16 memo from the Division which was not admitted, but it
17 was marked.

18 JUDGE GOODWILL: Okay, thank you. I
19 appreciate that. We will go ahead and change today's
20 memo, the April 29th memo for identification, as DPU
21 4.0 and admit it as such. Thanks, Mr. Sackett.

22 (DPU Exhibit 4 marked.)

23 Okay. Ms. Schmid?

24 MS. SCHMID: Ms. Benvegna-Springer would
25 like to give a brief summary.

26

1 Q. (BY MS. SCHMID) Please proceed.

2 A. Okay. Since the hearing of March 25th,
3 the company, Dammeron Corporation; Barbara Hjelle;
4 Bill Duncan, our manager; and myself met through a
5 telephone conversation and discussed the tariff and
6 numerous changes to the tariff notes. And from March
7 25th through April 29th we had several different
8 conversations via e-mail, via phone conversation
9 discussing the various changes.

10 As a result of that, Exhibit 1.1, the
11 tariff changes, is a conclusion and compilation of
12 those changes that everyone agreed to as far as the
13 form. The company and the Division agreed to the
14 substance; Ms. Hjelle did not agree to the substance
15 of it.

16 Would that be correct?

17 MS. HJELLE: I reserve my right to object,
18 let's put it take way.

19 MS. BENVEGNUM-SPRINGER: Do you want me to
20 go through the changes briefly?

21 JUDGE GOODWILL: Sure.

22 MS. BENVEGNUM-SPRINGER: Okay. The large
23 change that we're adding, of course, is the
24 conservation culinary rate that would be effective
25 sometime July 1st or thereabouts. And the primary

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1 change of that would be, instead of someone having a
2 base rate of \$30 for the first 20,000, they would
3 have a charge of \$18 minimum charge for the first
4 12,000.

5 The next 12,000 gallons that they would
6 use would be charged at \$2 a gallon versus within the
7 20,000-gallon range. And you can see what the old
8 tariff is versus what the new tariff would be. After
9 the 24,000 gallons it would then increase to \$3 a
10 gallon -- 1,000 gallons. Excuse me.

11 Some of the other changes that we made
12 were renumbering the tariff for clarification
13 purposes. We've numbered the conservation culinary
14 rate as number 1. Under the standard culinary rate
15 we've numbered and renamed those rates as 2, 3, and 4
16 for 8,000 -- 12,000 -- excuse me -- 800, 1,200 and
17 1,600 gallons per day, respectively.

18 We also renumbered the water irrigation
19 rate as number 5. That will still be in effect as
20 approved back on July 1st of 2004. We made two
21 clarifying note changes to that rate, which said that
22 instead of the entitlement being just all, it would
23 be all who owe irrigation rates; and we clarified it
24 to include that the usage would be limited to 40,000
25 gallons, which this was the same as before, it would
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1 be 40,000 gallons, and we added per acre-foot of
2 water to that note.

3 Moving on to the second page of the notes,
4 there are two additional fees that would be added.
5 One is a conveyance of irrigation water rights fee of
6 \$25, and another fee for non sufficient funds of \$15.

7 In note 1 we've added "for successor in
8 interest" in the first sentence at the very end. In
9 note 2 it will read, "All company certificated
10 irrigation water rights will be held, maintained and
11 conveyed by the company on behalf of the owner. The
12 owner of deeded irrigation water rights has the
13 responsibility to properly convey the deeded
14 irrigation water rights and file proof of conveyance
15 with the company."

16 Note 3 we have added "applicable" because
17 we're adding a conservation rate, and we needed to
18 differentiate between which rate would apply. On the
19 second sentence of that we have also added a
20 differentiation between the overage for the standard
21 rate versus the conservation rate.

22 On note 4, "Customers with culinary rate
23 who have irrigation rights must use 24,000 gallons
24 per month (48,000 in a two-month billing cycle)
25 before the irrigation rate will apply. The second

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1 12,000 gallons will be billed at \$2 per 1,000
2 gallons."

3 Note 5 we did not change. That remains
4 the same as the previous tariff. Note 6 also does
5 not change. Notes 7 through 10 are new notes that
6 would be added to the tariff.

7 No. 7 is, "All customers of the company
8 record as of the effective date of the conservation
9 culinary rate have a voluntary option to change to
10 the use of the conservation culinary rate. Customers
11 of company record who do not wish to change to the
12 conservation culinary rate will remain with the
13 standard culinary water rate. Existing customers to
14 apply to convert to the conservation culinary rate
15 will not be allowed to reconvert to the standard
16 water rate."

17 Note 8 reads, "The conservation culinary
18 rate applies to new divisions, new subdivisions
19 platted after the effective date."

20 Number 9 reads, "All customers may be
21 required to discontinue outside water use on a
22 temporary basis if the company determines an
23 emergency defined as endangerment to public health,
24 safety, and general welfare is likely. Examples
25 include, but are not limited to, fire, extreme
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1 drought, loss of water supply due to well failure or
2 repair, pipeline issues, etc., all of which could
3 affect the water supply for domestic use."

4 And No. 10, "The company may sell to all
5 customers from time to time the right to use water
6 over and above their current tariff allocations at
7 the irrigation rate for such cases as to help
8 landowners keep their native foliage healthy during
9 times of extreme drought."

10 Those are the recommendations and modified
11 tariff notes that were discussed and, again, agreed
12 to with the Division and the Company and agreed to
13 with the customers as to form but not as to
14 substance.

15 MS. SCHMID: That concludes the Division's
16 presentation this morning.

17 JUDGE GOODWILL: All right. I have one
18 quick question on form, or on the meaning of that the
19 parties agreed on form but not substance.

20 I just wanted to ask, on the first page of
21 the new tariff sheet under "standard culinary water
22 rate," you've got the base rate and then you've got
23 800 gallons, 1,200 and 1,600. That's new language
24 from the current tariff which refers to one tapping,
25 one and a half, two tapings.

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1 THE WITNESS: That's correct.

2 JUDGE GOODWILL: Do they mean the same
3 thing, or is there a substantive difference there?

4 THE WITNESS: No, it means the same thing.
5 It's different nomenclature that's being used so it's
6 more clear to the customer. "Tapping" is an old
7 terminology that has been used in the water business
8 for some time, and the relabeling of those tariffs
9 was done to create clarification for the customer.

10 JUDGE GOODWILL: Okay, thanks.

11 Let's go ahead and turn to the parties and
12 see if they have questions.

13 Mr. Pace, do you have any questions for
14 this witness?

15 MR. PACE: I would only say that I wish I
16 would have received that, even though I agree with
17 everything you've written. I just didn't receive the
18 memorandum. So you've kind of reworded things. I'm
19 not sure why we weren't copied in on those. But
20 there's nothing serious about it, but I would make
21 one comment. In the middle of the first page of the
22 tariff, just for clarity, again, under the base rate
23 where it says "\$30 minimum charge for each service
24 connection" needs to really say "for each service
25 connection on tariffs 2, 3, and 4."

26

1 THE WITNESS: Okay.

2 JUDGE GOODWILL: Would you make the same
3 change, then, to No.1, \$18 minimum charge for each
4 service connection?

5 MR. PACE: Yes, that's right. For the
6 conservation rate only.

7 JUDGE GOODWILL: Just to make it more
8 clear.

9 MR. PACE: Right.

10 And then the thing that's gotten us in
11 trouble is calling them as one tapping, one and a
12 half tapping, two tapings. I'm not sure we've
13 gone -- we've helped by correcting -- having numbered
14 these, numbering them now, but now we'll still have
15 confusion. Does that mean that I can subdivide my
16 lot, because I have two culinary shares? What I was
17 hoping is it would just be that tariff 2 allows you,
18 you know, 36,000 gallons -- well, tariff 2 would
19 allow you 24,000 gallons; tariff 3, 36,000 gallons;
20 tariff 4, 48,000 gallons a month. This isn't a big
21 deal, but maybe we do need to call it something. But
22 the 1, 1.5 and 2, Barbara may or may not agree with
23 this. It's just been forever, especially newcomers
24 to the valley, I don't know what that means. Do I
25 have a chance the right to build two homes? What's
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1 this one and a half business? So if you can think of
2 any --

3 MS. SCHMID: And if I may interject, on
4 the Division's memorandum file, April 29th --

5 MR. PACE: Oh, you have changed it.

6 MS. SCHMID: It does use 800 GPD
7 allocation, 1,200, and then 1,600.

8 MR. PACE: Okay, great. You already did
9 change that. So you're getting me a copy of that?

10 THE WITNESS: I thought we had e-mailed
11 that to you.

12 MR. PACE: It's just an oversight.

13 JUDGE GOODWILL: For the record, let's
14 make sure we have one person speaking at a time so
15 the court reporter can pick it up.

16 Okay. With that, Mr. Sackett, any
17 questions of this witness?

18 MR. SACKETT: I'll yield to Ms. Hjelle.

19 MS. HJELLE: I just have one question, and
20 it really relates to what might appear all of a
21 sudden to be an ambiguity. Conservation culinary
22 rate 1 says, "All new and future connections as of
23 the effective date." And I always thought that was
24 new subdivisions that had not yet been platted or
25 something. And I guess that's what I now realize I'm

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1 confused about is that footnote -- where did I see
2 that -- 8: "The conservation culinary rate applies to
3 new subdivisions platted after the effective date."
4 I'm not sure that 8 and that 1, they -- I'm confused
5 now that I've read them again.

6 MR. PACE: 8 prevails and 1 needs to be
7 corrected. Because there's about 100 developed lots,
8 so maybe they're not connected, they're on standby.
9 So for clarity --

10 MS. HJELLE: Yeah, I just realized that.

11 THE WITNESS: So they would prevail.

12 JUDGE GOODWILL: And is that the
13 Division's understanding as well?

14 MS. HJELLE: Yes, that's what I thought.

15 JUDGE GOODWILL: So under conservation
16 culinary rate 1, instead of saying "all new and
17 future connections as of the effective date," it
18 should say "new subdivisions platted after the
19 effective date."

20 THE WITNESS: Yes.

21 JUDGE GOODWILL: "Or current customers of
22 record."

23 MS. HJELLE: That would be a problem. Do
24 you have some lots that don't have customers yet?

25 MR. PACE: Yes.

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1 MS. HJELLE: It's complicated.

2 JUDGE GOODWILL: Just one at a time,
3 please.

4 MR. PACE: The answer is yes. She got the
5 question. And so I agree. What we mean is only new
6 subdivisions. Even if -- if I've got 20 unsold lots,
7 those still deserve the old tariff. It's only new
8 subdivisions.

9 JUDGE GOODWILL: So in an old subdivision
10 that's not built on yet, when that person builds and
11 connects, they will have the option of the old rate
12 or the new rate?

13 MR. PACE: Right. Any platted
14 subdivision, whether the lots have been sold or not,
15 have the right to the old rates or the new rates.

16 JUDGE GOODWILL: Does that clarify for
17 you?

18 MS. HJELLE: Yeah. Just to continue: or
19 current customers of record, if that applies to lots
20 that are still retained by the developer, that's
21 fine. If not, maybe that's still a little bit
22 ambiguous. For customers of lots in subdivisions
23 platted before the existing date, that would make the
24 two match.

25 MR. PACE: In the beginning, in the
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1 conservation tariff it could read just "all new
2 subdivisions platted after effective date or current
3 customers of record who wish to change," and then
4 that makes it consistent.

5 JUDGE GOODWILL: You had a concern about
6 that still, right?

7 MS. HJELLE: Well, I just think, my
8 question is, are all of the lots in the existing
9 subdivision, do they all belong to current customers
10 of record? I mean, would that properly apply? Do
11 you see what I'm saying?

12 MR. PACE: That's not how I said it. I
13 said all new subdivisions.

14 MS. HJELLE: No, I'm talking about the
15 second part.

16 MR. PACE: Oh, I see. Current customers
17 of record who wish to change -- oh, I see.

18 MS. HJELLE: Do you see what I'm getting
19 at?

20 MR. PACE: So current customers of record
21 or those who bought an existing subdivided lot.
22 Okay.

23 MS. HJELLE: I was going to suggest, "or
24 customers in subdivisions platted prior to the
25 effective date." That might be simpler.

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1 MS. SCHMID: Or their successors in
2 interest, I would suggest; because it would seem
3 unfair if I bought a lot from the developer that was
4 in a platted subdivision that I would be subject to a
5 different rate than those around me.

6 MS. HJELLE: Yeah.

7 MR. PACE: Or owners of a currently
8 subdivided -- or owners of a subdivision lot platted
9 prior to effective date.

10 MS. SCHMID: And their successors in
11 interest.

12 MR. PACE: Right.

13 JUDGE GOODWILL: Well, we're doing a
14 little wordsmithing here.

15 MS. SCHMID: Pardon me. Then as the
16 company would be responsible for filing revised
17 tariff sheets, are they taking notes on these?

18 MR. PACE: Yes, we will, absolutely.

19 JUDGE GOODWILL: What I intend to do, if
20 we get to the point where the Commission is approving
21 any rates, in either case the Commission's order will
22 reproduce this tariff sheet and the order with any
23 language that's discussed here today; and then we
24 would ask the company, if those rates are approved,
25 to file a revised tariff sheet with those changes.

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1 So I want to make sure I get the language
2 straight. We've got all new subdivisions platted
3 after the effective date or owners, and I need
4 somebody to continue.

5 MR. PACE: Well, owners of a lot
6 subdivided prior to effective date. You don't need
7 to have the successors in interest. We'll just say
8 if the lot is subdivided prior to the effective date,
9 no matter if there is a third owner on it. Owners of
10 a lot subdivided prior to the effective date.

11 So it would read, "All new subdivisions
12 platted after the effective date or owners of a lot
13 subdivided prior to the effective date who wish to
14 change from the culinary water rate."

15 JUDGE GOODWILL: Other questions,
16 Ms. Hjelle?

17 MS. HJELLE: I just had one other comment
18 as I was reading through this. You have an asterisk
19 on page 2 on the rate surcharge. I was looking for
20 what that asterisk might refer to and couldn't find
21 it.

22 JUDGE GOODWILL: Where is that, again?

23 MR. PACE: It's in the notes.

24 MS. HJELLE: Is it in the notes?

25 MR. PACE: Not these notes, but it's in --

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1 THE WITNESS: It's in the prior tariff.

2 MS. HJELLE: At the top of the second
3 page, monthly standby fee, there's an asterisk. You
4 probably don't need that anymore would be my guess.

5 THE WITNESS: It applies to notes of the
6 tariff that are not submitted.

7 MR. PACE: Because they didn't change.

8 THE WITNESS: Because they did not change.

9 MR. PACE: Do you have a copy of them?
10 You were referring to them. Do you have a copy you
11 can show them?

12 THE WITNESS: I don't have a copy of the
13 full tariff. I apologize.

14 MS. HJELLE: I've got something here. I
15 don't know if it's the right one. It's something I
16 got from you. I have something dated 1997 that looks
17 fairly complete.

18 MR. PACE: Yeah. It's thick enough that
19 this is it. So look for your asterisk in there. All
20 I was going to say, if it's somebody that the lines
21 are built to the lot it may connect, and it's a
22 source of revenue for people who invest in lots and
23 don't build on them.

24 MS. HJELLE: The asterisk portion said the
25 annual standby fee may be paid monthly or annually,

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1 et cetera, et cetera, et cetera.

2 THE WITNESS: So that applies to that. It
3 still would remain in effect.

4 JUDGE GOODWILL: Any other questions,
5 Ms. Hjelle?

6 MS. HJELLE: That was it. Thank you.

7 JUDGE GOODWILL: I've got a couple.

8 Ms. Benvegna-Springer, in the Division's
9 memo of March 24, DPU Exhibit 1, you go through a
10 financial analysis using the proposed rates, and I'll
11 run through these quickly. Basically a proposed rate
12 base of approximately \$808,000, an average rate of
13 return of 3.09 percent, revenue requirement of almost
14 \$200,000, such that the proposed rates would fall
15 \$30,000 short --

16 THE WITNESS: Right.

17 JUDGE GOODWILL: -- of the proposed
18 requirement. Given the revised tariffs, do those
19 numbers remain accurate?

20 THE WITNESS: That's correct, they remain
21 the same.

22 JUDGE GOODWILL: And I know during our
23 hearing back in March one of the issues that was
24 brought up that was at the time one of the primary
25 reasons why we wanted to reconvene here today was the

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1 bulk sale irrigation rate that was proposed, the idea
2 being that perhaps that had not been given proper
3 public notice such that the Commission could act on
4 it. I don't see that rate in the revised tariff, and
5 I think I read in the Division's memo now admitted as
6 DPU Exhibit 4 that that the company has decided not
7 to pursue that. Is that correct?

8 THE WITNESS: That is correct.

9 MR. PACE: At this time, your Honor.

10 THE WITNESS: On page 5, second paragraph,
11 it discusses the bulk sale irrigation rate. We had a
12 discussion regarding House Bill 51 which was passed
13 and how that would affect the company with its
14 irrigation rate in the forfeiture of water rights.
15 Based on that discussion and understanding of how
16 that bill is going to be applied, the customer -- the
17 company, I should say, withdrew the bulk rate at this
18 time.

19 JUDGE GOODWILL: I've got a question, and
20 I'll ask Mr. Pace first. I know you're not the
21 witness at this point, but you've been sworn and been
22 speaking, but I'll ask you and then I'll turn to the
23 Division.

24 The option of current owners, as we'll now
25 call them, to switch to the conservation culinary
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1 rate, I understand that, per the tariff notes, once a
2 current owner decides to switch to the conservation
3 rate they can't switch back.

4 MR. PACE: Right.

5 JUDGE GOODWILL: If these rates are
6 approved, how long would a current owner have, or is
7 there a time limit to decide to switch to
8 conservation rate?

9 MR. PACE: No limit.

10 JUDGE GOODWILL: Is that the Division's
11 understanding as well?

12 THE WITNESS: Correct.

13 JUDGE GOODWILL: I just had a question as
14 I went through the figures on the right tariff,
15 Ms. Benvegna-Springer, regarding the standard
16 culinary rate. On page 3 of your April 29th memo,
17 about the fourth line down you compare the \$18 per
18 month under the conservation rate using 400 gallons
19 of water per day versus \$30 for utilizing 800 gallons
20 per day, which is under standard culinary water rate.

21 THE WITNESS: Right.

22 JUDGE GOODWILL: But I guess what I -- and
23 maybe I'm just looking at this wrong. A person under
24 standard culinary water rate gets 20,000 gallons for
25 the \$30 minimum charge, correct?

26

1 THE WITNESS: Uh-huh (affirmative).

2 JUDGE GOODWILL: So that would equate
3 to --

4 MR. PACE: \$1.50. In both cases they're
5 \$1.50 a thousand.

6 JUDGE GOODWILL: Let me just try to get my
7 thoughts out here. At 20,000 gallons over a 30-day
8 month, you're looking more at 600 and some gallons
9 per day.

10 MR. PACE: Right.

11 JUDGE GOODWILL: What I don't
12 understand -- I mean, I understand that a person who
13 is on a what used to be called one tapping and now
14 800 gallons per day allocation would pay \$30 a month,
15 but at 800 gallons per day, which I would assume is
16 their right to use, that comes out to roughly 24,000
17 gallons per month.

18 MR. PACE: That's why under tariff 2 he
19 gets that additional four at the same \$1.50.

20 JUDGE GOODWILL: So you can use 800
21 gallons per day, but you're going to pay for it
22 differently once you get past 20,000 gallons?

23 MR. PACE: Well, you're going to pay for
24 it the same for the next 4,000, and then you go into
25 overage. Or if you're on tariff 3, then you get it

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1 under 16,000 at the same \$1.50. See, our base rate
2 is \$1.50 1,000 gallons, whether you're on tariff 1,
3 2, 3, or 4. The base rate is \$1.50. The overage
4 rate is consistently on 2, 3 and 4 for \$2, but you go
5 to that rate at differing times when you're on 2, 3
6 or 4.

7 JUDGE GOODWILL: Understood. Do you have
8 anything to add to that?

9 THE WITNESS: I do not.

10 JUDGE GOODWILL: Okay. Any other
11 questions? Yes, Mr. Sackett?

12 MR. SACKETT: In the Division's
13 memorandum, on the first page it talks about Dammeron
14 Corporation will subsidize any net losses should a
15 rate increase be requested. In the last line it
16 says, "As a result, the conservation rate would not
17 be a part of the rate base." I don't understand
18 that. It's sort of apples and oranges, is it not?
19 You're saying it wouldn't be part of the test year
20 revenues. The rate base is the investment base, so
21 we're not talking about investment base here.

22 THE WITNESS: What we're talking about is
23 that any prior losses would not be included in their
24 rate base or their revenue requirements.

25 MR. SACKETT: Rate base is not the revenue
26

1 requirement, which is what I'm trying to get at.

2 THE WITNESS: Right.

3 MR. SACKETT: The revenue requirement
4 wouldn't be part of it. So what would happen, you
5 would compute a regular revenue requirement and then
6 reduce it by losses that had been booked for the test
7 year? I'm having trouble seeing how this works.

8 THE WITNESS: If there were losses as a
9 result of the conservation rate, they would not be
10 included in the rate base.

11 MR. SACKETT: Do you see what I'm getting
12 at, your Honor?

13 JUDGE GOODWILL: I do. Ms. Schmid?

14 MS. SCHMID: May I ask the witness some
15 perhaps clarifying questions?

16 JUDGE GOODWILL: Sure.

17 MS. SCHMID: Do you understand that the
18 term "rate base" is normally in our context used to
19 describe -- well, let's overly generalize and call
20 them hard assets, like property and infrastructure?

21 THE WITNESS: Correct.

22 MS. SCHMID: Do you understand that?

23 THE WITNESS: Correct.

24 MS. SCHMID: And then do you also
25 understand that revenue requirement is the amount of

26

1 money flowing through required by the company to
2 serve its needs?

3 THE WITNESS: Correct.

4 MS. SCHMID: So in this instance, based on
5 that, maybe, would you agree that perhaps "rate base"
6 is not an exact term of art?

7 THE WITNESS: I would agree. We probably
8 should change that to read "revenue requirement."

9 MR. SACKETT: That makes it clear to me.

10 Related to that same paragraph, and this
11 actually ties in with something that we talked about
12 yesterday, it speaks to Dammeron Corporation as the
13 parent company. And maybe I'll ask you as the
14 witness, do you understand who it is that has the
15 Certificates of Public Convenience and Necessity to
16 operate as a water company?

17 THE WITNESS: I am -- I could not comment
18 on that because I haven't looked at the records. I
19 would assume that it would be Dammeron Valley Water
20 Works, but I have not looked at the records to
21 determine who it actually is, whether it's Dammeron
22 Corporation or who has the CPCN document.

23 MS. SCHMID: And, your Honor, I believe
24 that since Mr. Pace is here and he is a sworn
25 witness, perhaps that question could be asked of him.

26

1 MR. PACE: It is true that Dammeron Valley
2 Water Works is a d/b/a of Dammeron Corporation. And
3 as we discussed yesterday, it's just that simple.
4 Whether the Division wants me to change it is another
5 question; but for 32 years Dammeron Corporation has
6 been a Utah corporation, and for those 32 years it
7 has operated with a total separate checking account,
8 separation of funds 100 percent, except combined at
9 year end for tax purposes as two separate entities.

10 JUDGE GOODWILL: You just said Dammeron
11 Corporation for 32 years.

12 MR. PACE: And the Water Works has been
13 operating -- well, Dammeron Corporation for 34 years,
14 but when we finally got -- when the Water Works was
15 finally formed and approved by the Public Service
16 Commission, it operated as a d/b/a. Whether that has
17 been made clear all these years or not or whether you
18 were misled to believe that Dammeron Valley Water
19 Works was a separate corporation, you know, we've
20 never called it Dammeron Valley Water Works Inc.,
21 Dammeron Valley Water Works LLC, or anything. We
22 possibly should call it Dammeron Corporation dba
23 Dammeron Valley Water Works, not necessarily in our
24 day-to-day business, but on the tariff sheet it may
25 should say that.

26

1 JUDGE GOODWILL: Is that something too --
2 this is a suggestion, and I would like to hear from
3 the parties. As part of any order the Commission
4 orders in this docket, I see no reason why we
5 couldn't order a change to the certificate, whatever
6 it might say, that says the certificate is issued to
7 Dammeron Corporation dba Dammeron Valley Water Works.
8 Is that something you would object to?

9 MR. PACE: I would like it for clarity.

10 JUDGE GOODWILL: Any other comments on if
11 the Commission were to do that, regardless of
12 whatever else happens with rates and so forth?

13 MS. HJELLE: I just have a question,
14 because I tried to find this out by going on the
15 corporation -- on the state website, and there I
16 thought it had Dammeron Valley Water Works listed as
17 a d/b/a of Brooks Pace.

18 MR. PACE: I don't think so.

19 MR. SACKETT: If I could testify for a
20 moment. I was just going to say that what is listed
21 is, Brooks Pace is listed as the applicant for that
22 d/b/a. He's also listed as a registered agent for
23 that d/b/a. So that's the confusing part.

24 MS. HJELLE: That's what I was confused
25 by. Because I had seen Dammeron Valley Water Works,
26

1 and in the research I have done I actually couldn't
2 recite where these different things have showed up,
3 but I've had it look like it was Brooks Pace
4 individually, I've had it look like it was Dammeron
5 Corp., and it has been very confusing.

6 And I'm not sure where that leaves us, but
7 if your official corporate record is Dammeron Valley
8 Water Works d/b/a Brooks Pace and you don't want it
9 that way, you might want to clear that up before an
10 order issues from the Commission.

11 JUDGE GOODWILL: Any other comments on
12 that?

13 THE WITNESS: What the Division could do
14 is, I understand that the water company was inactive
15 sometime in the 70s, and as a result of that there
16 were numerous changes since then that the certificate
17 could have been issued differently way back then than
18 they do now. And as a result, that could have caused
19 the conflict and confusion as to how they're
20 registered now and how they're certificated now. And
21 what the Division could do is go back and review that
22 documentation and determine what needs to be done to
23 resolve it.

24 JUDGE GOODWILL: As I think through it,
25 maybe it makes sense. Because whatever action the
26

1 Commission is going to take on the rate case, I hate
2 to delay that too long. I appreciate the Division
3 undertaking that investigation. It seems to me what
4 might make sense is if the Commission deal with this
5 rate case and issue the order accordingly.

6 If there is to be any condition like we're
7 talking about in subparagraph 1 here, it would simply
8 refer to Dammeron Corporation will subsidize. And I
9 think that would appropriately condition any
10 approval.

11 MR. PACE: The parent company would
12 subsidize Dammeron. I mean, that's what it is. The
13 parent company of the d/b/a; and yes, it would
14 subsidize. Not me personally.

15 JUDGE GOODWILL: Dammeron Corporation.

16 MR. PACE: Yes.

17 JUDGE GOODWILL: In the meantime, I would
18 appreciate the Division looking at that. And
19 Mr. Sackett brought up the issue yesterday in a
20 different but related docket. And then if you would
21 file something with the Commission and with these
22 parties, perhaps with the recommendation based on
23 what you found whether the Commission should amend
24 the certificate.

25 Does that make sense, Ms. Schmid?

26

1 MS. SCHMID: Yes.

2 JUDGE GOODWILL: Okay. Anything further
3 on that issue? Mr. Sackett, other questions?

4 MR. SACKETT: I do have a couple for
5 Ms. Benvegna-Springer.

6 On footnote 9, what is your understanding
7 or what is the intent of the Division with respect to
8 standards that are being employed in implementing
9 this footnote? You may note that the footnote is
10 written in the passive voice. It says, "All
11 customers may be required to," but it doesn't say --
12 presumably by the company, and it doesn't say what
13 the standards are. So it's a little unclear to me
14 what the Division expects the standards of the
15 operator water company to be. Can you comment on
16 that?

17 THE WITNESS: Note 9 actually is
18 clarifying another note in the previous part of the
19 tariff where it discusses the practice of what the
20 management can and cannot do. And what the Division
21 understands this to mean is that the company does
22 have the ability, in order to maintain water for the
23 customers for domestic use, that they would be able
24 to manage that in such a way where if emergencies
25 occurred, they can take whatever precautions they

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1 need to to maintain that domestic use, primarily
2 emergency/safety/life issues.

3 MR. PACE: Could I make a comment, Judge,
4 on this to help Mr. Sackett see it?

5 JUDGE GOODWILL: Sure.

6 MR. PACE: Because this was an issue that
7 Ms. Hjelle brought up because she didn't feel that it
8 was fair. Because originally as we submitted it, we
9 said we had the right to request all people owning
10 irrigation shares to discontinue them in the case of
11 a general emergency. So this was a rewrite on that
12 to say that anybody using outside water so that we
13 wouldn't have people with irrigation shares, they all
14 have to quit, but some guy paying into overage, he
15 was still out irrigating. Maybe you could add the
16 word "all customers may be required by the company"
17 for clarity. I don't think it's necessary.
18 Generally it would only be in the case when we felt
19 that we had a well down. I can't think of any other
20 good case. Maybe we have a fire going on the hill
21 and we've got helicopters using water and that sort
22 of thing. We would rarely do it.

23 In the past we simply have understandings
24 with the big water users. Most people have only one
25 or two irrigation shares. We have some people who

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1 have 20 or 30. So we don't bother with the little
2 ones. We usually just go to the big ones, just drive
3 by and shut it off. That's how we usually deal with
4 it.

5 I think this note is good the way it's
6 written. I mean, if a little word or two needs to be
7 added for clarity, it's no problem, but I think we
8 need that right desperately. If we had 15 wells or
9 something it would be different, but with three
10 wells, two often cannot support in the summer. So if
11 the big one is down, we're very vulnerable.

12 JUDGE GOODWILL: And as you just
13 testified, Mr. Pace, you have an understanding that
14 some folks, where they agree, they're big water
15 users, big irrigation shares, they'll let you turn
16 off their water and maybe not everybody else?

17 MR. PACE: Right.

18 JUDGE GOODWILL: I understand that that's
19 voluntary.

20 MR. PACE: Right.

21 JUDGE GOODWILL: Note 9 here, I take those
22 two -- I read it as, if the company wants to
23 involuntarily require everyone to turn off their
24 water, they will do that for everyone, not just
25 certain customers.

26

1 MR. PACE: "All outside use" is the way it
2 should read.

3 JUDGE GOODWILL: Mr. Sackett?

4 MR. SACKETT: I have a similar question on
5 No. 10. This is a new footnote: "The company may
6 sell to customers from time to time." And once again
7 a question to the Division is, what is your
8 understanding of what the standards are here for
9 picking and choosing, or does it bother the Division
10 that there doesn't seem to be any standard specified
11 about the company may sell from time to time under
12 conditions that are not very well defined?

13 THE WITNESS: We understand that the
14 condition would be in the case of additionally --
15 additional watering for fire protection. It would be
16 fire protection, maintaining the foliage in the area.
17 So when the company determines that that needs to be
18 a focus or an issue that they need to deal with, they
19 have that ability to do so.

20 MR. SACKETT: It's your understanding that
21 the sale would be out of the company's inventory of
22 water rights?

23 THE WITNESS: Correct.

24 MR. SACKETT: Isn't this one of the
25 problems that occurred before, namely, that water

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1 shares were loaned to customers, and that was off
2 tariff, and here there's the suggestion that the
3 company may sell things that really aren't on the
4 tariff either. Wouldn't it be required that the
5 tariff specify what the price would be, how much the
6 sale would cost and that sort of thing? I mean, this
7 just seems like a tariff right to me.

8 THE WITNESS: It's at the irrigation rate.
9 These are being sold at the irrigation rate.

10 MR. SACKETT: So it's your understanding
11 that this is not the same as what was described in
12 the past as loaning water shares?

13 THE WITNESS: Right.

14 MR. SACKETT: And it's your understanding
15 that this would have to be on a nondiscriminatory
16 basis?

17 MR. PACE: All of it is.

18 MR. SACKETT: Mr. Pace, would you let her
19 answer, please.

20 THE WITNESS: Yes. All customers would be
21 able to have the opportunity to do this.

22 MR. SACKETT: How do you see this working?
23 Does the customer say, I'm getting fried out here,
24 and the customer goes to the management of the water
25 company and says, can I buy more water at the

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1 irrigation rate?

2 THE WITNESS: It's the Division's
3 understanding that if they determine that additional
4 water is needed by all customers, all customers would
5 be allowed additional share or shares to be used at
6 the irrigation rate and charged at the irrigation
7 rate.

8 MR. SACKETT: Okay. I understand that.
9 It just doesn't seem like it's sufficiently well
10 defined to make it clear to a customer what his
11 rights are. I understand your response.

12 THE WITNESS: It's kind of like they would
13 put a flier in their bill that would say, from this
14 time to this time you have an opportunity to have an
15 additional share of water that can be used and
16 charged at the 25-cent rate per thousand.

17 MR. SACKETT: Okay, thank you.

18 JUDGE GOODWILL: Let me just step
19 through -- before we leave that point, let's just
20 step through and examine it to help me understand as
21 well. Mr. Pace, it's a dry time of year; the company
22 thinks that footnote 10 should be put into operation.
23 You want to go out to all customers and say, hey, you
24 can use more water above your allocation at the
25 irrigation rate of 25 cents per thousand gallons for

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1 this period of time.

2 MR. PACE: Right.

3 JUDGE GOODWILL: So I want a conservation
4 culinary rate which gives me 12,000 gallons for \$18 a
5 month. At what point would I get to start using --
6 would my water start being charged at 25 cents a
7 thousand gallons?

8 MR. PACE: After you had used the second
9 12,000 at \$2. It's made clear that you can't use
10 your irrigation share, even if you own one, until
11 you've used the second 12,000 and \$2.

12 JUDGE GOODWILL: And that's in footnote 4?

13 MR. PACE: Right.

14 JUDGE GOODWILL: So that's a feature that
15 would still apply once people would be getting two
16 where their irrigation would normally kick in, but
17 they don't have irrigation shares?

18 MR. PACE: Right. But most people don't
19 have irrigation shares where they're on tariff 2, 3,
20 or 4 also. Usually when we throw the chief
21 irrigation water up there, certainly someone like
22 Ms. Hjelle, who has one or two shares, she would then
23 get three. Most people don't have any, so generally
24 speaking, we're just giving them 40,000 gallons a
25 month for ten bucks to help them keep their

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1 vegetation.

2 JUDGE GOODWILL: Is it sold in that kind
3 of a unit, for \$10 you can have 40,000 gallons? Or
4 is it a per-gallon charge of 25 cents?

5 MR. PACE: No, they don't have to use the
6 whole 40. It's 25 cents a thousand.

7 JUDGE GOODWILL: Per thousand, okay. And
8 it sounds like we are using that term, we're giving
9 them a share. They're really just paying the 25
10 cents per thousand rate for whatever they might use?
11 Or is there some limit that the company would apply,
12 hey, we're all going out and you can use one
13 irrigation share's worth, which is 40,000 --

14 MR. PACE: We don't use the word "share."

15 JUDGE GOODWILL: No, no. It's not in the
16 tariff. As people have spoken, we use the term "we
17 give them a share."

18 MR. PACE: Right. We think of it in
19 shares, but a share is an acre-foot, and an acre-foot
20 in their terminology is 40,000 gallons a month for
21 eight months.

22 JUDGE GOODWILL: Now, in what sort of time
23 frame -- when you go out and let everybody know this
24 is available to you, do you say "until such-and-such
25 a date," or --

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1 MR. PACE: We do it in billing periods,
2 because how else to control it? So we say -- we
3 would always tell them we bill the end of every even
4 numbered month. So at the end of June we'll make a
5 decision, because this is a dry year again, we'll
6 make a decision before we send the water bills out,
7 and if we offer it we would offer it probably for the
8 next two months, the next billing period. So it
9 would always be in two-month increments. There's no
10 other way for us to control it.

11 JUDGE GOODWILL: Do you put a limit on
12 what people can use?

13 MR. PACE: Yes.

14 JUDGE GOODWILL: Or do you just say, above
15 and beyond your normal allocation you can have 25
16 cents per thousand?

17 MR. PACE: No. We put a limit. We say
18 you have a right to use one acre-foot.

19 JUDGE GOODWILL: Okay.

20 MR. PACE: For clarity, we probably should
21 make it very clear. You have a right to use 80,000
22 gallons at 25 cents a thousand gallons during this
23 coming billing period.

24 JUDGE GOODWILL: Okay. And that would
25 apply to everyone?

26

1 MR. PACE: Everyone.

2 JUDGE GOODWILL: Other questions?

3 MS. HJELLE: For whatever it's worth, I do
4 have copies of two letters that were written to
5 customers, one in 2004, one in 2007. I have a
6 question as to whether this was done in 2006 where
7 the spreadsheet we are using was put together.

8 JUDGE GOODWILL: Sorry, Ms. Thorpe. You
9 haven't been identified yet this afternoon. And I'm
10 not sure; were you sworn in our prior proceeding? I
11 know you appeared by telephone.

12 MS. THORPE: Yes, I was sworn.

13 JUDGE GOODWILL: Okay, you were sworn. If
14 you would, then, just speak loudly so that the court
15 reporter can hear you. And the question was actually
16 asked to Mr. Pace. So if you guys can confer and one
17 person answer a question, just so we don't have a lot
18 of people jumping in.

19 MR. PACE: You didn't do it in '06.

20 MS. HJELLE: All right. Part of my
21 confusion, then, comes because of the 2006
22 utilization Excel spreadsheet that I received from
23 the Division. And I have a question. First of all,
24 this forms the basis for the revenue requirement set
25 forth in the tariff, the background materials for the
26

1 tariff that is subject to approval now.

2 (Interruption.)

3 So let me rephrase, repeat my question, if
4 I could. Is the 2006 utilization spreadsheet that
5 you sent me in response to my data request the basis
6 for the DPU analysis in its exhibits that are
7 attached to the memo and the proposed tariff?

8 MS. SCHMID: If I may interject. We need
9 to establish that Ms. Benvegna-Springer knows exactly
10 what you're referring to.

11 THE WITNESS: I believe I do.

12 MS. SCHMID: Thank you.

13 THE WITNESS: The utilization chart that
14 you referred to is the basis of what I used for the
15 analysis on the conservation rate.

16 MS. HJELLE: Okay. I had a question,
17 because it has notes on service types. And there are
18 three levels that say these accounts, and there are
19 many, many customers listed under service type 1, for
20 an example. This is an example. Service type 1,
21 these accounts have no irrigation shares and are
22 billed as follows: 40,000 for the -- the first 40,000
23 at \$1.50, the next 8,000 at \$1.50, the next 80,000 at
24 25 cents a thousand, July through October only.

25 So if this was not offered in 2006 but we

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1 have I think 143 customers listed in this 2006
2 utilization table that apparently are receiving this
3 benefit, I am confused, particularly where in service
4 rate 4 I have the same benefit --

5 MS. SCHMID: Excuse me. Is Ms. Hjelle
6 testifying, or is there a question in there
7 somewhere?

8 MS. HJELLE: Okay. I'm confused as to
9 what all this -- I'm confused. Is there an
10 explanation for why 2006 rate base gives water at an
11 irrigation share rate to customers who do not own
12 irrigation rights?

13 THE WITNESS: When I used the utilization
14 chart, what I took was -- I did not use the rates
15 that were used on the utilization chart, I only used
16 the quantifying usage information. Okay? And I put
17 that into our model that we used, and the model is
18 used based on what the tariff is indicating.

19 So, for example, on the operating
20 revenues, okay, I took the maximum number.
21 Unfortunately, I don't have my formula with me here
22 to show you how that worked, but I took the usage
23 under the base, what is considered residential
24 customer usage and applied that to the minimum rate.
25 And then we went back, and anything that was above

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1 that comes in at a overage, and then it's applied at
2 the various rates for the overage part.

3 Does that make sense?

4 MS. HJELLE: So if I understand what
5 you're saying, you used -- you did not use the
6 subsidized rate reflected in that service note, that
7 note -- the description of service 1 when you
8 calculated overages?

9 THE WITNESS: That's correct.

10 MS. HJELLE: The memo from the Division
11 indicated that --

12 MS. SCHMID: I'm sorry. If I may
13 interject. Which memo and what date?

14 MS. HJELLE: The memo dated April 29th,
15 2008.

16 MS. SCHMID: April 28th?

17 MS. HJELLE: No. I'm looking at my
18 computer, and it says April 29.

19 JUDGE GOODWILL: DPU Exhibit 4, is that
20 what we're talking about?

21 MS. HJELLE: I don't have a hard copy.
22 I'm sorry. Yes, I think it's DPU Exhibit 4. And in
23 note -- in recommendation approved, paragraph 2 at
24 the top of the second page, "When the conservation
25 rate is approved, the water rights from Stoddard Land

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1 Company were transferred for future development." Do
2 we know that -- does it matter whether that is
3 legally possible or not in this tariff?

4 THE WITNESS: Legally possible?

5 MS. SCHMID: Objection. That calls for a
6 legal conclusion. Although Ms. Benvegna-Springer is
7 very intelligent, perhaps too intelligent to be a
8 lawyer, she is not a lawyer.

9 MS. HJELLE: Is that a legal conclusion?

10 JUDGE GOODWILL: Just rephrase your
11 question somehow.

12 MS. HJELLE: Okay. If it were not
13 possible to fulfill the requirements of paragraph 2,
14 would that make a difference in the Division's
15 recommendations?

16 THE WITNESS: Possibly.

17 MR. PACE: Could I make a comment?

18 JUDGE GOODWILL: Let's let Ms. Hjelle ask
19 her questions, and then we'll give you --

20 MS. HJELLE: My next question may more
21 appropriately be posed to Mr. Pace; but in our
22 telephone conference we had a discussion where the
23 bulk irrigation rate came up, which is item number 3
24 in that three-bullet list, with regard to its being
25 withdrawn. There was some indication that the water
26

1 would continue to be used at 250 acre-feet, but it
2 wouldn't be used at the bulk irrigation rate. Do you
3 recall that?

4 THE WITNESS: Correct. I do recall that.

5 MS. HJELLE: Okay. Thank you.

6 JUDGE GOODWILL: Anything further,
7 Ms. Hjelle?

8 MS. HJELLE: Probably, but I can't think
9 of what it would be.

10 JUDGE GOODWILL: Well, and we're pretty
11 free flowing here, so to the extent that the
12 witnesses are available, certainly this isn't your
13 only opportunity.

14 Mr. Pace, I wanted to give you the chance
15 to speak specifically to -- you wanted to make a
16 comment just a moment ago regarding Stoddard Land
17 Company, and I wanted to get to that as well, because
18 nowhere else do I really see any facts provided as to
19 what that is, who owns it, what would be transferred
20 and why. If you can kind of give the background. I
21 know it's the Division's recommended condition, but
22 if you can kind of talk to paragraph number 2 there
23 and what's going on.

24 MR. PACE: What I wanted to answer,
25 Ms. Hjelle, what happens, when I file a preliminary

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1 plat with the county, before I even file I have to
2 have a letter from the Department of Environmental
3 Quality assuring me that I have water rights to do
4 the subdivision. So I wouldn't even get off square
5 one doing a subdivision if I couldn't provide the
6 water rights. The water rights are simply held in
7 Stoddard Land Company, which is a family LLC. It's a
8 land holding company. It has other land, other
9 water. And they're held there rather than conveying
10 them to Dammeron Corporation or putting them into a
11 water company before they're needed. They're put in
12 as the subdivisions are created. And it's all one
13 entity with two pockets, let's call it. It's all
14 held in -- all the Dammeron Corp. stock is held by
15 me; all the Stoddard land is held by (inaudible).

16 JUDGE GOODWILL: What's the Division's
17 intent in wanting to condition an approval on this
18 transfer to Dammeron Corp., I guess, from Stoddard
19 Land Company?

20 THE WITNESS: My understanding there is
21 that right now Dammeron Water Company would not have
22 sufficient water rights to expand as they would like.
23 And so as a rule they would need to transfer
24 additional water rights to the company in order to do
25 that.

26

1 JUDGE GOODWILL: And that's to expand, not
2 to serve current customers who may want to switch to
3 the conservation tariff?

4 THE WITNESS: That's correct.

5 MR. PACE: But this is handled by DEQ.
6 And I don't think what they mean is that I'm going to
7 convey the entire 500 feet right now, I'm going to
8 convey 40 feet for the next 80 lots, that sort of
9 thing. Is that what you mean?

10 THE WITNESS: Yes, for future development.

11 MR. PACE: Like I say, before I even get
12 off square one in filing a plat, before it's even
13 heard by the planning commission, they need to have a
14 letter from the DEQ assuring that that water hasn't
15 conveyed into Dammeron Valley Water Works.

16 So that's a DEQ function. I'm sure the
17 power company is willing to serve the subdivision,
18 that the water is available and so forth. You've got
19 to get, what do they call the letters, will-serve
20 letters. I have to have will-serve letters from the
21 gas company, the phone company, the water company,
22 and the power company before I can even submit it to
23 the planning commission. That's what I read that
24 paragraph to mean.

25 JUDGE GOODWILL: Given that understanding,

26

1 then, since subparagraph 2 would really deal with
2 future development and not affect current customers
3 at the rates we're looking at here, would the
4 Division be satisfied with the Commission not taking
5 the order, or am I missing something and there is a
6 reason the Division would want it in?

7 THE WITNESS: The main concern dealt with
8 customers were feeling that the expansion was being
9 done at their expense. Say, for example, their water
10 rights were not being used completely, and they were
11 feeling that their allocation of water rights was
12 being used for the expansion.

13 What this addresses is the fact that there
14 are other water rights that are going to be used for
15 the expansion, that these water rights deal with that
16 expansion, and it's not their current water rights
17 that are going to be used for that expansion.

18 MR. PACE: I think it would help if it
19 were clarified that the lots would be conveyed as the
20 expansion occurred.

21 THE WITNESS: Yeah. This is for future
22 development.

23 MS. HJELLE: I'm going to have a number of
24 questions on this topic, your Honor, so I'm not sure
25 how you will want to handle this.

26

1 JUDGE GOODWILL: On this particular topic?

2 MS. HJELLE: On the topic of the
3 sufficiency of existing water rights.

4 JUDGE GOODWILL: Let's hold that just a
5 second, then.

6 Just to kind of get back in our process
7 here, any other questions for the Division witness at
8 this time? Okay.

9 Mr. Pace, I'll turn to you next. You'll
10 have a chance at the end of this hearing to kind of
11 give a wrap-up, if you will; but is there any
12 evidence that you wanted to put in right now, be it
13 your testimony or otherwise, for the Commission to
14 consider in approving these rates?

15 MR. PACE: No.

16 JUDGE GOODWILL: Okay. Mr. Sackett?

17 MR. SACKETT: I don't have anything more.

18 JUDGE GOODWILL: Ms. Hjelle? You have
19 some questions, I take it, on those issues, but no
20 evidence that you would like to provide at this time?

21 MS. HJELLE: I don't think so.

22 JUDGE GOODWILL: Okay. And I'll note that
23 you weren't sworn previously. You appeared as a
24 public witness, I believe.

25 MS. HJELLE: Yes.

26

1 JUDGE GOODWILL: So if we get to the point
2 where you want to testify to anything, we'll go ahead
3 and swear you in. Given that, let's go ahead and
4 have you ask your questions, then.

5 MS. HJELLE: Sorry. I've lost my notes in
6 the stack of things that I'm looking through to
7 address these questions.

8 MS. SCHMID: I lost my copy of the April
9 memo, so --

10 MS. HJELLE: Okay. Mr. Pace, I have
11 reviewed your water conservation plan, and in there
12 you indicate that you have about 450 acre-feet of
13 water rights to serve Dammeron Valley. Would those
14 water rights then be the Dammeron Valley Water Works
15 water rights?

16 MR. PACE: I'm not sure it's 458, but I
17 don't know -- I was thinking it was 360, but it's a
18 finite number that's been conveyed already to
19 Dammeron Corporation, Dammeron Valley Water Works,
20 somewhere between 360 and 468, and usually I have
21 that form with me.

22 MS. HJELLE: Well, I have some things you
23 can look at if you would like.

24 MR. PACE: Well, it's certainly adequate
25 for the 500 -- well, the 450 lots that have already

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1 been subdivided have been conveyed. Everything that
2 is required to meet the various 2, 3 and 4 tappings
3 -- well, we call them tappings -- tariffs, 2, 3, and
4 4 tariffs, all that water has been conveyed to
5 Dammeron Valley Water Works.

6 MS. HJELLE: Do you want to refresh your
7 recollection on that at all? Would you be surprised
8 if I --

9 MR. PACE: I would be very surprised if
10 it's not adequately conveyed, because how would I
11 have gotten the subdivisions platted, then?

12 MS. HJELLE: 81-2715, Dammeron Valley
13 Water Works, is that the one that is in the title of
14 Dammeron Valley Water Works?

15 MR. PACE: I've got about seven rights. I
16 don't know. 2715 I think has been conveyed. How big
17 is it? I usually know them by size more than that.

18 JUDGE GOODWILL: Let's step back just a
19 second. What do you have, Ms. Hjelle, that you want
20 Mr. Pace to discuss?

21 MS. HJELLE: I would like to ascertain,
22 what are the water rights available to Dammeron
23 Valley Water Works to serve its existing customers
24 and the platted lots that already exist. And I don't
25 know if -- I guess I could introduce copies of these

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1 water rights. I'm not sure -- I think they're very
2 time consuming to --

3 MR. PACE: Is this germane in any way?

4 MS. HJELLE: I believe it's germane to
5 whether or not the new proposed tariff is a fair
6 allocation of existing water and water for -- whether
7 there's water for future subdivisions.

8 MR. PACE: Okay. Let me put it this way.
9 Dammeron Corporation and Stoddard Land Company
10 combined own 995 acre-feet. The 450 lots that are
11 currently subdivided require 360. Now, they really
12 only require 225, but because we have given out and
13 sold large irrigation shares, we conveyed that water
14 also to the water company. So the difference between
15 the 225 that would be required and the 360 or the
16 448, I'm not sure which the number is, is that
17 irrigation water that has been sold and conveyed.
18 The other 640 or 550, depending on which number is
19 correct, is being held by Stoddard Land Company.
20 That water is being held for future development, and
21 it will not be sold to St. George, it won't be sold
22 to Winchester Hills, it won't be sold outside of
23 Dammeron Valley. It is held by my family for the
24 future development of state land surrounding Dammeron
25 Valley, 560 acres that we're entering into to develop
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1 280 lots on, and 720 acres we own adjacent to
2 Dammeron Valley that we are planning on 360 more
3 lots.

4 MS. SCHMID: If I may ask a question. It
5 has frequently been stated that it is the practice of
6 the Commission not to have parties make their case
7 through cross-examination, and I'm wondering if it
8 would be more expeditious for Ms. Hjelle to have to
9 be sworn in and testify, as well as allowing her the
10 opportunity to cross.

11 JUDGE GOODWILL: That's a good point. And
12 to the extent that she was simply trying to get an
13 understanding of what water shares Dammeron Corp. and
14 Valley Water Works has, I think we probably have
15 gotten that. If you have something that you've found
16 and you want to put into the record --

17 MS. HJELLE: I think I should, your Honor.
18 But I have to find it. If I can beg your indulgence.
19 I apologize. I've spent many hours trying to
20 understand this, and --

21 MR. PACE: Did you ever think of calling
22 me up and having me explain it to you?

23 MS. HJELLE: Yes, I have.

24 JUDGE GOODWILL: Let's not get into any
25 arguments here.

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1 MS. SCHMID: It's been a long time since
2 my EMT license expired.

3 JUDGE GOODWILL: One at a time, please.
4 Let's stay on track.

5 MS. HJELLE: May I offer as an exhibit a
6 letter to Brooks Pace from the state engineer?

7 JUDGE GOODWILL: Let's make sure everybody
8 gets to see that, and we'll take a minute to do so.

9 MS. HJELLE: It's my only copy.

10 JUDGE GOODWILL: Ms. Hjelle, in case
11 anything you say does veer into testimony, why don't
12 you stand and raise your right hand. Do you solemnly
13 swear the testimony you will provide in these
14 proceedings will be the truth, the whole truth, and
15 nothing but the truth, so help you God?

16 MS. HJELLE: I do.

17 JUDGE GOODWILL: Go ahead and be seated.

18 MR. PACE: And your point with this is?

19 JUDGE GOODWILL: Well, let's first let
20 everybody see it, and then before we do anything
21 about admitting it, folks will have a chance to ask
22 their questions.

23 Go ahead and hand it to me, Ms. Hjelle. I
24 would like to take a quick look at it so I know what
25 you're talking about.

26

1 For purposes of identification, we will
2 mark this as Hjelle Exhibit 1 for ID. We need a copy
3 for the court reporter. Is this your only copy?

4 MS. HJELLE: It is. I'm sorry.

5 JUDGE GOODWILL: We'll use it for now.
6 We'll need to give it to the court reporter. It has
7 not been admitted yet. Are there objections to its
8 admission?

9 MR. PACE: Yes, absolutely. It's not
10 germane to the case.

11 MS. SCHMID: The Division has no
12 objection.

13 MR. SACKETT: None.

14 JUDGE GOODWILL: Mrs. Hjelle, for what
15 purpose do you seek its admission? The Commission's
16 rules of evidence are relatively loose and broad, and
17 in general terms, if it's relevant we let it come in.
18 But I am questioning how this is relevant to the rate
19 proposal that's been introduced, as Mr. Pace asks.

20 MS. HJELLE: My concern, your Honor, is
21 that the rate -- the Dammeron Valley Water rates are
22 unfairly apportioned and that the new conservation
23 rate will exacerbate the unfairness of the
24 apportionment of the water rates. I have no
25 objection to Mr. Pace having an appropriate return on

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1 an appropriate investment, but I think the
2 apportionment as it stands now and as it would be
3 exacerbated by the conservation rate is unfair to
4 existing customers.

5 And I believe -- I guess you would call
6 this testimony -- I have spent a lot of time trying
7 to understand the utilization of water, the water
8 that is available and the water that has been
9 dedicated to existing customers, not only the
10 culinary, the 1, 2, 3 levels that are shown in the
11 existing and proposed tariff for the standard rates,
12 but also the irrigation rights which Mr. Pace has
13 sold to a number of people.

14 And to the best of my ability to tell, if
15 you take the 2006 utilization spreadsheet and take
16 the amount of water that the existing residents are
17 entitled to, it is a substantial number of acre-feet,
18 and it far exceeds the 450 acre-feet that is
19 represented to currently be available.

20 Furthermore, I have some concerns about,
21 you know, the availability of this water from the
22 state engineer. And so the reason I introduced that
23 exhibit in particular would be as part and parcel of
24 that concern that I have that we have obligations to
25 existing customers, can they be met. And if they

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1 need to be met through changes in water rates, those
2 changes are subject to some question, they're in
3 process. Presumably that would be successful. But
4 do you institute a tariff today on the basis of an
5 expectation of a deeded water right from irrigation
6 to municipal use and so forth?

7 I mean, you have expectations here that
8 may or may not be fulfilled. So as an existing
9 customer, and in particular one of many who has paid
10 value for irrigation water that should be reflected
11 in the obligations of the company on the one hand and
12 also reflected in the income to the company on the
13 other hand, which is not in the tariff base in any
14 way, shape, or form. This whole picture is something
15 that I have been struggling to understand and find
16 how it can be fair to existing customers.

17 That would be my short presentation.

18 MR. PACE: Could I answer that?

19 JUDGE GOODWILL: Go ahead.

20 MR. PACE: First, Ms. Hjelle is not a
21 typical customer. She has spent a huge amount of
22 time e-mailing and calling the irrigation users and
23 other users in the valley. She's on the Dammeron
24 Valley board. She has her pulpit. She has tried to
25 get people to come to this meeting, to send letters

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1 to the Commission, to raise hell in every way she
2 could. She's been totally unsuccessful. No one is
3 here. She's not typical in that she's the assistant
4 director of the local water conservancy district.

5 I don't agree with many things the local
6 water district is doing, hence I think the
7 uncomfortableness of our relationship, even though
8 we've had our friendly moments in the past.

9 I have 995 acre-feet, and I only
10 subdivided 450 lots. Culinary, I'm only required
11 225, but I've given one and a half tappings and two
12 tappings, to use the old terminology for clarity, to
13 many people. I have accounted for every one of
14 those. And that water has been deeded to Dammeron
15 Corporation, including the water for the irrigation
16 shares that I have sold to Barbara Hjelle and given
17 to people who owned highway frontage. That is, I
18 didn't want growth or homes, corrals or anything
19 within 300 feet of the highway, just as an anesthetic
20 part of the development.

21 So huge irrigation shares, hundred
22 acre-feet have been allocated to people who have
23 these highway frontage lots. They were given the
24 water free of charge with the restriction that it
25 could only be used on that lot and it could only be

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1 used for irrigation.

2 So our books are going to test -- stand
3 the test. In fact, if you read that carefully,
4 that's what Kerry Carpenter in Cedar City, the water
5 engineer with water rights was trying to get
6 clarified. I hired Rick Hazel, a local water
7 attorney, to contact Kerry and get everything
8 straight. I'm very nervous that somebody like this
9 in a water district that has some kind of a grudge,
10 because the district is all powerful and it's trying
11 to take over the local water companies, it's playing
12 hard ball to get cities to sign up and pay huge
13 impact fees ranging from \$4,500 to \$28,000 to build a
14 Lake Powell pipeline for up to \$3 million in total
15 cost, interest and all included.

16 This is not a good program for this
17 county, and I have been speaking out against it since
18 1998, and I have a few enemies -- her boss, a few
19 others, even though he's a friend of mine. A lot of
20 my old friends are saying, how could you fight a
21 water right, that sort of thing. You've got yours;
22 you know you're trying to shut everything else down.

23 But that's absolutely not the case. We're
24 sitting on one of the biggest aquifers in the entire
25 country. It's untapped. But through a coercion

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1 between the Division of Water Resources and this
2 water district trying to develop this Lake Powell
3 pipeline water, they are trying to build this
4 expensive and unnecessary project, and I'm on the
5 other side of the issue.

6 So obviously I have people coming in,
7 taking your time, bringing up issues not germane to
8 the case at hand. They should be trying to do
9 conservation tariffs themselves. But no, they don't
10 put nearly the effort into conservation. They're
11 spending \$270,000 to sell the program to the county.

12 MS. HJELLE: Your Honor, is this relevant?

13 MR. PACE: It's as relevant as anything
14 you've brought up, Honey.

15 JUDGE GOODWILL: Okay, stop. I'd like to
16 both go on, and I will decide based on the record
17 what's relevant or not. But I do want to get back to
18 the focus of why we're here.

19 MS. HJELLE: May I respond to a couple of
20 things?

21 JUDGE GOODWILL: Let me first say, I've
22 heard you, Mr. Pace. We will go ahead and admit this
23 document. I will let Ms. Hjelle make her case with
24 respect to how she believes the water rights issue
25 should impact the proposed rates. I'm not sure that

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1 it has any bearing at this point. That's why I'll
2 listen to you on that point. Let's not got go back
3 and rehash some of the things Mr. Pace has said,
4 because it really isn't germane. The status of your
5 relationship with Mr. Pace is not germane to the
6 issue of whether or not the Commission should approve
7 these rates.

8 So having said that, this document of
9 three pages is admitted as Hjelle Exhibit 1. I'll
10 give it to the court reporter at the close of the
11 proceedings.

12 (Exhibit Helle-1 marked.)

13 Ms. Hjelle, go ahead through testimony or
14 otherwise and state what you believe the Commission
15 should be considering in the proposed rates, and
16 let's go from there.

17 MS. HJELLE: I would just like to get on
18 the record, having been maligned, that none of what
19 Mr. Pace is presuming to be true is true. It is true
20 that I have a certain knowledge base because I work
21 in the water industry, and I felt that it was
22 reasonable to apply that to understanding how the
23 tariffs apply to me as a customer. I have no adverse
24 feelings towards Mr. Pace. I actually think he's
25 been a good water manager overall, but everybody has

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1 multiple interests, and I think that it behooves a
2 customer to understand what the factors are that are
3 driving these kinds of things, and I have tried to do
4 that.

5 Secondly, I have not tried to stir people
6 up; I have tried to ascertain whether or not there
7 are other residents in the valley who were concerned
8 about this. Because frankly, if I were the only one,
9 I probably would not have proceeded with this. I
10 felt that if I were alone in this, perhaps it just
11 wasn't worth the effort. So to the contrary, I have
12 proceeded solely because of support from a number of
13 customers.

14 Now, Mr. Pace, do you know how many
15 thousand gallons or acre-feet you are obligated to
16 deliver on an annual basis to existing customers?

17 MR. PACE: If everyone used their total
18 allocation?

19 MS. HJELLE: Yes.

20 MR. PACE: I'd have to do a little math,
21 but I would say that it would add up to about -- oh,
22 geez. I would hate to make an answer to such a
23 complicated question. I could tell you if I had my
24 other files. I mean, I analyze this all the time.
25 Yes, I could give you that answer when I get home,

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1 within one hour. I know it precisely.

2 Let me say that it would be very close to
3 that 448 number you indicated. So maybe that's the
4 amount that's been deeded over. I'm not really
5 sure. Because I remember I was thinking for the
6 state land and the Sand Cove Land, as I call it, I
7 need a little over 500 acre-feet. So let's say that
8 the other 450 acre-feet. So 450 times 324 -- come
9 on -- 12 million, 120 million. Do you want me to
10 figure it out?

11 MS. HJELLE: I can do it on the computer
12 if you give me the numbers.

13 MR. PACE: 448 acre-feet is your number,
14 so use 448 times 324,000 gallons.

15 MS. HJELLE: Acre-feet is fine.

16 MR. PACE: Okay. 450 acre-feet. I think
17 it's in that number. What I look at is the
18 build-out. There's 50 more lots to develop. I know
19 at 50 more lots I need to have roughly 495 acre-feet
20 for the total of Dammeron Valley. That's assuming I
21 don't sell any more irrigation shares or do any more
22 lots that are automatic irrigation shares, because
23 most of the highway frontage is then developed.

24 The reason I know that number precisely is
25 because I know I have 500 acre-feet for the state and
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1 the Sand Cove development. So for the complete
2 build-out, 50 lots left is all, 450 have been
3 developed, original master plan was 500 lots on 700
4 acres. I have an obligation to serve 495 acre-feet,
5 let's call it. And that's give or take 1 percent.

6 JUDGE GOODWILL: Okay.

7 MS. HJELLE: So would it surprise you,
8 then -- I guess you would -- would it surprise you if
9 my best efforts at this spreadsheet provided
10 (inaudible) indicated that, I believe without regard
11 to standby lots, the obligation on that number that
12 are in that category, the best I could tell, and I
13 don't claim mathematical prowess, there are about 668
14 acre-feet of annual obligation, given the service
15 levels reflected in the 2006 spreadsheet, utilization
16 spreadsheet --

17 MR. PACE: I would deny it. I would say
18 your mathematical prowess is weak, and I would deny
19 it.

20 MS. HJELLE: Well, that's my concern.

21 JUDGE GOODWILL: And I understand that.
22 Let me just say, I believe if a customer, yourself or
23 any other customer, has a concern about adequate
24 water rights for this utility or any other, the
25 proper way to have that addressed would be to

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1 start -- according to Commission rules, start an
2 informal complaint process through the Division of
3 Public Utilities. And if you are not satisfied with
4 that, to formally complain to the Commission that
5 your utility is not maintaining adequate supply and
6 here is the harm that is being suffered, etc., etc.

7 Unless you can tell me otherwise, it
8 doesn't seem to me that that's germane to whether or
9 not current operations of the company shouldn't
10 continue to be governed by the rates that were set
11 back in 2004 or the rates that are currently
12 proposed. I see them as two separate issues. And I
13 need you to explain to me why the Commission should
14 not approve these rates, based on your view of the
15 amount of water available to the company.

16 MS. HJELLE: Well, my view is that the
17 lower allocation of water to lots is needed, and the
18 reason that it is being made mandatory and
19 irreversible is so that the water can be applied to
20 future development and the existing customers have
21 paid for that water. That's my concern.

22 JUDGE GOODWILL: Okay.

23 MS. HJELLE: Have paid for those capital
24 facilities , have paid for the -- in the case of the
25 holders of irrigation rights, have paid cash on the

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1 barrel head for the water itself, and then are paying
2 for the part of the rate base and so forth with their
3 water fees.

4 JUDGE GOODWILL: Let me just use some
5 generic numbers, then, since we don't have a specific
6 number in front of us. I think the number 458 has
7 been thrown around as the number of acre-feet that
8 have been conveyed to Dammeron Corp., Dammeron Valley
9 Water Works, to serve current operations, the current
10 subdivisions, the current owners and customers.

11 Your concern, then, is that some of that
12 458 may be withdrawn, conveyed to other uses, future
13 development, if customers are encouraged to move to
14 the conservation tariff and if future development is
15 required to be under conservation tariff?

16 MS. HJELLE: Yes.

17 JUDGE GOODWILL: Okay. And I'm kind of
18 speaking out loud, because I want to see where this
19 goes. I understand your concerns and I think to some
20 extent it's relevant, but I don't necessarily see
21 that in the proposed tariffs.

22 Let me ask you, Mr. Pace -- and I'm sorry
23 to cut in, Ms. Hjelle, and I'll give you the
24 opportunity -- but whatever the number may be, 458,
25 etc., that's been conveyed to the water company now

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1 to serve existing customers.

2 MR. PACE: Right.

3 JUDGE GOODWILL: When the tariff talks
4 about all new subdivisions platted after the
5 effective date of these proposed rates, what new
6 subdivisions does that refer to? I mean, I'm trying
7 to -- you've talked about future development you want
8 to do.

9 MR. PACE: Right. There are three
10 categories. We have 50 lots in the remaining 500
11 lots master plan in 1992 that we created for Dammeron
12 Valley. There was an 1,100-acre farm started
13 developing in '96, and 82 landowners wanted to see a
14 master plan for the build-out, and we said we're
15 going to do a total of 500 lots. We've changed the
16 mix in how we do it over years, because we even had
17 high density lots in the beginning of that. But
18 there's 450 of those developed, so there's 50 more of
19 those.

20 JUDGE GOODWILL: And that's currently in
21 the service territory of Dammeron Valley?

22 MR. PACE: Correct, currently in the
23 service territory of Dammeron Valley. There's 50
24 more. Those 50 are all in Pinion Hills, which is a
25 subdivision unique to all the rest of the valley. It

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1 was about a 165-lot subdivision that happened to be
2 in this rocky hillside covered with trees, and
3 there's really no dirt for gardens or lawns. Almost
4 nobody has lawns. It's all desert vegetation. The
5 water usage is very low in there. None of them would
6 even -- there's not anybody using anywhere near even
7 the conservation rate of water. They're normally
8 using about 330 or 400 gallons a day.

9 JUDGE GOODWILL: Let me break in on you.
10 I just want to try to get to my -- what I'm curious
11 about. Those 50 remaining lots, are they --

12 MR. PACE: They will be subject to --
13 because they haven't been subdivided yet, they will
14 be subject to the conservation rate. Most of them
15 will convert anyway, because they're going to save
16 \$12 a month and they're only using three or four
17 hundred gallons a day anyway.

18 JUDGE GOODWILL: Okay. Now, stop there.
19 So when those 50 more lots are developed and you need
20 to provide them water, because they will be under the
21 conservation rate, will they be provided water under
22 the existing shares that the company -- that are
23 currently available to Dammeron Valley Water?

24 MR. PACE: I will have to convey more
25 water. Because after I do a subdivision, the DEQ has
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1 to give me a, you know, to develop it, that I have
2 adequate water owned by Dammeron Water. So I will
3 have to convey usage of the water. Of course, I'll
4 have to only convey a half acre-foot rather than .89.

5 JUDGE GOODWILL: Because they'll fall
6 under the conservation tariff?

7 MR. PACE: Right. That's one category.
8 Then there are 280 state lots that are on 580 acres
9 that are three different parcels that the state took
10 down in about 1983 or '4 that we convinced the state,
11 because the rest of the valley was developed on the
12 basis of one lot per two acres, we haven't got an
13 agreement with them yet, but they have already given
14 us a verbal approval and we've already got the design
15 done to do 280 more lots on those 560 acres. Those
16 will be subject to the conservation rates.

17 Then we have a 720-acre parcel that's
18 about a mile away from Dammeron Valley, serviceable.
19 Not in our service district or the state plan at the
20 moment. It's intended to be served out of the
21 Dammeron Valley Water system, and those will be
22 subject to the conservation water.

23 Everyone else, all 450 currently platted
24 lots don't have to change, under no requirement per
25 note 4 or whatever it is, to change. And most won't,
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1 because many use over that amount because they are
2 out in old farmland, beautiful soil, and rarely they
3 go into overage, but periodically they go into
4 overage.

5 I wouldn't expect many of them to change.
6 But there are about 120 subdivided lots in the Pinion
7 Hills subdivision already, and many of them will
8 change because they just don't use the water and
9 won't ever have the use, because it's just solid
10 rock.

11 JUDGE GOODWILL: So the future development
12 that you talked about, let's go back to the 458 and
13 use that number.

14 MR. PACE: Right, the existing number.

15 JUDGE GOODWILL: It's currently servicing,
16 it's available?

17 MR. PACE: Right.

18 JUDGE GOODWILL: Are those all -- I don't
19 know the proper term, but are those all being used at
20 this point, those 458?

21 MR. PACE: Well, about 350 homes are
22 built. Some are on standby.

23 MR. PACE: Does the water company have
24 available to it right now, transferred as part of
25 that 458 acre-feet, extra water that's not being used

26

1 by the current people who own irrigation shares or
2 have a right to culinary water under the current
3 tariff?

4 MR. PACE: A huge amount. A huge amount
5 of the 450 or 360, whatever has been conveyed to the
6 Water Works that's not being used. It's one of my
7 credits, remember, I mentioned in the first year that
8 we have an imbalance in the system. We've created
9 these 1,600-gallon-a-day tappings and
10 1,200-gallon-a-day tappings, and even many of the
11 800-gallon-a-day tappings when the average user,
12 average user who does not have an irrigation share is
13 560 gallons a day. So we have all of this water
14 that's really not being used. We have a system out
15 of balance.

16 As I mentioned to you, water rights in
17 another division that I also have to also hear their
18 rules has raised this concern in the past and said at
19 some time you're subject to possibly losing this
20 water that's not being used by your customers. We're
21 going to come down and analyze your system; and even
22 though you have given 3.89 tappings or .89 or
23 whatever, if they're only using three-quarters of
24 that, you've got unused water. Use it or lose it
25 doctrine is what I'm up against.

26

1 JUDGE GOODWILL: So you've got the 50
2 unsubdivided lots in Pinion Hills?

3 MR. PACE: Right.

4 JUDGE GOODWILL: And you've got a lot of
5 your 458 acre-feet of water not being used or --
6 what's the word I'm trying to think of? Spoken for.

7 MR. PACE: Spoken for. It's there and
8 their right to use it. As Barbara is pointing out,
9 if they did use it, I would have -- when I finished
10 that 500-unit subdivision, I would have to have an
11 obligation to have in store for them -- and I could
12 never do anything with it; I can't use that water --
13 if they decide to convert and give me back a half of
14 an acre-foot, or if somebody had two tappings and
15 gave me back an acre-foot and a half, then I would
16 have the right to use it. That's why I can't have
17 them say, well, I'll do it and later decide to flip
18 back. I need to know.

19 But I'm not counting on anybody to
20 convert. My current plan has no desire or demand or
21 interest in people converting from the current tariff
22 they're on, because that's where my revenue is. If
23 everybody converted, I would have a heck of a
24 problem.

25 JUDGE GOODWILL: Getting to Ms. Hjelle's
26

1 point, then, if people sign up for the conservation
2 tariff, that frees up some water for the company.

3 MR. PACE: Right.

4 JUDGE GOODWILL: For instance, if enough
5 people signed up on the conservation tariff, current
6 customers, you could presumably, when you want to
7 plat those 50 lots or subdivide them, you could
8 presumably go to the state and say, I don't need to
9 deed over more water rights, because now this 458
10 covers these lots, because some people have
11 essentially given up their right to use more water.
12 Right? I think that goes to your concern as well.
13 Is that what you're getting at is you see current
14 users, water potentially withdrawn from them, the
15 ability to use water being withdrawn from current
16 users?

17 MS. HJELLE: Current users and maybe
18 subsequent owners on those lots who now come in and
19 buy those lots, their predecessor in interest has
20 given up a valuable right that it bought and paid
21 for. The developer has now sold that water to the
22 tune of, you know, \$100,000 an acre per lot, so being
23 able to transfer that water to new users, to new
24 lots, is a valuable asset.

25 And I don't deny that the developer needs
26

1 to make a profit and so forth, but by the same token,
2 there's a fairness issue here that I'm not sure how
3 to sort out. But certainly there's a valuable
4 resource there. I believe it has been bought and
5 paid for by existing users, and by having the tariffs
6 the way they are, they have an incentive to give it
7 up to the developer so that he can go and transfer it
8 to a new lot and sell that lot.

9 JUDGE GOODWILL: Okay, I understand your
10 point. I'm not going to get into any more discussion
11 on that.

12 MR. PACE: Could I just add a point?

13 JUDGE GOODWILL: Well, let me let you guys
14 wrap this up in a few minutes. You can do that on
15 your own. But Ms. Hjelle just raised a point in my
16 mind. If I'm a current owner and I don't want to
17 switch from the current standard culinary rate and
18 then five years from now I sell, does the tariff
19 obligate a new owner to be under the conservation
20 culinary rate?

21 MR. PACE: No.

22 JUDGE GOODWILL: It would be the standard
23 culinary rate, we'll use the term "right," the right
24 to use that right would flow to the new owner?

25 MR. PACE: Or other. But once he's
26

1 converted --

2 JUDGE GOODWILL: According to the tariff,
3 he can't.

4 Okay. Other questions, Ms. Hjelle? Other
5 comments?

6 MS. HJELLE: Yes.

7 Mr. Pace, do you know over the years how
8 much you have been paid for water rights from
9 customers who have bought acre-feet or more than
10 acre-feet?

11 MR. PACE: In the beginning we were
12 selling for like 500 bucks, it seems like. Anyway, a
13 lot less than what they go for now. Now they go for
14 \$3,000 an acre-foot. Of course, I don't sell them
15 anymore, so there's a market in them. I've heard
16 they've been sold for \$4,000 an acre-foot. How much
17 I have taken in, probably \$100,000, \$80,000 an acre,
18 in that neighborhood.

19 MS. HJELLE: My point there, Judge, is
20 that I believe that should be a relevant part of the
21 tariff. That is an income to the water company or to
22 the d/b/a, alter ego of the water company, and this
23 is one of the reasons why I'm concerned about the
24 tariff, that, again, this whole picture doesn't seem
25 to me to adequately represent the interests of the

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1 existing users who have bought and paid for,
2 particularly bought and paid for the irrigation
3 right.

4 JUDGE GOODWILL: I'm not certain what you
5 meant by it should be considered as part of the
6 tariff.

7 MS. HJELLE: Well, right now you show --
8 if I understand how this works, it shows assets of
9 the company; it shows, you know, capital and rate of
10 return on capital, and then cost to deliver and then
11 income, the rates; but nowhere in there is reflected
12 the 80 to 100 thousand dollars that we have paid for
13 the right to use this water. And so that is lost in
14 the universe somewhere, and it seems to me that that
15 should be part of the calculation of what we owe for
16 our water.

17 And I am particularly concerned, as I
18 think I made clear in the last hearing, for those of
19 us who have paid that valuable consideration that are
20 paying \$2 a thousand for water it costs about 5 or 10
21 cents a thousand to deliver to us in variable costs.
22 So I feel that that cash in the door should be
23 accounted for in this rate base somehow or other.

24 JUDGE GOODWILL: Can the Division speak to
25 that at all?

26

1 MS. SCHMID: I could if you would let me
2 respond. I believe it's the normal practice that
3 infrastructure is generally recovered by the seller
4 in the sale of the lots. And while the particular
5 corporate structure and function of Dammeron
6 Corporation seems to be complicating things, perhaps
7 we can look at Dammeron Water as sort of an operating
8 unit, perhaps, and determine if such imputation or
9 transferring over of such water right revenues would
10 be appropriate. And to me, upon first impression it
11 seems that that would not be.

12 JUDGE GOODWILL: We're talking here about
13 the money to purchase irrigation shares, correct,
14 Ms. Hjelle?

15 MS. HJELLE: Uh-huh (affirmative).

16 MR. PACE: Could I answer?

17 JUDGE GOODWILL: One moment. And that
18 money was paid by customers to Dammeron Valley Water
19 Works to purchase that share?

20 MS. HJELLE: Well, I'm not sure who it was
21 paid to. I suspect you might have to look at the
22 deeds. Dammeron Corp., Brooks Pace.

23 JUDGE GOODWILL: I'm not asking who
24 ultimately put the money in their pocket. But a
25 customer goes to the water company.

26

1 MS. HJELLE: The customer pays for the
2 water right to someone who is an alter ego of the
3 developer, as far as I can tell.

4 JUDGE GOODWILL: Go ahead, Mr. Pace.

5 MR. PACE: Okay, I can answer the other
6 question. Stoddard Land, Dammeron Corp. and myself
7 all owned water shares that were ultimately partially
8 conveyed to Dammeron Valley Water Works. None of
9 those shares conveyed to Dammeron Valley Water Works
10 were ever, ever sold for \$3,000 or \$500. It was only
11 taking them out of my own inventory. Every time I
12 sold one water share, it was costing me the ability
13 to develop one lot. I have people in Veyo,
14 surrounding communities that would pay anything for
15 water. Right now it goes as high as 5 to 50 or to
16 \$100,000 an acre-foot if somebody had to sell water
17 to make their land valuable.

18 So it was actually an act of generosity to
19 green up the valley. Not total generosity,
20 obviously. There was a benefit to having the valley
21 green, have a green belt along the highways and have
22 a beautiful place (inaudible). All development had
23 to be set back 300 feet from the highway, and that
24 land was given in the price of their land irrigation
25 water.

26

1 Elsewhere around the valley, in fairness,
2 I have sold off about 60 or 70 acre-feet to
3 individuals like Barbara. And again, there was not a
4 good economic benefit to me for that other than it
5 was a farming community and a lot of people wanted to
6 do big gardens. But in my future development of the
7 280 state lots and the 360 and the 728 in the Sand
8 Cove property, I still with the conservation tariff
9 am left with excess water, and I intend to retain it
10 in an agricultural component.

11 Unlike almost every community down in
12 St. George, the water district is taking agricultural
13 land and going under the culinary just to stay alive,
14 and that's the modus operandi. But here we are with
15 high gas prices. Some communities have got to start
16 setting aside permanent irrigation water. So far I
17 have set aside approximately 40 or 50 acres that are
18 permanent. In the year 2790 those irrigation shares
19 will still be there to grow crops, and the next 500
20 acre-feet will be set aside to permanently grow
21 crops. It may grow a golf course in the meantime,
22 but it will be permanently set aside and not allowed
23 to be converted into culinary. This is a good thing.
24 This conservation tariff is what the water district
25 ought to be doing.

26

1 JUDGE GOODWILL: Please, keep your answers
2 brief, if you would. I'm trying to get through this.

3 You personally sold, then, irrigation
4 shares to the Dammeron Valley water works?

5 MR. PACE: Myself or one of my -- but not
6 Dammeron Valley Water Works. None of their water was
7 ever sold to a customer for irrigation.

8 JUDGE GOODWILL: Yet it's their water
9 under the irrigation share that people are using and
10 being charged for?

11 MR. PACE: Right. Well, when they own it,
12 then it gets conveyed to the Water Works. Well, I
13 conveyed it to them. Most of them reconveyed it to
14 the Water Works and we give them a certificate for
15 it, just because maintenance on it is a problem.

16 JUDGE GOODWILL: Okay. Ms. Hjelle. And
17 we're going to stop in just a couple of minutes to go
18 into public witness and see how long that lasts. Any
19 questions?

20 MS. HJELLE: I think I have made that
21 point as far as I can go with it. My only other
22 point, your Honor, and I guess this is more in the
23 nature of argument.

24 JUDGE GOODWILL: Okay. Let's save that
25 until the end, then. We don't have much time, but to

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1 the extent that people want to get up and stretch
2 their legs and so forth, we will convene the public
3 witness in five minutes. For now, let's go off the
4 record in the evidentiary hearing.

5 (A recess was taken.)

6 JUDGE GOODWILL: Let's go on the record in
7 the public witness hearing in the matter of the
8 request of Dammeron Valley Water Works to add a
9 conservation rate and related notes to its tariff.
10 That's docket No. 07-2025-T01.

11 For those who weren't here at the
12 beginning of our proceeding this morning, evidentiary
13 proceeding, my name is Steve Goodwill. I'm an
14 administrative law judge for the Public Service
15 Commission. And the Commission has assigned me to
16 hear this matter.

17 We're here now in public witness session
18 to hear from members of the public concerning the
19 proposed rates that Dammeron Valley has submitted for
20 Commission approval. In a few moments I will ask
21 people to identify themselves as wanting to speak.
22 You're welcome to come up to the podium and speak.
23 When you do so, you have two options. You can
24 provide an unsworn statement, which means you can
25 simply get up and identify yourself and say what you

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1 want to say, put your opinion on the record. And the
2 Commission would use that generally to get an
3 understanding of how the public feels about the issue
4 before it, proposed rates.

5 If you would like what you say to be sworn
6 testimony and to be used as evidence by the
7 Commission in determining whether or not the rate
8 should be approved, then you can indicate you want to
9 provide a sworn statement and I'll go ahead and swear
10 you in.

11 If you provide a sworn statement that can
12 be used as evidence, we will then give the various
13 parties up here in front to ask you questions, to
14 cross-examine you. Since you are providing evidence
15 to the Commission, they then have a right to question
16 you on the statements you've made. Again, that's
17 your right to provide sworn or unsworn. I'll simply
18 ask you that when you stand up to provide your
19 statement.

20 I also want to make clear that folks
21 understand, we are here today to talk about the
22 proposed conservation rate and other changes to
23 Dammeron Valley Water Works tariff. I want to try to
24 limit the statements that are made to that issue. I
25 understand people often have a lot of other issues

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1 with their utility company, personal complaints,
2 service quality issues and all those sorts of things.
3 We're not here today to address those. And the
4 Commission wants to address those, but there are
5 other procedures that we go through, filing an
6 informal complaint with the Commission or the
7 Division, or a formal complaint with the Commission.

8 So I reserve the right if we drift into
9 those areas in a statement by a member of the public,
10 I will ask you to stop and to speak strictly to the
11 issue before us as to whether or not the Commission
12 should approve these rates, and do that just so we
13 make sure everybody has a fair opportunity to speak
14 and that we don't spend too much unnecessary time
15 doing that.

16 With those comments, we'll go ahead and
17 move to whoever would like to speak. Just raise your
18 hand, and we'll come up one at a time and have you
19 make your comments.

20 First of all, is there anyone on the
21 telephone? Okay. Thus far we haven't been joined by
22 anyone on the line. Anyone in attendance that would
23 line to make a public comment?

24 Sir, we'll start with you. If you will go
25 ahead and come up to the podium. Would you like your
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1 statement to be sworn or unsworn?

2 MR. THOMPSON: Unsworn is fine.

3 JUDGE GOODWILL: Okay. If you would
4 please just identify yourself, and then go ahead and
5 make your statement.

6 MR. THOMPSON: My name is Mack Thompson.
7 I live in Dammeron Valley and have I think since
8 1999.

9 The comment I have is, one, to commend
10 Brooks for considering at some future time a rate
11 that would be different based on a lesser volume for
12 those homes that need a lesser volume, and then a
13 penalty rate that would be applicable to those and
14 everybody else to defer water waste and encourage
15 conservation.

16 But a question I have, and it's at this
17 point a question that I can't find logical,
18 reasonable, nor legal, and that is that in the valley
19 we're charged a standard rate under the old schedule,
20 which I would personally choose to stay with because
21 of the landscaping on my property and my intent to
22 grow some pasturage for animals, as well as wildfire
23 protection and dust abatement. Because we live in a
24 area that once the vegetation is gone, it's kind of
25 icky. I also have an irrigation share.

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1 But what I question is not the base rate
2 I'm charged on a bimonthly basis for X gallons of
3 culinary use that can also be used outdoors if I
4 don't exceed that. What I question is the next
5 charge that I seem to receive, which is an overage
6 rate for I'm not sure how many gallons, be it 24,000
7 or 16 or 36 or 4,000. I don't know what that rate
8 is, but I suspect it's close to 20,000 gallons, which
9 is an overage rate of \$1.50 a thousand before I'm
10 allowed to utilize my irrigation share water at 25
11 cents a thousand.

12 What puzzles me is that it seems to be I'm
13 not having a problem with a set standard rate for the
14 40,000 gallons every two months, and I'm not having a
15 problem with my right to use one acre-foot of water
16 as prescribed, but I don't understand how it is I
17 would be penalized \$1.50 a gallon for whatever the
18 gallonage is related to the bill. I don't think
19 that's appropriate to charge someone an excess fee
20 prior to their utilizing what they also have a legal
21 right to use, being an acre-foot of irrigation water.

22 So that's my question is, why am I
23 penalized between my culinary usage allocation of
24 40,000 gallons and the 325,851 gallons I would be
25 entitled to as an acre-foot, which I also possess the
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1 right, paid for the right to use at 25 cents a
2 thousand.

3 That's all I've got.

4 JUDGE GOODWILL: Sir, I think you raise a
5 good question, which I would like to turn to the
6 Division and/or the company to address. To the
7 extent that you can, the reason why customers are
8 required to use a certain amount of overage culinary
9 water before their irrigation rate kicks in. Can
10 first the Division address that?

11 MS. BENVEGNU-SPRINGER: As the Division
12 understands, there are allocations by the size of
13 their lots, although there are some adjustments to
14 that if the homeowner has requested it to be
15 readjusted. The way the Division understands it is,
16 under the old standard rate the first 20,000 gallons
17 would be charged at \$30. The next 4,000 to get to
18 24,000 if they're allowed 800 gallons per day is at
19 the \$1.50 rate, which essentially is the same as the
20 \$30 for 20,000, it just gets them up to the 24,000.
21 Then if they have an irrigation right, the irrigation
22 right would kick in and they would be able to use the
23 40,000 gallons per month at the irrigation rate.
24 Once they exceed the 24,000 and the 40,000 for a
25 total of 64,000, then the \$2 rate would kick in.

26

1 So the \$1.50 rate on the 4,000, for
2 example, on the first -- on the second rate is for
3 them to get to the 24.

4 JUDGE GOODWILL: And I think the
5 gentleman's question is, why not after the first
6 20,000 gallons that have been paid for with the
7 minimum charge can he not start to be charged 25
8 cents per thousand. And I guess there could be
9 several reasons. Is it just financial, or it depends
10 how -- what makes you apply the usage?

11 MS. BENVEGNU-SPRINGER: This rate was the
12 rate that was approved back in 2004. Unfortunately,
13 I was not the analyst at that time. So I am not sure
14 why the methodology was used for that at that time,
15 but that's not what we're using now. I'm sorry.
16 That's -- we're still using that same old rate and
17 the same allocations as it was approved at that time.

18 JUDGE GOODWILL: I know, Mr. Pace, you
19 wanted to speak. Go ahead.

20 MR. PACE: I think it will help everybody
21 that may have a similar question, and I'll address
22 Mack particularly because he's on a lot that has one
23 and a half tapping. He has a right to 36,000 gallons
24 a month, and he has to use the 36,000. It's a
25 revenue protection thing. Mack was given the right,

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1 and he even has the right today to change back to a
2 24,000. But I think you've chosen not to do it,
3 right?

4 MR. THOMPSON: I don't understand the
5 differences, Brooks, between a tapping, a tapping and
6 a half, and two tapplings. I never understood that.

7 MR. PACE: Well, it's just that the
8 tapping was 800 gallons a day, and The Homesteads was
9 done in the third subdivision. The first two
10 subdivisions got two tapplings, so 16,000 gallons a
11 day. Barbara lives in one of those. The third
12 subdivision got a tapping and a half. That got 1,200
13 gallons a day. And then everything since then has
14 gotten 800 gallons a day.

15 When we did the irrigation thing about ten
16 years after we started the development, we came up
17 with this irrigation right idea. The Division was
18 very concerned of the hole that was going to be -- I
19 mean, let's take the extreme. If everybody could
20 say, oh, geez, I want to use my 25-cent-per-thousand
21 gallon water first and then start buying the
22 \$1.50-a-gallon water, that would have shot the
23 revenues of the water company totally down. But in
24 fairness to people that have the big tapplings, so
25 that they weren't disadvantaged, we gave them the
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1 voluntary right to convert to the lowest tapping, one
2 tapping, or 800 gallons a day. And I don't know
3 whether you have ever done that or not. I don't
4 think you have.

5 MR. THOMPSON: No.

6 MR. PACE: So it means that after you buy
7 your first 20,000 gallons for \$30, yes, you have to
8 then use another 16,000 for \$24 before you can use
9 the culinary water. But if that's irking you, you
10 still have that right to come in and say, I want to
11 change back to 800. So you'd still have to use
12 24,000 for \$36, and then the cheap water would kick
13 in.

14 JUDGE GOODWILL: Now, Mr. Pace, I think
15 you indicated, or made the statement that it's a
16 revenue protection.

17 MR. PACE: Right.

18 JUDGE GOODWILL: And I think I understand
19 that. My question is hypothetically for the
20 Division. If the Commission were to set rates that
21 said for one tapping, for 800 gallons a day, if the
22 Commission were to simply say, once you use your
23 20,000 gallons for the minimum charge, if you have an
24 irrigation share, everything over that is applied to
25 irrigation rates within your limits; that would, I

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1 understand, decrease revenue, then, to the company?

2 MS. BENVENU-SPRINGER: Correct.

3 JUDGE GOODWILL: And the only way to make

4 up that revenue would be to increase other rates?

5 MS. BENVENU-SPRINGER: Correct.

6 JUDGE GOODWILL: For instance, one of

7 those rates could be the irrigation rate itself.

8 MS. BENVENU-SPRINGER: Correct.

9 JUDGE GOODWILL: That answers my
10 questions.

11 Sir, does that give you a better
12 understanding of where the rates are at? Not saying
13 whether you agree with them or not, but a better
14 understanding of what they are and why?

15 MR. THOMPSON: Yes. And I suspect that
16 once I get a printout on my usage for the past five
17 years, I'd have a better idea as to where I sit
18 financially, recognizing that 2006 was a very high
19 volume pumping year because of the fire hazard. That
20 was the only time, I believe, in nine years that
21 we've exceeded our culinary usage and irrigation
22 usage for short periods of time. Other than that,
23 we've been below our total usage. And if I were to
24 choose to go down to the 20,000 versus --

25 MR. PACE: 24.

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1 MR. THOMPSON: -- 24, I would have to mull
2 and ponder and use a calculator, I suspect.

3 MR. PACE: Carol could do it in five
4 minutes for you.

5 CAROL: I would hope I could do it. Could
6 I interject something while you're talking about
7 that?

8 JUDGE GOODWILL: Did we swear you in
9 earlier?

10 CAROL: Yeah, you did.

11 Another reason for that next tier is, they
12 are given the water at \$1.50, and then their
13 irrigation share. We have a lot of customers that
14 don't have enough irrigation shares, so they trip
15 over the irrigation shares and they go into \$2. So
16 people that chose not to go to that, like Mack, if he
17 in certain months, in certain billing cycles, if he
18 didn't have that next 32 or 16 in any single month,
19 he would be paying \$2 instead of that \$1.50 for the
20 32. Does that make sense to you?

21 I think that also was a reason that that
22 rate was put in there, because it prevents single
23 irrigation rights owners of going into overage, to
24 the \$2 overage rather than still getting it at the
25 \$1.50. Did I explain that, or --

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1 MR. THOMPSON: Adequately.

2 MR. PACE: And that's why we need to
3 analyze it, because everybody is different. If
4 you're never going over, you probably would be better
5 changing back to 24.

6 MR. THOMPSON: It just didn't appear to be
7 a correct -- to have a base usage and a share but be
8 penalized in between the irrigation share and the
9 culinary. It makes a lot more sense now than it did
10 before.

11 MR. PACE: Thank you for that.

12 JUDGE GOODWILL: Anything else, sir?

13 MR. THOMPSON: No. Thank you.

14 JUDGE GOODWILL: Could you identify
15 yourself, please?

16 MS. WEST: Oh, sorry. I'm Judy West from
17 Dammeron Valley.

18 JUDGE GOODWILL: Why don't you come up
19 just to make sure the court reporter can hear you.
20 I'm sorry; you said your name is Judy West?

21 MS. WEST: Judy West Elmore. I have two
22 names.

23 I guess I don't understand. We bought two
24 water shares and they cost \$6,000, and they don't
25 seem to benefit us in any way because of that, the

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1 middle part. I thought once we used our culinary
2 then we could tap into that and it would save us
3 money, but in fact it doesn't save us at all.

4 That's all.

5 MR. PACE: Which lot?

6 MS. WEST: Nine.

7 MR. PACE: Which subdivision?

8 MS. WEST: (No inaudible answer.)

9 MR. PACE: Well, you just have another
10 4,000 to use before you go into it, so you have
11 another \$6 worth of water and then you start using
12 the cheap water. You pay \$30 and then you have to
13 use the other 4,000, and then you go into it. So
14 it's not much --

15 MS. WEST: It just seems strange to me
16 that you have to use the initial, and then you have
17 to pay the higher rate before you go into the --

18 MR. PACE: Even the initial is the exact
19 same rate. The initial gives you 20 gallons for \$30,
20 or it gives you one gallon for \$30. If you go on
21 vacation and only use one gallon some December,
22 you're still charged \$30. It's just a base rate,
23 again, a revenue thing. It's essentially the same
24 question as Mr. Thompson presented.

25 MS. WEST: I'm sorry. I came in late.

26

1 JUDGE GOODWILL: No, that's okay. That's
2 all right.

3 MR. PACE: Do you understand? I mean, we
4 would be happy to spend time analyzing your situation
5 as well. If you would call Carol, she could do it.

6 MS. WEST: Thanks.

7 JUDGE GOODWILL: And just kind of in
8 general terms -- I hate to interject, but, I mean,
9 ultimately the rates are intended to get to a certain
10 number, if you will, that the company needs to
11 operate based on usage and everything else. And as I
12 asked the Division earlier, the rates -- we could do
13 away with that in-between rate, if you will, that
14 4,000-gallon overage rate, but that would be a
15 reduction in revenue to the company that, absent any
16 other evidence, would need to be made up somewhere
17 else. And one way to make that up would be to
18 increase the irrigation rate or other fees or other
19 rates.

20 So I'm not saying which way is right or
21 which way is wrong; but just to explain that one way
22 or another, the company wants to reach a certain
23 number of revenue, the Division recommends whether a
24 certain number of revenue is correct or incorrect,
25 and then we have to decide how to get to that number.

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1 And this is the way that's been adopted.

2 I can understand customers questioning,
3 why do I have to use this, why do I have to pay
4 higher here before I can pay less over here. But if
5 that were changed, you might be paying more over here
6 if you didn't have to pay the overage on this side.

7 And I really probably shouldn't even be
8 interjecting my own thoughts, but I know the
9 customers have a concern on that. So I think it's
10 fair to simply understand that the rates in general
11 at the end of the process, the Division has to be
12 satisfied in recommending to the Commission that
13 they're adequate to meet the company's needs.

14 CAROL: Can I just clarify? She goes
15 into -- she uses her irrigation shares, actually both
16 of them in the summer months.

17 JUDGE GOODWILL: Go ahead.

18 CAROL: She actually uses her irrigation
19 shares in the summer months. She has usages,
20 149,000, 155,000, 300,000, 297,000. So she is
21 benefiting from the irrigation share, and she is also
22 at the 24. She's in a one tapping neighborhood, so
23 she's paying the 30 and then she's doing the next
24 four, and then she is -- I mean, she's getting use of
25 those irrigation shares during the summer months.

26

1 The fact that they're not being used in the winter
2 months, you know, kind of the nature of the beast.
3 But just to clarify.

4 JUDGE GOODWILL: Okay. Anything further,
5 ma'am? Other comments?

6 MS. BLANKENBURN: My name is Cathy
7 Blankenburn.

8 JUDGE GOODWILL: And I'm sorry. I didn't
9 ask the last witness, do you want to be sworn or
10 unsworn?

11 MS. WEST: Unsworn is fine.

12 MS. BLANKENBURN: I think I have the same
13 similar question that everybody else did, but I'm
14 assuming, now, the new rates, I'm going to get 12,000
15 for the minimum, but then I'm going to have to pay \$2
16 for the next 12,000 until I hit 24, and then when I
17 hit 24 I go to the irrigation rate at that time?

18 MR. PACE: Right. But you don't need to
19 convert. I don't think you should convert, because
20 you have a big garden, don't you?

21 MS. BLANKENBURN: No. We don't have a
22 thing. We graveled around the house. I have no --
23 right now I don't, but I will.

24 JUDGE GOODWILL: We can talk specifics off
25 line. But the bottom line --

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1 MS. BLANKENBURN: But the bottom line is
2 that I still have to use 24,000 gallons before my
3 irrigation kicks in, correct?

4 MR. PACE: Do you have an irrigation
5 share?

6 MS. BLANKENBURN: That's my second
7 question is, I bought an extra share of water from
8 you. I live in The Homestead, so I get one with the
9 house. Then we bought an extra --

10 MR. PACE: Irrigation share.

11 MS. BLANKENBURN: -- irrigation -- well,
12 we bought an extra share of water. I've just got the
13 warranty deed thing. In order to get into the notes
14 in part 2, it says all company -- the owner deeded
15 irrigation water rights. Is this note telling me
16 that I have to take my warranty deed now and turn it
17 back over to you and get a certificate in order to
18 use that water?

19 MR. PACE: We've been asking you to do it
20 for years. You don't have to do it. We'll just
21 maintain it for you if you do. You should sell your
22 irrigation share if you aren't using it.

23 MS. BLANKENBURN: Well, it was in the
24 plans. When we get retired. I haven't retired yet.
25 But yeah, I was just wondering if I need to deed that
26

1 back to you to get a certificate --

2 MR. PACE: Yes.

3 MS. BLANKENBURN: -- in order for me to
4 get the irrigation water rate when I get over the
5 24,000, or do you have it on record that I have that
6 water available?

7 MR. PACE: We have it on record. The
8 problem would be when you convey it, you need to make
9 sure you convey it by quit-claim deed, warranty deed
10 or somehow, because I'm not responsible for it. If
11 it's on certificate, I maintain it for you, I keep it
12 active with water rights, et cetera.

13 MS. BLANKENBURN: Right.

14 MR. PACE: You would be better off
15 certificating it, but that's your choice.

16 MS. BLANKENBURN: Okay. But right now
17 with the old program and the new program, I've still
18 got to use 24,000 before I kick into the irrigation,
19 right?

20 MR. PACE: Unless you convert to the new
21 program, which is a voluntary thing.

22 MS. BLANKENBURN: Right. But either one,
23 the cutoff is 24,000 gallons?

24 MR. PACE: Right.

25 JUDGE GOODWILL: Anyone else? Yes, sir.

26

1 Come up to the podium. Would you like to be sworn or
2 unsworn?

3 MR. HOPPEL: Unsworn.

4 JUDGE GOODWILL: If you would state your
5 name, and then go ahead and make your statement.

6 MR. HOPPEL: My name is Bob Hoppel. I own
7 lot No. 21, and I purchased about three years ago.
8 And per the calculations I did need an acre share of
9 irrigation rights, but beings I'm looking at my trees
10 and stuff and I started watering because their sign
11 said, hey, them trees need water, so I'm putting on
12 water and I'm going to run over the water now. And I
13 started a big garden and I'm trying to buy water,
14 irrigation water rights; there's none to be had. And
15 it sounds to me like there's plenty, Brooks Pace has
16 plenty of water, but he won't accept a \$3,000 check.

17 MR. PACE: Right. But Cathy has one. Why
18 don't you buy one from her?

19 MR. HOPPEL: Hey, I will purchase it from
20 her. And I'm not alone out there. Everybody is
21 trying to get -- in the five-acre lots trying to
22 purchase irrigation rights, and he's sitting on the
23 water. And it sounds to me like there's plenty of
24 water here, but it's not for sale.

25 MR. PACE: We are going to initiate a
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1 leasing program for people who have water and are not
2 using it. Like, Cathy could choose to not sell it to
3 you but even lease it to you.

4 So there's going to be options other than
5 buying irrigation water in the next few months that
6 we're going to suggest. But we ourselves are
7 preserving the additional water we have. We've sold
8 as much irrigation water as we intend to. We will be
9 setting aside more irrigation water in the future
10 developments, but the existing ones, we don't have
11 any more to sell.

12 MR. HOPPEL: But I set through the one
13 meeting when you said, hey, all the five-acre lots
14 had two shares of water rights to them. But I guess
15 when I purchased it from Bill Dewerk (phonetic), he
16 sold off his one-acre water right before I purchased
17 it. I wasn't -- I didn't know how the water was.
18 It's so confusing.

19 JUDGE GOODWILL: Unfortunately, the issue
20 that you bring up is not really one that the
21 Commission can address, which is whether or not
22 Mr. Pace or Dammeron Valley, one of the companies,
23 corporate entities should sell you any water rights.
24 The Commission's concern with respect to water rights
25 is only whether or not a water utility maintains

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1 enough water lines to serve its customers.

2 MR. HOPPEL: But serving the customer, if
3 all my trees die, is that serving the customer?

4 MR. PACE: I think we can find a solution
5 for you, Bob, but I don't know that this is the
6 venue.

7 MR. HOPPEL: All right, thank you.

8 JUDGE GOODWILL: Other public comments?

9 MS. HJELLE: I don't know if it's
10 appropriate, but in conjunction with the fact that
11 we're having people who have been involved in
12 discussions with me, we put together a little paper.
13 It mostly focuses on irrigation issues. But I have a
14 number of signatures. If it would not be
15 inappropriate to submit them --

16 JUDGE GOODWILL: Why don't you just show
17 it to the folks around the table, and we'll see what
18 its format is, what it says and --

19 MS. HJELLE: That's probably why they're
20 not here.

21 MS. SCHMID: And if I might: is Ms. Hjelle
22 representing these people in an attorney capacity?

23 MS. HJELLE: No, I am not.

24 MS. SCHMID: So it would be unsworn public
25 witness testimony?

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1 MS. HJELLE: Yes. That's why if it's not
2 appropriate --

3 And many of them are, like, husband and
4 wife on one lot, so it doesn't necessarily represent
5 different customers per se.

6 MS. SCHMID: Apparently it's been
7 represented that they are all the same.

8 MS. HJELLE: Yes.

9 JUDGE GOODWILL: It's essentially a
10 petition, if you will?

11 MS. HJELLE: It's just a statement of
12 concern, I think you could say.

13 JUDGE GOODWILL: Signed by five, and you
14 represent these are all Dammeron Valley customers?

15 MS. HJELLE: I believe they're all
16 Dammeron Valley customers; but there may be, like I
17 say, a husband and wife, so it might be, you know,
18 not that many.

19 MR. SACKETT: Different ones of these have
20 different signatures.

21 MS. SCHMID: The typed part is all the
22 same, but the signatures may vary.

23 JUDGE GOODWILL: So we'll end up having
24 five or six people.

25 MR. PACE: Right.

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1 MS. HJELLE: And I certainly hope nobody
2 holds it against these people that they got involved,
3 like they do me.

4 MR. PACE: I'm not holding anything
5 against you, Barbara.

6 MS. HJELLE: Good.

7 MR. PACE: But what is the central issue
8 here?

9 MS. HJELLE: Well, this really goes more
10 to the issue of how irrigation water is handled, the
11 one that has driven my primary willingness to spend
12 time on this the way I have. And in meeting with
13 other people, they had similar concerns and were
14 willing to make that statement.

15 MR. PACE: So you're saying that if
16 somebody comes to the end of October and they haven't
17 used their full irrigation share, that they continue
18 to be able to use it into November and December? I
19 mean, the last paragraph 4 is the one that has any
20 substance to it, it looks like.

21 MS. HJELLE: Maximum one acre-foot per
22 year per acre-foot water right for irrigation water
23 certificate at 25 cents a thousand. So once you kick
24 past your baseline tariff, you pay 25 cents a
25 thousand until you have used up your irrigation share

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1 that you paid for.

2 MR. PACE: Well, as I told you on the
3 phone when we talked about it, if somebody could use
4 their entire share in July and August, it would just
5 imbalance the system.

6 MS. HJELLE: Well, I think there are other
7 ways of dealing with it, however, besides charging
8 people exorbitant irrigation rates.

9 MR. PACE: So it's the overage charge.
10 You're not saying the irrigation rate is exorbitant,
11 you're saying the overage charge is --

12 MS. HJELLE: I'm saying charging \$2 --

13 JUDGE GOODWILL: Let's do this. We're in
14 public witness right now. We've got these papers
15 before us. You've offered to admit them. Based on
16 the fact -- based on their format and so forth, they
17 would be admitted only as unsworn public witness
18 statements, not as evidence. And I want to know if
19 anybody has any objection to that.

20 MS. SCHMID: No objection.

21 JUDGE GOODWILL: Okay. Did I get all the
22 pieces of paper, then, that were floating around
23 there?

24 MR. PACE: If I could just have copies of
25 them.

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1 JUDGE GOODWILL: And I didn't mean to cut
2 off that discussion, but we can get back into that if
3 we need to in the evidentiary portion of the hearing.
4 So we will admit this as public witness Exhibit
5 No. 1. I'll make sure the court reporter gets that.

6 (Public Witness Exhibit 1 marked.)

7 Anything else? Yes, sir.

8 MR. ELMORE: May I approach and make a
9 statement?

10 JUDGE GOODWILL: Certainly. Would you
11 like to make it sworn or unsworn?

12 MR. ELMORE: Unsworn.

13 JUDGE GOODWILL: Could you please state
14 your name.

15 MR. ELMORE: Yes. My name is Cliff
16 Elmore, and Judy is my wife. And we have two shares
17 of water. And my statement is rather -- not perhaps
18 substantive, but an emotional one, and that is that
19 we're a bit concerned that our two shares of water,
20 irrigation water, be protected and not be mitigated
21 in any way.

22 I just talked to Brooks Pace. He told me
23 that those two shares of water, that volume of water
24 is dispensed to me during the eight-month period.

25 And I don't have any reason to think that that's not

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1 true, but if that is true, then I would not want to
2 see anything happen here that would mitigate that.

3 So I'm not making any accusations, I'm not
4 saying what is or isn't; but I'm saying that we
5 bought the shares, we feel like we need the shares to
6 have the property that we want to have with the
7 trees, the grass. And so we're interested in
8 protecting that value, and we hope that the
9 Commission or the conservancy district or whomever
10 powers are out there that we don't really know, just
11 take it on faith that we just really appreciate those
12 shares, we want to maintain and continue with those
13 shares. And if other developments in the area,
14 whether by Brooks Pace or anybody else, we would not
15 want to have those shares mitigated, if I can say
16 that.

17 JUDGE GOODWILL: Is there anything, sir,
18 in the proposed rates or tariff language that causes
19 you concern that you think might be leaning towards
20 that?

21 MR. ELMORE: No, no. I misunderstood the
22 purpose of this meeting, I think. You said that this
23 meeting is limited strictly to the conservation rate,
24 and, well, that's not my issue. I don't have
25 anything to say about that. But I appreciate that

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1 you would let me voice my concern.

2 JUDGE GOODWILL: Sure. Thanks.

3 MR. ELMORE: Thank you.

4 JUDGE GOODWILL: Anything else from a
5 member of the public? Do we have anyone on the line
6 with us? Okay. Then we'll go ahead and adjourn the
7 public witness portion of this, and let's slide right
8 back into the evidentiary hearing in this matter,
9 07-2025-T01. And I'm going to give folks an
10 opportunity by way of argument to make their case to
11 wrap things up.

12 Are there any new issues or questions that
13 we haven't -- that we didn't previously address that
14 we can now from any of the parties?

15 MS. HJELLE: I have one factual question,
16 if I might. And this concerns the timing of this
17 tariff.

18 Do you see, Brooks, a need to get this
19 tariff in place now, given the delays that are going
20 on with subdivision development, in particular the
21 issues that have to be resolved in Dammeron Valley
22 with regard to sewer?

23 MR. PACE: Yes, I do. I mean, we've gone
24 through two hearings. I don't want to put it off. I
25 mean, we won't be doing subdivisions for a few years

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1 because the market is absolutely horrendous. It
2 could be this rate will about go into effect July
3 1st, and it may be a year or so before a
4 subdivision -- if applicable, July could be
5 developed. But immediately after July 1st people
6 could volunteer to go on it and save themselves 12
7 bucks a month.

8 MS. SCHMID: Judge Goodwill, I have one
9 question, if I might, for the Division witness.

10 THE COURT: Sure.

11 MS. SCHMID: Ms. Benvegna-Springer, there
12 has been some discussion in the memos and in related
13 dockets about perhaps holding up approval of the
14 conservation tariff rate until a different but
15 perhaps related docket involving Ms. Markham has been
16 resolved. Does the Division have any position on
17 whether or not resolution of that complaint should
18 affect implementation of a conservation rate tariff
19 if it is approved by the Commission?

20 MS. BENVEGNA-SPRINGER: The Division would
21 like to see the conservation rate approved, barring
22 other issues, barring other dockets or anything
23 holding it up.

24 MS. SCHMID: So does that mean that the
25 Division can see these two dockets proceeding

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1 independently, and resolution of one does not -- is
2 not required before resolution of the other?

3 MS. BENVEGNU-SPRINGER: Correct.

4 MS. SCHMID: Thank you.

5 MR. SACKETT: And just to make it clear:
6 with respect to the other docket, we have no problem
7 in taking sort of independent paths as well.

8 JUDGE GOODWILL: Okay. Thank you,
9 Mr. Sackett. With that, I'll turn and give each
10 party a chance to say any final wrap-up that you
11 would like to. Mr. Pace, this is your proposal, so
12 we'll turn to you first.

13 MR. PACE: Well, I appreciate the time the
14 Division and yourself have put into this issue and
15 being very courteous to everybody. I'm sorry I
16 haven't been totally the same, but I think it's an
17 important move. I think it could set the pace for
18 other water districts, and hopefully our own
19 Washington County Water Conservancy District. But
20 it's a very appropriate tariff. I think it will lead
21 to conservation.

22 JUDGE GOODWILL: Ms. Schmid?

23 MS. SCHMID: Water historically in the
24 West has always been an emotional issue and has been
25 very important to people. And as we have all heard

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1 today, people are concerned about the water.

2 The Division would recommend approval of
3 the conservation tariff as set forth in the
4 Division's memorandum and as corrected today. And
5 again, the Division believes that the docket
6 involving Ms. Gasporra and Mr. Markham does not need
7 to be resolved before this rate is implemented and
8 approved by the tariff.

9 The Division also seeks to have an
10 effective date of July 1, 2008, recognizing, of
11 course, that the Commission sets its own deadlines.

12 JUDGE GOODWILL: Okay. On that point,
13 before moving on, Mr. Pace, if the Commission were to
14 sometime this month issue an order approving the
15 proposed tariff, is 1 July when the company would
16 like to effect it, and is there some deadline by
17 which the Commission order would have to come out if
18 that were to be effective? And the third part of
19 that question is, is the next opportunity after 1
20 August? How does that work?

21 MR. PACE: Well, the sooner we get it, the
22 better. If we get it by around the 26th of June, we
23 could then put a note in the water bills that it was
24 approved, and if people want to voluntarily convert
25 to it, they have the right to do it for the next

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1 billing period.

2 JUDGE GOODWILL: Because in fact, the
3 rates currently being charged aren't being changed
4 unless the person comes forward and says, I want to
5 go to the new tariff?

6 MR. PACE: Right. So if they changed
7 during the billing period, we would allow that
8 billing period to be billed at the new conservation
9 rate. I think the only advantage in doing it
10 quicker, and that's why I objected to Barbara's
11 delaying it, is that it does give certain people who
12 are on a budget, and these days we all are, to
13 convert immediately and save 12 bucks a month.

14 JUDGE GOODWILL: Mr. Sackett?

15 MR. SACKETT: We don't have very much
16 except to say except with respect to footnotes 9 and
17 10, I think the testimony here will establish that
18 footnotes 9 and 10 are to be done on a
19 nondiscriminatory basis. So there's some question
20 about that. We just want to make sure that's the
21 commitment of Dammeron Valley in that regard.

22 MR. PACE: I think it's fairly clear in
23 there, but if it's not, I'm not opposed to them
24 adding wording to that effect.

25 MR. SACKETT: I don't know that the
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1 wording needs to be added (inaudible).

2 JUDGE GOODWILL: The statute requires
3 nondiscriminatory treatment, that you implement those
4 in a nondiscriminatory fashion. Is that right?

5 MR. PACE: Yes.

6 JUDGE GOODWILL: Anything else,
7 Mr. Sackett?

8 MR. SACKETT: No. That's all.

9 JUDGE GOODWILL: Ms. Hjelle?

10 MS. HJELLE: I appreciate the time you've
11 taken to let me raise issues that I recognize appear
12 to be an uphill battle in this context. I would like
13 to say that I do support water conservation, and the
14 organization I work for is very aggressive on that
15 subject.

16 But I would like to just say that you have
17 one person wearing three hats, and there is a
18 sophistication about this water, how it is used, what
19 is available, etc., that is only possessed by the
20 water company. And it is very, very challenging for
21 any water customer to understand this. And I have
22 attempted to do so. I don't know that I've been
23 successful.

24 But I am concerned that water is going to
25 be converted at the expense of owners who have paid

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1 for it, that irrigation water is unfairly allocated
2 or unfairly paid for; that income from water rights,
3 given that it all goes into the same pot in some way,
4 shape, or form should be considered in the tariff;
5 that the available water rights and the obligations
6 of the company should be made clear before the tariff
7 is put into effect; that the company should not be
8 able to collect interest on its capital where the
9 developer is a developer-owned company and the profit
10 on that capital comes through the sale of the lots;
11 that the obligations of the company -- maybe I've
12 already said this -- should be clarified in terms of
13 what are these tariffs, what are the obligations to
14 existing customers, and what's left over, if
15 anything.

16 And given the delays in new development, I
17 can understand why some people might want to get on
18 the new tariff, but I can't see that as being the
19 most significant factor.

20 And fundamentally, the footnote that
21 allows the water company to sell water at 25 cents a
22 thousand at its discretion is troubling to me where
23 I'm not able to use all of my water at 25 cents a
24 thousand, my irrigation water, in my own discretion.

25 So I think there's something about that
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1 that's troubling to me, that there's water there,
2 it's available, it can be sold at 25 cents a
3 thousand, but I can't buy the water I bought and paid
4 for with capital costs for that water share, all of
5 it at 25 cents a thousand. I must pay \$2 a thousand
6 in the discretion of the company.

7 And I think that some of these issues that
8 have been raised by the public with regard to when
9 these things kick in, it raises an interesting
10 question about, again, the same point I'm making, the
11 fairness of this tariff as it applies across the
12 board, as it's looked at as a whole. And, you know,
13 people, if they kick down to the lower level, they
14 get to get into to their irrigation share sooner, but
15 they kick up to \$2 a thousand sooner. How many
16 people really understand, you know, what they're
17 really getting into?

18 That may be neither here nor there in
19 terms of the arguments I'm making, but I find it
20 troubling that, again, that \$2 a thousand applies to
21 people who have bought and paid for irrigation
22 shares, they think they ought to be able to use it,
23 but they can't without this cost that is probably 200
24 times what the effective cost is to the water company
25 by the time they get to that point. Because at that

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1 time the tariffs are properly analyzed, the true
2 income to the company and the true income to the
3 developer is taken into account, all the cost is the
4 variable cost of pumping. That's all there is to it.
5 So I rest my case.

6 JUDGE GOODWILL: Okay. With that, we'll
7 go ahead and adjourn. Thank you very much.

8 (Proceedings were concluded at 12:17 p.m.)

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REPORTER'S CERTIFICATE

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

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

That the foregoing proceedings were taken down by Lanette Shindurling in stenotype on June 13, 2008, at the place herein named, and was thereafter transcribed by me and that a true and correct transcription of said proceedings, to the best of my ability, is set forth in the preceding pages.

WITNESS MY HAND AND OFFICIAL SEAL this 2nd day of February, 2009.

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