

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Request of)	
Pine Valley Irrigation Company)	Docket No. 09-2179-01
for Approval of a Rate Increase.)	Administrative Law
)	Judge:
)	Ruben Arredondo
_____)	

TRANSCRIPT OF HEARING PROCEEDINGS

TAKEN AT: Third Judicial District Courthouse
 206 West Tabernacle
 No. 100, Room 2000B
 St. George, Utah

DATE: March 11, 2010

TIME: 10:00 a.m.

REPORTED BY: Robert D. Stanley, CSR, RPR

1 APPEARANCES:

2	For the Division of	PATRICIA E. SCHMID, ESQ.
3	Public Utilities:	State of Utah Office of the
4		Attorney General
5		160 East 300 South
6		P.O. Box 140847
		Salt Lake City, Utah
		84114-0857
		(801) 366-0353

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

2

3 THE COURT: Ladies and gentlemen, we're
4 going to go ahead and start, as we're here in the
5 Matter of the Request of Pine Valley Irrigation
6 Company for Approval of a Rate Increase, Docket
7 No. 09-2179-01. I'm Ruben Arredondo, the
8 administrative law judge on behalf of the Commission
9 to hear this matter.

10 And let's take appearances at the
11 beginning of this, starting with the Attorney
12 General's Office.

13 MS. SCHMID: Thank you, Your Honor.
14 Patricia E. Schmid of the Attorney General's Office,
15 representing the Division of Public Utilities, and
16 with me is Shauna Benvegna-Springer, who will be our
17 witness.

18 THE COURT: Thank you. And with the
19 company?

20 MR. BURGESS: I'm Judd Burgess here from
21 the City of St. George, or St. George City.

22 THE COURT: And tell me your position with
23 the company.

24 MR. BURGESS: Oh, president. I'm sorry.

25 THE COURT: Great. And then --

1 MR. SNOW: Lee Snow, secretary.

2 MR. BURGESS: Ryan Gardner.

3 MR. GARDNER: Ryan Gardner.

4 MR. BURGESS: And he's our water master,
5 all around helper.

6 THE COURT: Okay, great. Thank you.

7 Then let's go ahead and begin. Today
8 we'll have first the Division's recommendation, and
9 then we'll go ahead and proceed with that, actually.

10 Ms. Benvegna-Springer, if you could raise
11 your right hand for me.

12

13 SHAUNA BENVEGNA-SPRINGER

14 having been first duly sworn to testify to the truth,
15 the whole truth, and nothing but the truth, was
16 examined and testified as follows:

17

18 THE COURT: Thank you. Go ahead.

19

20 DIRECT EXAMINATION

21 BY MS. SCHMID:

22 Q. Good morning. Please state your name and
23 business address for the record.

24 A. Shauna Benvegna-Springer. I am employed
25 by the Utah Division of Public Utilities, located at

1 160 East 300 South, Salt Lake City, Utah.

2 Q. In your capacity with the Division, have
3 you worked on the Pine Valley Irrigation Company case
4 in the docket referenced earlier this morning?

5 A. Yes, I have.

6 Q. Did you prepare or cause to be prepared
7 under your direction a memorandum marked as DPU
8 Exhibit 1.0 and filed with the Commission March 8th,
9 2010 which is entitled in the Matter of Request of
10 Pine Valley Irrigation Company for Approval of a Rate
11 Increase?

12 A. I have.

13 Q. Do you have any changes to this
14 memorandum?

15 A. No, I do not.

16 MS. SCHMID: With that the Division would
17 like to request that DPU Exhibit 1.0, consisting of
18 eight pages of narrative and its accompanying
19 exhibits, which are 1.1 through 1.7, be admitted.

20 THE COURT: I'll go ahead and admit that.
21 I'll also note that that was previously filed with
22 the Commission, we'll take judicial notice of that.

23 Q. BY MS. SCHMID: Ms. Benvegna-Springer, do
24 you have a summary?

25 A. Yes, I do.

1 Q. Please proceed.

2 A. Okay, thank you. The Division was
3 assigned the Pine Valley Irrigation Company rate case
4 in -- let's see. September of 2009. On or about
5 October 20th the Division made a visit to the Pine
6 Valley Irrigation in the Pine Valley area and
7 conducted an inspection of both the financial records
8 and of the water system. We met with staff, both the
9 president of the water company, Judd Burgess, the
10 secretary Lee Snow, consultants from Alpha
11 Engineering, Janece Gardner, who was also a staff
12 member with the Pine Valley Irrigation Company, and
13 Kerry Nelson who was also a staff member with the
14 Pine Valley Irrigation Company. And as a result of
15 our compliance audit and rate case analysis, we
16 reviewed the records, the practices of the Pine
17 Valley Irrigation Company and operation of it. And
18 as a result we did an analysis on their proposed rate
19 case and rate increase as they presented it.

20 Just for a little bit of information, Pine
21 Valley, of course, is located on the south slope of
22 the Pine Valley mountains in Washington County. It
23 consists of a fairly large service area, including 22
24 blocks of the Pine Valley area, which includes Pine
25 Valley Meadows, Pine View, Magnum subdivisions,

1 Spring Creek Pines subdivisions, the Shadow Hills
2 Estates Phase 1 subdivision, Mountain View Estates
3 Phase 1 subdivision, the Pine Tree subdivision, the
4 Sunflower Acres subdivision, Al Truman's subdivision,
5 the Deiro subdivision and the Pine Valley Ranchos A
6 through G subdivision.

7 Most of the lots range from a quarter acre
8 to one acre lot. Currently as of December 31st the
9 water company is serving 481 metered customers, 225
10 lots on standby status, and they have requested to
11 expand their service area to include an additional 94
12 connections to take their total authorized
13 connections to 800.

14 The last approved tariff increase by the
15 Public Service Commission was on July 26th. Excuse
16 me, on July 26th of 1991 the Commission was granted a
17 certificate of public service and necessity, and
18 through it's docket in 1991 the rates then were set.
19 In 2002 they were increased to the current rates of
20 \$20 per minimum charge for the first 3,000 gallons,
21 50 cents per thousand for the next 3,000 gallons, 75
22 cents for the next 3,000 gallons and any usage of
23 water above 9,000 gallons was charged a dollar per
24 thousand gallons. The standby rate at that time was
25 also raised to \$10 per month.

1 The Division reviewed it's annual reports
2 from the period of 2000 through December 30th, 2008.
3 We also reviewed the general ledger for 2009. Those
4 financial reports have not been compiled as of yet.
5 And the general ledger did not have all of its year
6 end adjusting entries to the general ledger at that
7 time also.

8 Therefore, the Commission -- or the
9 Division made adjustments to include what would have
10 been included as closing adjustments in the rate
11 analysis.

12 We also tested internal controls. We
13 reviewed their purchasing practices. We also
14 inspected their compliance with Commission rules and
15 regulations and also determined if they were in
16 compliance with the Division of Drinking Water and
17 the Division of Water Rights.

18 Based on the information that we gathered,
19 the Division used the calendar year of 2008 as our
20 base year and then made adjustments, taking into
21 consideration the activities and the transactions
22 that were reasonable in forecasting the expenses for
23 2010.

24 Based on the information that we currently
25 have, we are not projecting any growth at this time

1 due to the economic conditions of the area.

2 The Division did find that we needed to
3 recommend an increase in revenues that amounted to
4 \$48,000 more than what the proposed revenue would be
5 based on utilities information. And the reason for
6 the increase, which amounts to about a 19 percent
7 increase, was attributed to a number of various
8 expenses that were not included in the proposed rate.

9 Based on records with the Commission, Pine
10 Valley has not raised their rates, nor do their
11 billing records show, that they've had an increase
12 for the past eight years.

13 FEMALE SPEAKER: I'm sorry, I didn't hear
14 that.

15 MS. BENVEGNU-SPRINGER: Eight years. They
16 did not receive an increase in their rates.

17 The operating income that was reported in
18 2008 did report a net profit of \$22,000, when \$31,000
19 is what is referred to as non-utility income was
20 reported. The non-utility income is related to other
21 activities that are run by the Pine View Irrigation
22 Company, such as the operation of the cemetery that
23 they own.

24 When we make an adjustment for the
25 non-utility income and only look at the true

1 operation of the water company itself, the culinary
2 water company portion, the company is actually
3 realizing a \$9,476 loss. The operating expenses were
4 based on historical trends on the forecast and some
5 future anticipated needs, such as the interest
6 expenses that are related to current loans that the
7 company has obtained in order to take care of
8 upgrading the system to meet requirements of the
9 State of Utah and also to pay for the ongoing
10 operating costs of these additional projects.

11 In the proposed rate they requested that
12 the repayment amount of a hundred thousand -- a
13 hundred thousand three hundred dollars for both the
14 principal interest on two loans from the Division of
15 Water Resources, which total \$1,126,413. The
16 Division made an adjustment to eliminate the
17 principal amount from the proposed rates.
18 Additionally the Division added the annual interest
19 made on the third loan that they have with Village
20 Bank of a thousand dollars annually. And those
21 interest rates were -- interest expenses were
22 included for rate-making purposes.

23 Another adjustment that was made to the
24 expenses was a bad debt expense that was estimated at
25 \$2,000 for the year 2009. The Division just allowed

1 this expense because we felt that those accounts
2 should be collected, and if they are meaning to be
3 written off, they need to be approved by their board.

4 A third expense that the Division analyzed
5 was that of the utility plant and service account,
6 the depreciation expenses as required by commission
7 rules 746-332, which identifies the depreciation
8 rates that must be used by water utility companies.
9 As we made our analysis of the depreciation schedule,
10 we noted that there were some incorrect depreciation
11 life and rates that were being used, salvage values
12 were not being used properly, and as a result the
13 Division made an adjustment to include both the
14 correction of those components, plus the addition of
15 depreciation for the additional capital improvements
16 that were added to the system in 2009. The total of
17 those adjustments amounted to \$22,199.

18 Also as a result of their increase in the
19 revenue, property taxes were not included in the
20 proposed rate increase, which the Division added
21 \$1800 for those expenses. And we also increased the
22 income taxes because this is a private entity that is
23 required to pay both state and federal income tax.
24 That was raised from the \$6,000 that was paid in 2008
25 to the anticipated amount of almost 18,000, or

1 \$17,996.09.

2 In reviewing the company's financial
3 reserves, we noted that there were not sufficient
4 financial reserves to maintain the viability of the
5 water system, and this has become a great concern
6 that the Division is noticing in reviewing the water
7 systems that the Commission does regulate.

8 In calculating the reserve amounts, we
9 utilize both the annual depreciation amount that is
10 being used for the current year on the plant and
11 utility, plus the amount of annual amortized
12 contribution and aid expense, adding those two
13 amounts together to get to an annual capital reserve
14 amount that should be set aside for use of capital
15 improvements to the current system and replacement of
16 those assets. These funds should not be used for
17 day-to-day expenses.

18 In this rate increase the amount that
19 would be affected for the necessary capital reserve
20 amount would require in the minimum amounts of both
21 the standby, slash, reservation or system fee that
22 we're recommending be charged to all individuals who
23 have access to the system, they would be paying \$7.16
24 per month that would go towards the capital reserve.

25 The Division in their rate analysis

1 computes a figure called a rate base. The rate base
2 represents the investor supplied amount that can
3 be -- it's the investor supplied amount of investment
4 that has been required to supply the water service to
5 the customers. As we calculated the rate base, it
6 amounted to a net rate base of 1.1 -- \$1,120,580.
7 Since it is a private entity that is allowed to make
8 a return on their investment, we calculated a
9 weighted rate of return of 5.75 percent that would
10 need to be allowed for the company to return an
11 investment or profit back to its investors. That
12 amount amounts to \$64,000.

13 In municipal companies, municipal water
14 companies, or companies that are administered by a
15 special service district, county or city government,
16 those water systems are not required to provide a
17 return on investment nor taxes. And so when you're
18 comparing those city rates to a private water
19 company, you have to deduct that type of expense to
20 make sure you're comparing an apple to an apple.

21 The revenue requirement adjustments that
22 we allowed to come up to the amount that the company
23 needed to receive in order to be viable is
24 \$299,261.03.

25 In taking a look at that amount of revenue

1 that the company needed to receive in order to cover
2 its expenses of both taxes, the return on investment,
3 the capital reserve amounts, all other operating
4 expenses, depreciation for the interest on the loans,
5 the following rates are being recommended by the
6 Division. A system fee expense, or an expense that
7 would be charged to all individuals who have access
8 to the system, whether they are connected to the
9 system or not, would be \$22.25 per month. That's an
10 increase from the \$10 that currently is there and the
11 proposed of 14.50 that the company requested.

12 For those individual property owners who
13 have access to the water system in terms of using the
14 water system, they are connected to the water system,
15 have a meter in place. Currently they are receiving
16 3,000 gallons of water for \$20 a month. The Division
17 is recommending that the range be raised to 5,000
18 gallons of use per month minimum that they would pay
19 \$34.25. In the \$34.25, the \$7.16 is already included
20 and built into that rate. Also, the \$22.25 is
21 already included in that. So they would not be
22 paying that fee twice.

23 In usage currently over 3,000 gallons, the
24 customers are paying 50 cents per thousand, 75 cents
25 per thousand, a dollar per thousand, as they use the

1 next 3,000 gallons. Over 9,000 gallons they're
2 paying a dollar per thousand. The Division is
3 recommending that use over the 5,000 gallons go to a
4 dollar 30 per thousand gallons.

5 Currently in the tariff for Pine Valley
6 there is not a disconnect fee, a reconnect fee, a
7 name transfer fee, a return check fee or an
8 unwarranted service call. These fees are being
9 recommended by the Division as a course of business
10 so that when these types of incidences do occur that
11 it's not -- these types of activities are not borne
12 by all rate payers but simply by those rate payers
13 who are either requesting to have things disconnected
14 or placing a greater burden on the water system.

15 The system expansion impact fee, which in
16 the past has been referred to as the connection fee
17 in the current tariff is \$1,500. The Division is
18 recommending that that be raised to \$2,000. This is
19 a fee that would be assessed to only those
20 individuals who are currently not developed with a
21 water system in place for their access.

22 For those individuals who are not
23 currently hooked up or connected with a meter to the
24 system, they would be assessed \$900, which the
25 current tariff has allowed \$500. The \$900 is based

1 upon actual cost without a markup or a rate of return
2 on that fee. It's simply a cost of materials and
3 labor to install a meter, a call or some pipe or line
4 to hook them into the main line that's in the street.

5 When we completed our analysis of these
6 rates, we also did an impact table to determine what
7 the percentage of increase would be. For those
8 individuals that are using 10,000 gallons or less,
9 they would experience a 64 percent increase. If
10 those customers using 48,000 gallons, they would see
11 a 43 percent increase from the current rates. For
12 those using larger amounts, such as 650,000 gallons
13 per month, they would see a 31 percent increase.

14 The standby fee or connection reservation
15 system fee that currently is placed at \$10 would see
16 an increase of 122 percent, taking it to \$22 and a
17 quarter.

18 In comparison with other municipal
19 systems, these rates are higher than the municipal
20 system rates, but when you take out the rate of
21 return, the capital investment or the capital reserve
22 accounts and the taxes, then they are actually less
23 than those rates.

24 In comparison with Dammeron Valley, which
25 is in the same county as Washington County as Pine

1 Valley and not too far away from Pine Valley, in
2 comparison they have a standard rate, and these are
3 published tariffs that customers are welcome to take
4 a look at that are in our office. For 24,000 gallons
5 they pay a minimum charge of \$30. If they use over
6 the 24,000 gallons, they are being charged a dollar
7 fifty per thousand. So for 24,000 gallons they are
8 being charged \$36.

9 In comparison with Pine Valley for someone
10 who would use 24,000 gallons, they are charged the
11 minimum of \$34 with a new proposed rate and an
12 additional about \$20. So they're going to be paying
13 \$51 for that 24,000 gallons of water.

14 If you are using more than the 24,000
15 gallons, then it jumps up quite significantly, and
16 they then are charging \$3 per thousand. And so then
17 you would be using -- if you used 25,000 gallons in
18 comparison at Dammeron Valley, you'll be charged \$57
19 per month.

20 So for comparison purposes they are fairly
21 within the range.

22 Yesterday there were a number of concerns
23 that were raised by comments, and I would like to
24 take a few minutes to address those. There was a
25 statement made that the Pine Valley Special Service

1 District has jurisdiction over water, sewer,
2 recreation and fire protection. According to reports
3 that were filed with the State Auditor's Office and
4 the Lieutenant Governor's Office, I would just like
5 to read from the report that was filed. It states
6 that the Pine Valley Special Service District was
7 organized as a Special Service District on
8 December 4th, 1978 by the Washington County
9 Commission to provide fire protection for the
10 community of Pine Valley and other surrounding areas.

11 Again, there was a comment raised about
12 whether or not they followed a bid process for
13 improvements to their system. We did review their
14 purchasing process, and they do receive bids on large
15 projects when they are starting to implement that
16 process.

17 There was a question raised with regards
18 to the water purchase from the irrigation company.
19 I'll turn that question over to Judd, if he would
20 like to respond to that. There is a charge of
21 \$28,000 that is paid from the water company, the
22 culinary water company section, back to the
23 irrigation company. The irrigation company owns the
24 irrigation part of -- the water company owns the
25 water rights and some land. And for the culinary

1 water portion to be able to use those water rights,
2 they sell water, the water right portion, back to the
3 irrigation company. And that is what the \$28,000 is
4 used for. Do you want to address that a little
5 further?

6 MR. BURGESS: Basically that's correct.

7 THE COURT: I have to swear you in if
8 you're going to answer that right now.

9

10 JUDD BURGESS,
11 having been first duly sworn to testify to the truth,
12 the whole truth, and nothing but the truth, testified
13 as follows:

14

15 THE COURT: Go ahead.

16 MR. BURGESS: It's 28,000. It is owned by
17 the irrigation -- the Pine Valley Irrigation Company.
18 The Pine Valley Irrigation Company owns the culinary
19 system. It's just a subsidiary business of Pine
20 Valley Irrigation.

21 So they have to transfer so much water
22 back in to use. However many people that we have, we
23 have to transfer that much back in. That's the
24 amount of money that the Pine Valley Irrigation
25 Company gets back for the use of that water.

1 THE COURT: All right. Thank you.

2 MS. BENVEGNU-SPRINGER: Okay. A question
3 was raised as to whether or not citizens have input
4 on such activities, such as improving the system,
5 raising the rates. Obviously they have input on
6 proceedings such as this. And I'll ask the president
7 whether he would like to add input into that
8 question.

9 MR. BURGESS: I missed the question.
10 Could you repeat it.

11 MS. BENVEGNU-SPRINGER: Do the citizens
12 have input on the actions of the water company?

13 MR. BURGESS: They do to a certain extent.
14 We listen to every complaint. And if it's something
15 we can solve, we solve it as quickly as possible. If
16 it's something that they're out of line with, then we
17 forget about it, basically.

18 MS. BENVEGNU-SPRINGER: Thank you.

19 A question was raised as to whether or not
20 there is money set aside in the budget for repairs.
21 There are funds set aside in the budget for repairs.
22 Repairs are classified as those types of things to
23 maintain the useful life of the current system. It
24 doesn't add life to the current system. So these are
25 things that would cost to replace a small leak, a

1 little part here or there, simply to maintain the
2 useful life that currently is there but not to add
3 life to it.

4 There was a question raised about the debt
5 service, was this an afterthought or was it budgeted
6 before the upgrade in the last -- in the line last
7 spring.

8 Do you want to answer that? The debt
9 service an afterthought or was it budgeted?

10 MR. BURGESS: It was budgeted.

11 MS. BENVEGNUM-SPRINGER: Okay. There was a
12 question raised about the water -- the cost of the
13 water hookups being \$2500. I just want to reiterate
14 what that cost is. Currently in the tariff the cost
15 of hookups that is defined as being the cost of
16 actually installing a meter, adding a call, running a
17 line to the premises, to the house, and then back out
18 to the water main in the street, okay, that cost
19 currently on the tariff is \$500. The Division is
20 recommending that that be raised to \$900 to cover all
21 costs.

22 THE COURT: So that \$2500 is incorrect?

23 MS. BENVEGNUM-SPRINGER: That's correct.
24 That's an incorrect amount. If it's a new lot that's
25 coming onto the system that hasn't been developed,

1 the total cost would be \$2900. It would be the 2,000
2 plus the 900.

3 THE COURT: But that would be a completely
4 new connection?

5 MS. BENVEGNUM-SPRINGER: That would be a
6 completely new connection where the lot has not been
7 developed.

8 THE COURT: So that would be paid by the
9 person connecting that, not by the rate payers?

10 MS. BENVEGNUM-SPRINGER: That's correct.

11 For those lots that are currently having
12 main lines in the system, they are paying the standby
13 fee currently, they would only be charged a \$500
14 connection, or in the case of the rate increase \$900.

15 There was a question as to how many
16 property owners there are that are both metered and
17 non-metered. As I stated earlier, there are 225
18 non-metered customers that are on standby that are
19 not receiving water at this time. There are 481
20 property owners or connections that are metered that
21 are receiving water. There are 94 potential lots
22 that if the Commission approves the expansion of the
23 service area, those 94 would also be added. They
24 currently are not a standby, they don't have pipe in
25 the road in front of their lot. They are undeveloped

1 lots.

2 On the exhibits that were put together,
3 there's a summary page that primarily goes through
4 some quick information, kind of an overview. The
5 first section talks about the expenses of the Pine
6 Valley company as of 2008. You can see that their
7 revenue was \$177,000. They had operating expenses of
8 111,000. That is -- the Division is recommending
9 that be increased to the 121,000.

10 The capital reserve amount, what they have
11 titled as the depreciation, is \$33,000. We need to
12 make an adjustment to that to take it to the 60,000
13 to include both the improvements that were made in
14 2009, plus the adjustment for the corrections.

15 You can see there that the federal taxes
16 were \$6,000. With the rate increase those taxes
17 would jump to nearly \$18,000. There are other
18 deductions which relates primarily to the interest
19 expense. The interest expense last year was \$37,000.
20 The Division is proposing that that would be
21 increased to 39,000.

22 And there's a little bit of what we refer
23 to as the non-utility income. You can see that they
24 reported the \$22,000 profit. The Division allows
25 them to make a \$64,000 profit because of the rate of

1 return on investment.

2 It's important to note that the company
3 needs to be allowed to make that return because that
4 is the part that they use to pay the principal on
5 their loans, since the principal is not included as
6 part of the rate base -- or part of the operating
7 expenses.

8 At the bottom it summarizes the
9 recommended fees. On Pages 2 and 3, Exhibit 1.2, and
10 Page 4, it goes through all of the expenses that the
11 water company has we used for both 2008. The
12 requested amount, the adjustments that the Division
13 made, to come to the adjusted amounts for 2009,
14 slash, 2010. I won't go into great detail on that
15 unless there's some questions.

16 Exhibit 1.3 is a schedule that identifies
17 the depreciation on the various assets of the system.
18 As you can see the value at the end of 2009, this
19 would be December 31st, 2009, was 1.8 million. 1.8
20 million forty thousand nine hundred dollars. The
21 accumulated depreciation on that currently is almost
22 \$500,000 and the annual depreciation is \$56,000.

23 If you turn over to page -- this would be
24 Page 9, Exhibit 1.6, the reason why how we calculate
25 that reserve account amount is the \$56,000 from the

1 depreciation, plus the amount that's amortized from
2 contribution, aid or property. Contribution and aid
3 is property that was developed and paid for by a
4 developer that is then donated to the water company.
5 The Commission assumes that when a developer comes
6 in, they make improvements to the lot, it adds value
7 to their lot so that it is sellable, and then those
8 improvements are donated to the water company. The
9 developer then recoups their cost of those
10 improvements through the sale of their lot. They
11 tack that increased cost on to the value of the lot
12 because it's now an improved lot and they're able to
13 get more money for it.

14 On Line 4 of this schedule it shows an
15 amount of \$92,045.02. This is considered as our
16 approval threshold by rule of the Commission. The
17 Commission has Rule 746-401-3A that requires any time
18 a public utility company under regulation has planned
19 system upgrades that are in excess of 5 percent of
20 their utility and plant of service account, they are
21 to have a written approval by the Commission prior to
22 the purchase of that expansion or project. The
23 \$92,000 represents that threshold or amount that
24 would exceed 5 percent.

25 Exhibit 1.4 demonstrates how we calculate

1 the rate base for purposes of arriving at a rate of
2 return, rate on investment. This is how we calculate
3 the rate base.

4 1.5 demonstrates how we take the rate base
5 amount applied 5.75 percent rate of return. In the
6 shaded box it shows how we calculate the 5.75 rate of
7 return. It's based upon the amount of equity and the
8 amount of loans with the percentages of those returns
9 are going to calculate what that percentage is for
10 their rate of return. And then we take the rate of
11 return amount, plus the estimated taxes, plus the
12 operating expenses and depreciation, contribution aid
13 amortization, interest and the regulatory fees, that
14 total is then added to the rate of return, plus
15 taxes, to get what the revenue requirement is of
16 \$304,000.

17 Down below it shows how the federal taxes
18 and the state taxes are calculated. And at the
19 bottom it shows a comparison of what the cost of debt
20 of funds to the debt service. These are the loan
21 payments that have to be made by the water company,
22 and then what funds are used to what we refer as
23 recoverable funds or funds are used to help pay those
24 debts. And you can see that the company is allowed
25 to recover \$104,000 to pay \$102,000 worth of debt

1 service payments at this time. That actually will
2 increase in about four years. The debt service
3 payments will actually be about \$10,000 more than
4 what they're currently recovering.

5 And so they're going to have to be very
6 careful in their operating expenses and any extra
7 money they may receive as a result of overage of
8 water they'll need to make sure that they set that
9 money aside so that eventually they'll be able pay
10 those rates. Otherwise, they'll be back in for
11 another rate increase.

12 And that concludes my statement.

13 MS. SCHMID: I have just a few areas that
14 I would like to explore a little further.

15 THE COURT: Go ahead.

16 Q. BY MS. SCHMID: On page Exhibit 5 of
17 Exhibit 1.0, which is the narrative. There are five
18 recommendations regarding the capital reserve
19 account. You talked generally about the first two or
20 three. Could you just briefly summarize the
21 remainder?

22 A. Sure. In fact, let me just read -- review
23 all five. The first element of the capital reserve
24 account refers to the amount that would be collected
25 each month. The portion that's collected out of each

1 payment paid by a customer in the amount of \$7.16, of
2 those customers who would be paying their bill, that
3 amount would be transferred to the capital reserve
4 account at the end of 30 days. Withdrawals from the
5 reserve account need to be made only for replacement
6 or improvements of the current assets that are listed
7 on the books.

8 Item 3 talks about the threshold amount,
9 the 5 percent threshold amount, that they need to
10 make sure that they are in compliance with. Item 4
11 talks about an annual accounting that they need to
12 make to ensure that when they submit their annual
13 report at the end of each year to the Commission, via
14 the Division of Public Utilities, that they include a
15 copy of the bank statement where the capital reserve
16 funds have been deposited to so that we can ensure
17 that these funds are being used properly for future
18 improvements and replacement of the current capital
19 system. And then 5, the balance and reserve account
20 must be clearly identified in the audited financial
21 statements as a restricted account.

22 And those are the five main elements that
23 we are recommending be implemented in the use with
24 the capital reserve account.

25 Q. Ms. Benvegna-Springer, if we look at

1 Table 2, the percentages are high. In other words,
2 they're large increases. Do you have any comments
3 you would like to make with regard to that?

4 A. They are high in the scope of a 64 percent
5 for a small user and decreasing to a 31 percent.
6 There's -- the reason why they are that way is
7 because of the small minimum range amount that they
8 are allowing that we are recommending over 5,000
9 gallons. If that range was increased, the percentage
10 would actually be less and the costs would be less.
11 So because of that minimum.

12 And the minimum is really derived because
13 of the nature of the users. The majority of the
14 users in the Pine Valley area are recreational users.
15 There is approximately 70 full-time residents with
16 the remaining amount of 411 that are recreational
17 users. And so they're only there a small amount of
18 time, say 25 percent of the time, during the calendar
19 year. And that's what somewhat distorts this rate a
20 little bit because of the variance between the users,
21 the types of users.

22 Q. Is it the Division's position that the
23 rates proposed are just and reasonable and in the
24 public interest? And when I say "rates proposed,"
25 I'm referring to the rates proposed by the Division.

1 A. The Division does feel that the rates
2 recommended represent an appropriate balancing of the
3 rate payer's interest, the interests of the
4 community, that they are by comparison with other
5 private water systems. And when you allow for the
6 adjustments comparable to municipal systems, they are
7 reasonable within those ranges.

8 Q. So it is your testimony that the rates are
9 just, reasonable -- rates proposed are just,
10 reasonable and in the public interest?

11 A. Yes, I do.

12 MS. SCHMID: Ms. Benvegna-Springer is now
13 available for questioning.

14 THE COURT: All right, thank you.

15 What I would like to do is I'm going to
16 reserve questioning until we start public witnesses.
17 If anybody has a general question we'll reserve her
18 answers to that time.

19 Mr. Burgess, would you like to add
20 anything to the recommendation of the Division or
21 oppose any part of that?

22 MR. BURGESS: The only thing really is the
23 Pine Valley Irrigation Company does agree with the
24 recommendations and rates set by the Division of
25 Public Utilities.

1 THE COURT: All right, great. Thank you.

2 Anything else you would like to add,

3 Ms. Benvegna-Springer?

4 MS. BENVEGNA-SPRINGER: No.

5 THE COURT: All right, thank you.

6 The time is 10:45, and what we'll do is
7 we'll open this up to public witness hearing.

8 Ladies and gentlemen, let me just explain
9 what the public witness hearing is. I assume that
10 you are all users of Pine Valley company water and
11 you have heard the recommendation. There's also some
12 copies of the recommendations on the back table. You
13 can get a copy of that, if you haven't already. You
14 can -- what I'll have you do is I'll actually have
15 the company just take a seat towards the back and if
16 you would like to come up and comment, obviously
17 these two chairs here. And we'll swear you in and
18 you can comment on what you think of the
19 recommendation of the proposed rate increases. Or
20 you can ask some questions, if you like, of
21 Ms. Benvegna-Springer. The only thing I ask that you
22 ask them one at a time because again we have a court
23 reporter here who has to track our conversations of
24 questions and conversations, and I don't want
25 everybody talking over themselves.

1 Again, please remember you have to have --
2 whatever you say, questions, everybody be civil,
3 professional. We're all grownups, I ask you to do
4 that.

5 Anybody that would like to make any
6 comment?

7 Yes, sir. You can come sit up here,
8 please. Can I have your name, sir?

9 MR. HERPEL: Yes, it's Bob Herpel,
10 H-e-r-p-e-l.

11 THE COURT: Okay. Mr. Herpel, you can
12 testify under oath or not under oath. If it's under
13 oath, then we can take that under consideration as a
14 Commission. Would you like to do that?

15 MR. HERPEL: I will testify under oath.

16 THE COURT: Okay. If you could raise your
17 right hand for me.

18

19 BOB HERPEL,
20 having been first duly sworn to testify to the truth,
21 the whole truth, and nothing but the truth, testified
22 as follows:

23

24 THE COURT: Good. Thank you. Have a
25 seat. If you can just state your name again and your

1 address for me.

2 MR. HERPEL: Bob Herpel, 883 East Cedar
3 Berry Lane in Pine Valley 84781.

4 THE COURT: All right, thank you. Go
5 ahead.

6 MR. HERPEL: I am concerned about the
7 increasing gallonage from 3,000 gallons minimum to
8 5,000 gallons minimum. I have lived in Pine Valley
9 for almost 15 years now and I have experienced a
10 drought condition where we have been asked to reduce
11 our water usage because of drought conditions
12 existing. If everybody in Pine Valley that has a
13 water meter would use 5,000 gallons per -- per
14 residential meter, I'm asking is there sufficient
15 water to sustain that usage that we're being charged
16 for?

17 THE COURT: Do you want to answer?

18 MS. BENVEGNUM-SPRINGER: Yes.

19 THE COURT: Ms. Benvegnum-Springer could
20 answer.

21 MS. BENVEGNUM-SPRINGER: We have been in
22 consultation with the Division of Drinking Water.
23 Their engineering is Michael Grange, and based on
24 Michael Grange's analysis, on the residential
25 full-time users versus the recreational users and

1 their usages, he believes that they do have capacity
2 to handle that 5,000 gallon increase.

3 MR. HERPEL: May I continue?

4 THE COURT: Mr. Burgess I think wanted to
5 add to that.

6 MR. BURGESS: I would like to add just
7 something to it. I think the reason that he's
8 nervous, he's been there when our system wasn't as in
9 good of shape as it is now. The money that we have
10 spent over the last few years is over a million
11 dollars. We have put in two tanks. We plan on
12 putting in one more tank. And they're big tanks. So
13 I think that we've got that problem solved. I hope
14 so.

15 THE COURT: All right. Thank you.

16 Mr. Herpel, anything else?

17 MR. HERPEL: The recreational usage right
18 now much exceeds us full-time residents. But as
19 people reach retirement age, we have noticed, being
20 in the real estate business, that the people that are
21 retiring will come to Pine Valley to make residence
22 full time rather than part-time residences. We have
23 increased our full-time residences probably since
24 I've been there in the 15 years from maybe 30 --
25 maybe 40 full-time residences -- or residents.

1 Excuse me, not residences, residents -- to now over
2 125 full-time residents. And I see that that
3 increase will continue as people start retiring and
4 reaching that age.

5 Has the Division of Water Resources taken
6 into consideration that potential growth pattern for
7 full-time residences? Or residents. Excuse me.

8 MS. BENVEGNU-SPRINGER: Two issues on
9 this. One is that their system is monitored by the
10 Division of Drinking Water from time to time and
11 their usages are reviewed. And as those usages are
12 increasing because of the full-time usage, then they
13 will make recommendations to the water company to
14 determine what they need to do to improve the system
15 so that they can maintain the connections and the use
16 of that system.

17 Second, if in the case where they have to
18 make major increases, of course then the company can
19 come in and file for another rate increase if
20 necessary.

21 MR. HERPEL: Could I?

22 THE COURT: Go ahead.

23 MR. HERPEL: Do they have capacity to
24 increase their water absorption or production to us?

25 MS. BENVEGNU-SPRINGER: At the current

1 time to the 5,000 limit, yes.

2 MR. HERPEL: No, I'm saying does the water
3 company have resources necessary to increase their
4 volume of water to supply Pine Valley?

5 MS. BENVEGNU-SPRINGER: Do you want to do
6 that?

7 MR. BURGESS: That's what we're trying to
8 do. That's what we're trying to get this to a point
9 that we can afford to put more -- supply more tanks
10 in. And that's why we've got the one tank that's
11 going in Lloyd Canyon, which is another two
12 and-a-half million gallon tank. That's going to give
13 us way more than we've had for years.

14 So I would say that we're okay, and if
15 we're not okay, then we got to look at putting
16 another one in. That's just progress.

17 MR. HERPEL: Do we have water available
18 to --

19 MR. BURGESS: You do. Today you do.

20 MR. HERPEL: Okay.

21 THE COURT: Thank you. Mr. Herpel,
22 anything else?

23 MR. HERPEL: No. That should do it.

24 THE COURT: Thank you for your comments,
25 Mr. Herpel.

1 Anyone else that would like to make any
2 comments?

3 MR. COTTERALL: I would.

4 THE COURT: Go ahead, sir, come on up. If
5 you could state your full name and your address for
6 us, please, when you sit here. Actually let me just
7 swear you in.

8

9 KURT GRANT COTTERALL,
10 having been first duly sworn to testify to the truth,
11 the whole truth, and nothing but the truth, testified
12 as follows:

13

14 THE COURT: Thank you.

15 MR. COTTERALL: My name is Kurt Grant
16 Cotterall. I live at 166 sage drive.

17 THE COURT REPORTER: Could you spell your
18 name.

19 MR. COTTERALL: It's C-o-t-t-e-r-a-l-l.

20 And my concerns are I don't really think
21 you're thinking of the future as much as you should
22 be as far as the water consumption, as we've had some
23 good and bad years in the past. And I know this
24 gentleman is trying to do all he can to get the
25 capacity up there, but I still worry about whether

1 adding another 94 lots to this is going to be -- is
2 going to be adequate. That's what I really worry
3 about.

4 MS. BENVEGNU-SPRINGER: We presented the
5 information to the Division of Drinking Water and
6 their engineers, and based on that, they came back
7 and said that you have current sufficient status at
8 the moment by adding just that 94. Anything beyond
9 the 800 needs a whole new review.

10 MR. COTTERALL: A whole new review?

11 MS. BENVEGNU-SPRINGER: Yes.

12 MR. COTTERALL: So they can possibly add
13 more than that if they do a new review?

14 MS. BENVEGNU-SPRINGER: Correct.

15 MR. BURGESS: But then we have to start
16 looking at our system and decide what we need to add
17 to go beyond the 800.

18 MR. COTTERALL: I see.

19 THE COURT: Now, let me add, the Division
20 of Drinking Water does have other responsibilities.
21 I don't want to speak for them. But briefly, and you
22 correct me if I'm wrong, Shauna, but they would
23 actually determine if they have enough capacity for
24 water, right?

25 MS. BENVEGNU-SPRINGER: Correct.

1 THE COURT: So it's not like people can
2 just move in and then after the fact try to find out
3 if they have more water. It's done before they do
4 that.

5 Is that correct?

6 MS. BENVEGNU-SPRINGER: That's correct.

7 And that's another reason why the Public Service
8 Commission authorizes the service area as it does and
9 allows only the service connections that are allowed.
10 If they go above that, then they're out of compliance
11 with the Public Service Commission. Washington
12 County also relies on information when issuing
13 building permits to make sure that they really only
14 have water proper for those amount of building
15 permits.

16 THE COURT: And just to note the public
17 service did -- the Public Service Commission did
18 receive a copy of the service area exhibit. So I
19 think this is what Ms. Benvegna-Springer is referring
20 to that this is their service area.

21 MS. BENVEGNU-SPRINGER: Right.

22 MR. COTTERALL: Okay. This first table
23 exhibit here where you have recommended -- the first
24 part in the middle of the page disconnect fees,
25 reconnect fees, are you considering that in your

1 new --

2 MR. BURGESS: We do. They have
3 recommended -- the state is recommending that.

4 MR. COTTERALL: Okay. So you're going to
5 consider that?

6 MR. BURGESS: Yes.

7 MR. COTTERALL: Which I think you should.

8 Also --

9 MR. BURGESS: We don't have a lot of
10 choice. We have to follow their guidelines.

11 MR. COTTERALL: Right.

12 MS. BENVEGNU-SPRINGER: I do want to
13 qualify that a little bit. These fees are not
14 calculated into the rates, okay? In other words, the
15 revenue from these fees are not being used to
16 calculate the new proposed rates. What revenue would
17 be generated from these fees would be additional
18 revenue that the company could use for other uses.

19 MR. COTTERALL: I see.

20 MS. BENVEGNU-SPRINGER: Okay. Because we
21 don't have a history of what would -- how many would
22 be charged, okay?

23 MR. COTTERALL: Right.

24 MS. BENVEGNU-SPRINGER: Okay. As we start
25 getting that information annually, we will review

1 that to determine if they are over-earning or not.

2 MR. COTTERALL: The other question I have
3 is when you're putting money away for future
4 infrastructure, what have you, when you do come to
5 the point where you need that money for something,
6 does the rate payers have any say into that?

7 MR. BURGESS: Well, I think at that time I
8 think that we pretty well know if we're going to go
9 beyond the 800 connections, then we know exactly
10 where it's going to go. But I think we monitor it
11 and between us and the Division that we know where
12 we're going to have to put that money to keep that
13 system upgraded.

14 MS. BENVEGNU-SPRINGER: All right. More
15 comment to that because of the threshold amount that
16 we have in place, any time they have any projects
17 that exceed that 5 percent threshold, they do have to
18 apply to the Commission for approval.

19 MR. BURGESS: Exactly.

20 THE COURT: They have to apply to us for
21 approval.

22 MS. BENVEGNU-SPRINGER: Yeah, they have to
23 apply to the Commission for approval to implement
24 that volume of the project.

25 MR. COTTERALL: That volume of the

1 project?

2 MS. BENVEGNU-SPRINGER: Right.

3 MR. COTTERALL: Okay. So then are the
4 rate payers notified, or do you have to --

5 MS. BENVEGNU-SPRINGER: We would recommend
6 that the company does communicate with the customers
7 and say this is what we're proposing, this is what we
8 would like to do, and receive some feedback from the
9 customers so that they can take that into
10 consideration. We don't see that as a requirement,
11 but it is a good practice to have the company do
12 that.

13 MR. COTTERALL: Yeah. I just -- you know,
14 just elaborate on that, it's just kind been a problem
15 in the past where we kind of really don't know where
16 things are going, what's really happening. It might
17 be, you know, like at the end of the year maybe a
18 little form or something, well, this is what we're
19 going to do next year. You know, the company, this
20 is what we're going to do to the system. But maybe
21 just a brief letter stating what's going to happen.

22 MS. BENVEGNU-SPRINGER: Maybe at the end
23 of the year or in January the company might want to
24 think about sending out a little newsletter, you
25 know, about this is what has happened in the last

1 year, these are the future projects we're looking at
2 and ask for feedback, possibly. That's a suggestion.

3 MR. COTTERALL: Because as a rate payer,
4 you know, we're kind of wondering, well, did these
5 projects come out of the blue or what. We don't
6 know. We're just -- want to be informed.

7 MR. BURGESS: You do understand that this
8 is a private water company?

9 MR. COTTERALL: We understand -- I
10 understand.

11 MR. BURGESS: It's owned by 80 some odd
12 individuals. So whoever, if you own a share of water
13 or a partial share of water, you own that much into
14 the company. So it is the same as a private. I
15 don't mean to say that you shouldn't be notified,
16 don't get me wrong. And we'll try and do better in
17 the future and let you guys know and send you out a
18 letter and let you know what our intentions are.

19 MR. COTTERALL: Great, great.

20 So I got another question for you on the
21 taxes. Being a for profit or nonprofit, does it make
22 any difference, as far as that goes?

23 MR. BURGESS: Well, that's a municipality
24 or a private entity is what it is, and we are
25 private.

1 MR. COTTERALL: You're private so you are
2 taxed?

3 MR. BURGESS: We are taxed.

4 MR. COTTERALL: All right. Just trying to
5 think of ways to save you money.

6 MR. BURGESS: Well, I appreciate that. We
7 need all we can save.

8 THE COURT: Thank you, Mr. Cotterall.

9 MR. COTTERALL: Well, thank you very much.
10 I appreciate it.

11 THE COURT: Anyone else? Any other
12 comments? Any questions? No?

13 MS. BLACK: Yes.

14 THE COURT: Ma'am, if you could state your
15 name and address for us. If you could raise your
16 right hand for me before you do.

17

18 SUSAN BLACK,
19 having been first duly sworn to testify to the truth,
20 the whole truth, and nothing but the truth, testified
21 as follows:

22

23 THE COURT: Thank you. Have a seat.

24 MS. BLACK: My name is Susan Black. I'm
25 at 902 Mountainview, Pine Valley.

1 And I have very little testimony, but I
2 think it should be put on the record on Table 2,
3 Page 8, somebody needs to address the concern with
4 the economic situation as it is, which has hit across
5 the board everyone. There's no one in here that has
6 not been affected. These increases are mind
7 boggling. There's an awful lot of information in
8 here to absorb which most of us will go home. There
9 are people who -- you know, my husband has worked
10 with the municipalities and the water district, he'll
11 be glad to see this when he returns from his job.

12 But I just do need to say that your
13 increases of 64.65 percent on A, your increase of
14 43.67 on B, your increase of C, 31.29 percent, and
15 then the disconnect fee of 122.50, to most of us
16 they're mind boggling right now.

17 That's all I have to say.

18 THE COURT: All right. Thank you.

19 Any other comments or questions? Nothing
20 else?

21 Any follow-up?

22 MS. BENVEGNU-SPRINGER: No.

23 THE COURT: Okay. Then we'll go ahead and
24 recess. We have public witness scheduled until
25 12:30, and we do have to keep this open until 12:30.

1 We'll recess and then at 12:30 we'll go ahead and
2 conclude this hearing. Thank you.

3 (Whereupon, a recess was taken at
4 11:02 a.m. to 11:42 a.m.)

5 THE COURT: Sir, if you could raise your
6 right hand for me.

7

8 HANS LATSCHKOWSKI,
9 having been first duly sworn to testify to the truth,
10 the whole truth, and nothing but the truth, testified
11 as follows:

12

13 THE COURT: All right. If you could state
14 your name and address for us and then make your
15 comments.

16 MR. LATSCHKOWSKI: My name is Hans
17 Latschkowski. Hans is H-a-n-s. Latschkowski is
18 spelled L-a-t-s-c-h-k-o-w-s-k-i. My address in Pine
19 Valley is 497 South Oak Ridge Drive. By phone
20 number -- my home phone number is area code
21 (435) 673-1035. My mailing address is P.O. Box 1288,
22 St. George, Utah 84771.

23 THE COURT: Thank you. Go ahead.

24 MR. LATSCHKOWSKI: What I would like to is
25 just put on record is, I've looked this information

1 over, and I agree with the idea that the rate
2 structure needs to be adjusted. I just have a
3 concern that what is recommended here, I think that I
4 agree that the base needs to have enough funds to pay
5 for operating the system, not including any large
6 amount of water.

7 But my recommendation would be this: That
8 the user base for those using should be \$30 a month.
9 In other words, right now I'm paying \$20 a month and
10 receiving 3,000 gallons. My recommendation would be
11 \$30 a month but you only receive 1,000 gallons with
12 your base. And then have a three-tier rate for the
13 other usage. From 1 to 5,000 gallon the rate would
14 be a dollar per thousand. From 5,000 to 10,000 would
15 be a dollar 25 per thousand. And over 10,000 would
16 be a dollar 50 per thousand. That way those that use
17 higher -- water higher usage impact the system much
18 more than the person that uses the thousand gallons.
19 And from past experience I have found that lower
20 users actually subsidized higher users because the
21 recommendation here was one pier of a dollar 30 per
22 thousand gallons over 5,000, and I think that rate
23 should be modified and adjusted. And I think you
24 will get at least the same amount of funds of what is
25 needed with this rate structure, and it would be a

1 little bit more evenly or fairly charged than for
2 those that are not there during the year or a very
3 limited time there, versus those that use a large
4 amount, and yet it's still a fair and equal charge.

5 And that would be my recommendation that I
6 would like to have on record.

7 THE COURT: All right. Thank you,
8 Mr. Latschkowski.

9 MR. LATSCHKOWSKI: Do you have any
10 questions of me?

11 THE COURT: Anybody have any questions?

12 MS. SCHMID: In light of his statement, it
13 might be helpful if Ms. Benvegna-Springer talks a
14 little bit about the characteristics of customers A,
15 B, C, and D, the recommendation. I think that
16 would --

17 MR. LATSCHKOWSKI: I saw that, and that
18 was my reference to it. It looks like A, B, and C
19 for their increase, the lower use, which is still
20 high, 10,000 gallons, their increase is 64.65 percent
21 and C, the real high user, their increase is only 31
22 percent, less than half. So that's why I indicated
23 that percentage-wise the higher user gets a better
24 break than the lower user. And that's why I thought
25 the three tier would balance and equal that out a

1 little more, and yet I still think it will create the
2 funds necessary.

3 And I don't have any problems. As a
4 matter of fact, the request by Pine Valley was only
5 29 per month for the base, and I'm saying 30 and even
6 drop the minimum to a thousand so that way, then, it
7 makes up the difference there. If you went 1,000 and
8 paid a dollar per thousand, that's another \$4. So
9 you would end up at \$34 already with the 5,000.

10 So that's why I say the numbers, you can
11 crunch the numbers and I think they'll come out the
12 same. But the higher user then will end up paying
13 what's needed for maintenance and future development,
14 and so on. I think it's a more equitable. And three
15 tiers is not that difficult to program.

16 THE COURT: Thank you, Mr. Latschkowski.

17 Ms. Benvegna-Springer would like to
18 comment on the characteristics of this.

19 MS. BENVEGNA-SPRINGER: Yes. Referencing
20 Table 2, Customer A is primarily a recreational user
21 that uses very little water throughout the year.
22 This would be the annual -- I'm sorry, their monthly
23 usage was still fairly high during the summertime. A
24 user classified as B is more of a full-time user that
25 would use that amount of money -- excuse me, that

1 amount of water usage each month. Obviously during
2 the winter months it would go down. And Customer C
3 is going to be someone who has large acreage. They
4 may have water features on their property. They also
5 may be using it for irrigation, the culinary water
6 for irrigation. And so they're very, very large
7 users.

8 In comment to Mister -- how do you say
9 your name again?

10 MR. LATSCHKOWSKI: Hans.

11 MS. BENVEGNUM-SPRINGER: Hans, thank you.
12 We can apply those suggested rates into our model to
13 determine what the type of revenue would be generated
14 based on the usage of the customers that they used in
15 2009. That is another reason how we came up with the
16 rates that we did, because we applied those rates to
17 the usage of the customers as they used it in 2009.

18 MR. LATSCHKOWSKI: The other question also
19 would be is there -- do you have a projected growth
20 for 2010? From 2008, 2009, 2010, how many new people
21 came on line?

22 MS. BENVEGNUM-SPRINGER: 2008 to 2009 there
23 were five. From 2009 to 2010 we projected no growth.

24 MR. LATSCHKOWSKI: So you're not
25 projecting that out?

1 MS. BENVEGNU-SPRINGER: Right.

2 MR. LATSCHKOWSKI: Because of the economy,
3 or whatever?

4 MS. BENVEGNU-SPRINGER: Yes.

5 MR. LATSCHKOWSKI: Okay. So you basically
6 need to go on '09 usage?

7 MS. BENVEGNU-SPRINGER: Right.

8 MR. LATSCHKOWSKI: And that would be easy
9 enough to go ahead and crunch and make a model from
10 to see if the numbers would be equal to what you're
11 projecting?

12 MS. BENVEGNU-SPRINGER: Yes, we can make
13 that calculation and supply it to the Commission.

14 MR. LATSCHKOWSKI: Sure. Thank you very
15 much.

16 THE COURT: All right. Thank you,
17 Mr. Latschkowski.

18 MS. SCHMID: And one other thing that I
19 don't think has been addressed yet is the effective
20 date. They're requesting an effective date if the
21 rate increase is approved. Do you have any comments
22 on that?

23 MS. BENVEGNU-SPRINGER: I do. In talking
24 with the company, it's recommended both by the
25 company and the Division, that the effective rates

1 would be starting May 1st. And the reason for that
2 May 1st date is because that's the time frame when
3 they would do their first read. Generally the end of
4 April for the calendar year 2010, the first read
5 would indicate that those old -- the old usage would
6 be at the old rates. May 1st any readings after that
7 date, the new rates would go into effect.

8 THE COURT: Okay.

9 MS. SCHMID: Thank you.

10 MALE SPEAKER: What if you paid ahead?

11 MR. BURGESS: Then we charge you triple.

12 (Laughter).

13 MR. HERPEL: Could I comment again?

14 THE COURT: Sure. Go ahead, Mr. Herpel.

15 MR. HERPEL: Do I have to --

16 THE COURT: You're still under oath.

17 MR. HERPEL: I'm already sworn?

18 THE COURT: Yes.

19 MR. HERPEL: Okay. I would just like to
20 just ask if these rate increases will be -- let's
21 see, how could I phrase the question? Our fire
22 system in Pine Valley is lacking in some areas. Our
23 water pressure is low in what we call the Lloyd
24 Canyon area of Pine Valley. Will these new rates
25 bring that up to a standard for larger lines to be

1 installed? I -- those lines will be taken into
2 consideration?

3 MR. BURGESS: Yes. That's the next job
4 that we have is a 250,000 gallon tank that goes up
5 Lloyd Canyon.

6 MR. HERPEL: And how about the increase of
7 capacity of the line?

8 MR. BURGESS: Not all of them but some of
9 them will. But it will be enough to give you what
10 the state requires for fire protection.

11 MR. HERPEL: All right. It will be
12 sufficient throughout Pine Valley, then, to meet the
13 standards.

14 MR. BURGESS: Yes.

15 MR. GARDNER: Obviously there's going to
16 be upgrades. So as far as lines and stuff, that
17 would be something that would be in our capital --

18 MR. BURGESS: See, that's --

19 MR. GARDNER: -- that we've been --

20 THE COURT REPORTER: Hold on, you guys.
21 One at a time, please.

22 THE COURT: Wait. Let him finish.

23 Tell me your name again.

24 MR. GARDNER: Ryan Gardner.

25 THE COURT: Let me have you raise your

1 right hand.

2

3

RYAN GARDNER,

4 having been first duly sworn to testify to the truth,
5 the whole truth, and nothing but the truth, testified
6 as follows:

7

8

THE COURT: Okay.

9

MS. SCHMID: Could it be helpful if
10 Mr. Gardner refreshed our memory as to his
11 connections to the water company?

12

MR. GARDNER: I am the operator or water
13 master.

14

MS. SCHMID: Thank you.

15

MR. BURGESS: Head honcho.

16

MS. SCHMID: Okay.

17

MR. GARDNER: I would just say, the new
18 tank will help supply a reservoir for it, but then I
19 guess in the future that would be what we use the
20 money that would be set aside every month. So it
21 would be a few years before we got money in that
22 fund, and then that's when we would go and resize
23 lines and do improvements like that. We can't go in
24 redo -- we're not going to redo probably a lot of
25 lines in Lloyd Canyon this year.

1 MR. BURGESS: We've got a lot of lines as
2 small as 4 inch in the old part of Pine Valley.
3 Those have all got to be replaced one day. If
4 somebody builds on that to get fire protection, we're
5 going to have to change some of those. So we know
6 there's small jobs like this all the way through.
7 That's why we're happy that we may have a buck or two
8 that we can build without having to borrow.

9 THE COURT: Go ahead, Mr. Herpel.

10 MR. HERPEL: I would like to ask again. I
11 just had an incidence where we were developing two
12 lots out of one lot, making one large lot into two
13 lots, and the water company charged the owner of the
14 property, made them supply the 6 inch line to the
15 fire hydrant.

16 What I want to get clarified now, will the
17 water company put the 6 inch line to any properties
18 that --

19 MR. BURGESS: That's done by the county.
20 That's the county that requires that. Pine Valley
21 Irrigation doesn't.

22 MR. HERPEL: Okay. They might not require
23 it, but because of this large rate increase will Pine
24 Valley Irrigation Company now foot the supply line to
25 the property of the size --

1 THE COURT: Let me have you -- let's do
2 this. If you have some questions for the company,
3 we're just related here to the rate increase, whether
4 the company needs it.

5 MR. HERPEL: Okay.

6 THE COURT: And so let's go off the record
7 and if you want to talk with the company now relating
8 to questions of -- we're kind of going beyond what
9 we're here for.

10 MR. HERPEL: Well, I'm trying to find out
11 what these reserve for replacements will be.

12 THE COURT: Let's go off the record
13 because that's already been addressed on the record,
14 and if you have questions -- I think those questions
15 are more outside of what we're dealing with here.

16 So let's go off the record and you can ask
17 those, and if you need to we can come back on the
18 record.

19 MR. BURGESS: If you read the sheet there
20 that the state has come out with, it tells you
21 exactly what we can do and what we can't do with it.

22 MR. GARDNER: And I could probably answer
23 that real quick.

24 THE COURT: Well, hold on. Let's go off
25 the record. We're off the record. Let me go outside

1 the room.

2 (Thereupon, the proceedings
3 concluded at 11:55 a.m.)

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