

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Request) Docket No. 09-2440-01
For a Rate Increase of)
Hidden Creek Water Company) Administrative Law
) Judge:
) Ruben Arredondo

TRANSCRIPT OF HEARING PROCEEDINGS

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

DATE: July 6, 2010

TIME: 9:03 a.m.

REPORTED BY: Kelly L. Wilburn, CSR, RPR

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EXHIBITS

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(The previous exhibits and related testimony
were prefiled and are part of the PSC record
and filed at the Commission.)

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EXHIBITS, CONTINUED

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ATTACHMENTS

<u>No.</u>	<u>Description</u>
Barron No. 1	Hobble Creek Canyon Community Map
Barron No. 2	Hidden Creek - Annual Actual Customer Usage

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1 JULY 6, 2010

9:03 A.M.

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

3 THE COURT: We're here In the Matter of the
4 Request of Hidden Creek Water Company For Approval of
5 a Rate Increase. This is the second hearing held in
6 this matter. I'm Ruben Arredondo, the ALJ assigned by
7 the Commission to hear this matter.

8 And with that let's take appearances, first
9 beginning with the Company, please.

10 MR. BRYNER: Thank you. Bryan Bryner,
11 representing the Company. And with me I have Tracy
12 Tanner and Jason Tanner, representatives from the
13 Company.

14 THE COURT: Okay, thank you. And if everyone
15 that's gonna speak, look at your microphone, there
16 should be a bright green light on. That -- make
17 sure -- just make sure your microphone is on.

18 Thank you, Mr. Bryner.

19 Ms. Schmid?

20 MS. SCHMID: Good morning. Patricia E.
21 Schmid with the Attorney General's Office representing
22 the Division of Public Utilities. And with me is Mark
23 Long from the Division.

24 THE COURT: All right, thank you.

25 Okay. With that, then, we'll begin with the

1 Company. Mr. Bryner, did you want to make any
2 comments, or did the Division want to present their
3 amended recommendation first?

4 MR. BRYNER: I think it would be easier if we
5 had the Division present first, and then we can just
6 comment on that. I don't think we have too many
7 comments to make on it --

8 THE COURT: Okay.

9 MR. BRYNER: -- so I think it would be easier
10 if they went first.

11 THE COURT: All right then.

12 (Mr. Long was sworn.)

13 THE COURT: Thank you. Go ahead.

14 MARK LONG,

15 called as a witness, having been duly sworn,
16 was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MS. SCHMID:

19 Q. Good morning. Mr. Long, just briefly to
20 refresh our memories could you please state by whom
21 you are employed and whether or not you have assisted
22 the Division in this matter?

23 A. Yes. I'm employed by the Division of Public
24 Utilities as a utility analyst, and I've been involved
25 from the beginning in this matter.

1 Q. As such, did you prepare or assist in
2 preparing the memorandum filed June 14, 2010,
3 entitled: "Amended Recommendation in the Matter of
4 the Request of Hidden Creek Water Company For Approval
5 of a Rate Increase"?

6 A. I did.

7 Q. Do you have any changes or additions to this
8 memo?

9 A. I have a couple clarifications that I planned
10 on going over as I gave a brief synopsis of the, of
11 the amended recommendation.

12 Q. Okay. Please proceed.

13 A. Okay. I would like to provide a brief
14 summary of the Division's analysis based on the new
15 and updated information received subsequent to the
16 original recommendation of January 20, 2010.

17 The new information consists of updated water
18 users and total connections: Increase in the total
19 number of water users from 18 to 20, and the total
20 number of connections from 48 to 49.

21 Also, we received updated usage amounts to
22 the more current meter readings than were available at
23 the time of the original recommendation.

24 There was also a reduction in income tax
25 expense that was used in the original recommendation.

1 And also we had backup operator's wages added to the
2 expenses.

3 The inclusion of the income tax adjustment
4 and backup operator's wages, the net effect reduced
5 the revenue requirement by \$1,980. Updating the water
6 users and the additional connection increased revenues
7 by another \$1,800 through the appropriate system fees
8 and minimum usage fees.

9 For additional details you could refer to
10 Amended Exhibit 1.1 that was included with the amended
11 recommendation.

12 To begin with, the Division is appreciative
13 of the cooperation of the Water Company during this
14 latest analysis. As well as several of the customers
15 that had a lot of great input. Most notably, Mr. John
16 Balian spent a great deal of his personal time
17 analyzing and discussing, with the other customers,
18 the various proposals.

19 Since the last time we met for the scheduling
20 conference on May 26th the Division has held many
21 meetings, sent and received many emails, and has
22 spoken at length over the telephone -- through
23 telephone conversations, both with groups of customers
24 as well as individuals, discussing the amended
25 recommendation in front of you now.

1 Most recently the discussions have centered
2 on just a few customers' persistence in implementing a
3 flat rate where each customer would pay the same
4 amount, regardless of their usage, rather than the
5 tiered rate structure the Division is recommending in
6 it's amended recommendation.

7 The Division wishes to emphasize that
8 according to Utah Code 54-4a-6, the Division of Public
9 Utilities shall act in the public interest in order to
10 provide the Public Service Commission with objective
11 and comprehensive information, evidence, and
12 recommendations consistent with just, reasonable, and
13 adequate rates, charges, rules, and practices of
14 public utilities.

15 "Just and reasonable" is further defined in
16 Utah Code in part as: Maintaining the financial
17 integrity of public utilities, protecting the
18 long-range interests of consumers, providing for the
19 fair apportionment of the total cost of service, and
20 protecting against the wasteful use of public
21 utilities.

22 With these responsibilities and duties in
23 mind, the Division believes that its tiered rate
24 structure meets the criteria as set forth in Utah
25 Code. If you could please refer to, and I've labelled

1 it Amended Exhibit 1.3, which is a new exhibit that
2 wasn't included in the original presentation.

3 Q. At this point, Mr. Long, could you just
4 briefly describe what Amended Exhibit 1.3 is?

5 A. What I've done here, the first graph shows --
6 first of all the black vertical lines represents the
7 customers' water consumption over the whole year. The
8 other lines, the blue represents the first tier, the
9 green the second tier --

10 I'm sorry, the blue represents the minimum
11 usage, the green the first tier, the purple the second
12 tier, and the yellow going to orange represents any
13 usage over into the third tier.

14 And as you can see over in the annual
15 consumption, nobody even comes close to reaching the
16 third tier. Everybody is, is at or below the second
17 tier.

18 To go a little bit further, I've taken the
19 summer months -- which includes June through September
20 of 2009 -- and made a couple adjustments on a couple
21 of connections to get what's gonna be the projected
22 usage for this summer. And as you can see here, it
23 looks like four customers are projected to use into
24 the highest tier.

25 With this in mind, the Division believes that

1 the recommended rate structure covers the water
2 company's costs through stable revenues, with an
3 opportunity for the Water Company to earn up to a
4 12 percent rate of return on their investment, for a
5 maximum profit of \$1,047.

6 This also provides for the continued quality
7 and adequate levels of service at the lowest cost
8 possible. Assigns water supply and development costs
9 proportionately to the customers who place the highest
10 burden on the supply system and the natural supply
11 sources.

12 Encourages the efficient use by sending a
13 strong conservation price signal. And rewards
14 conserving customers with lower unit rates for water
15 bills -- for water, and, therefore, giving them
16 greater control over their bills.

17 The Water Company has already reported to the
18 Division that the proposed rate structure has already
19 had a positive infact -- impact, as one of Hidden
20 Creek's customers has recently fixed a long-term leak
21 to avoid having their water usage reach the more
22 expensive upper tiers.

23 With the recommended tiered rate structure if
24 a customer chooses to use exorbitant amounts of water
25 they will be paying for part of it in the highest

1 tier.

2 Although this increasing block rate structure
3 communicates the value of water and encourages its
4 efficient use, it is still up to the individual
5 customers to choose to use water responsibly and not
6 in excess in order to lessen the environmental and
7 social impact and ramifications of using excessive
8 water.

9 The Division is testifying only on those
10 recommendations that have been added or changed from
11 the original recommendations and numbered to match the
12 recommendations in the amended recommendations
13 previously submitted.

14 Recommendation No. 1: The Division
15 determined that the labor amount paid to the backup
16 operator, Mr. White, are reasonable, and recommends
17 that the \$1,020 annual labor costs be funded in the
18 rates.

19 Incidentally, this amount is set to equal the
20 annual amount of the system fees and minimum water
21 usage amount for the year.

22 Number 2: Most of the charges have remained
23 unchanged. And those can be found on -- starting on
24 page 5 of the amended recommendation. The following
25 rates, however, have been changed. And let me just

1 briefly go through those.

2 System expense: The current tariff had those
3 at \$33 per month. The original -- our original
4 recommendation put them at \$61 per month.

5 The amended recommendation puts them at \$53
6 per month, and those are broken down as follows:
7 \$28.50 for capital reserves, and \$24.50 for the fixed
8 expenses.

9 The current tariff for the first 12,000
10 gal -- 12,000 gallons was \$5 per month. Our original
11 recommendation was \$49.50. The amended recommendation
12 is now \$32.

13 The current tariff really had no tiers. It
14 was the same amount, 78.3 cents per thousand gallons,
15 regardless of what was used. The original Division
16 recommendation had \$5 per 1,000 gallons over the
17 12,000.

18 We've since revised that to better show --
19 have a conservation rate and affordability. So that
20 the first tier, from 12,001 to 50,000 gallons, is
21 \$2.75 per 1,000. Monthly usage from 50,001 to 94,000
22 gallons is \$3.75 per 1,000 gallons. And the monthly
23 usage in excess of 94,001 gallon is \$7 per 1,000
24 gallons.

25 Recommendation No. 3: The recommendation for

1 the capital reserve account remains the same as
2 included in the amended recommendation starting on
3 Page 7.

4 There are a couple of additions regarding the
5 capital reserve account, and they are: The Division
6 is adding to their recommendation that the Water
7 Company shows the capital reserve account as a
8 separate, a separate line item in their billing
9 statements.

10 For example, a typical bill would have the
11 following line itemizations: System fees of \$53 would
12 be shown as fixed costs of \$24.50, capital reserve of
13 \$28.50. Yet another line for the minimum usage
14 amount. And then whatever amounts the customers used
15 into the various tiers.

16 Also regarding the capital reserve account,
17 the Division recommends that a summary of the reserve
18 account be provided to the water customers on an
19 annual basis by the Water Company showing, at a
20 minimum, beginning balance, annual deposits, with --
21 annual withdrawals, and the ending balance.

22 To facilitate this, the Water Company and the
23 Division has agreed that the Water Company will
24 provide a summary, as mentioned above, of the capital
25 reserve account with its annual report, which will be

1 submitted and shall remain public information.

2 Additionally, the Water Company will report
3 to the Division only or Commission only -- submit
4 their report with a separate detailed annual
5 accounting of the capital reserve account that backs
6 up the summary included with the annual report.

7 This detailed annual accounting shall be in
8 the form of bank statements encompassing the entire
9 calendar year, showing a series of deposits made
10 within 30 days from the receipt of the rate payments
11 for each billing cycle and withdrawals that meet the
12 requirements as set forth in both the original and
13 amended recommendations.

14 This separate detailed annual accounting only
15 will -- shall be clearly identified as "Confidential."
16 And so the Division will use that -- we'll review
17 that, but it will not be public information.

18 Recommendation No. 7: The Division
19 recommends reading the meters monthly from April 1st
20 through October 1st annually, weather permitting.

21 Currently they're not reading -- currently
22 they're not reading the meters that often, but a lot
23 of it may be to inclement weather. But the more they
24 can read them, the better it would be.

25 Winter months shall be billed at the minimum

1 usage amount. The winter usage and billings shall be
2 adjusted based on the first meter reading in the
3 spring.

4 As an assurance to the water customers that
5 they will not be billed at Tier 3 rates as a result of
6 a leak, during the time period that the meters are not
7 read monthly the maximum monthly billing adjusted
8 after the first reading cannot exceed that of the
9 maximum usage allowed through Tier 2, unless it can be
10 established that the customer actually used an
11 excessive amount of water.

12 Recommendation No. 8: The Division
13 recommends that the new rates go into effect on
14 June 1, 2010. Billings for service charges and usage
15 prior to June 1st shall be based on the current
16 approved tariff prices.

17 The Division is aware that this amended
18 recommendation is still a large increase, and will
19 have a big impact on ratepayers' bills. If you would
20 refer to exhibit -- Amended Exhibit 1.2? Which gives
21 a breakdown of each customer's projected annual water
22 bill.

23 Without a developer subsidizing the Water
24 Company as in the past and keeping prices artificially
25 low, the Water Company must now fund its expenses and

1 establish a minimum financial reserve through its
2 revenues.

3 Using the updated usage amounts, the annual
4 billings based on the amended recommend -- on the
5 amended recommended rates are, on average, 25 percent
6 lower than those of the original recommendation. The
7 amended recommended rates generate annual billings
8 that are from 174 percent to 375 percent higher than
9 the tariff rates.

10 In conclusion, the Division asserts that the
11 rates and charges as set forth in Amended Table 1 are
12 just and reasonable and consistent with the public
13 interest and, therefore, the Division recommends that
14 the Commission approve these new rates and other
15 recommendations contained herein.

16 MS. SCHMID: With that, the Division would
17 move for the admission of the memorandum dated
18 June 14, 2010. And if we could mark that as DPU
19 Exhibit 1. It has attached to it DPU Exhibits 1.1,
20 and 1.2, which we'd also like to move for the
21 admission thereof.

22 In addition, the Division would like to move
23 for the admission of Amended Exhibit 1.3, which was
24 provided under separate cover today.

25 THE COURT: Okay. Any objections?

1 MR. BRYNER: No objection.

2 THE COURT: All right. Then we'll admit DPU
3 Exhibit 1. And we'll take notice also that that was
4 filed with the Commission with the Amended
5 Exhibits 1.1 and 1.2, and today Amended Exhibit 1.3
6 was filed.

7 (Exhibit Nos. DPU-1, 1.1, 1.2, and 1.3 were
8 admitted.)

9 THE COURT: Thank you Mr. Long.

10 Mr. Bryner, any questions for Mr. Long?

11 MR. BRYNER: Just one matter before we
12 proceed to that. I don't know if we took the -- made
13 the appearances of the interveners. I know that there
14 have been several interveners that have been --

15 THE COURT: Are any of the interveners gonna
16 make any cross examination or anything like that?
17 Mr. Scharffs, Mr. -- I'm sorry, what was your name,
18 sir, over here?

19 MR. SCHARFFS: I'm Brett Scharffs,
20 intervener. Our intention was to give public witness
21 testimony at 10:00.

22 THE COURT: Okay. And sir, what was your
23 name again over here?

24 MR. THOMPSON: Steve Thompson.

25 THE COURT: Steve Thompson?

1 MR. THOMPSON: Yeah.

2 THE COURT: Mr. Thompson, are you gonna make
3 any -- besides public witness, anything else?

4 MR. THOMPSON: No. I'll be at 10:00, too.

5 THE COURT: Okay, thank you.

6 MR. BRYNER: Okay, thank you.

7 MR. THOMPSON: There will be others coming,
8 sir, too.

9 MS. SCHMID: And I believe that Mr. Balian is
10 on the phone.

11 THE COURT: Okay.

12 MR. BRYNER: Your Honor --

13 THE COURT: Do you want to take a recess,
14 five-minute recess?

15 MS. TANNER: Yes, thank you.

16 MR. BRYNER: Yeah, if we could.

17 THE COURT: All right, we'll take a
18 five-minute recess.

19 (A recess was taken from 9:21 to 9:28 a.m.)

20 THE COURT: Go ahead.

21 MR. BRYNER: Okay. I just have a couple of
22 follow-up questions for Mr. Long.

23 CROSS EXAMINATION

24 BY MR. BRYNER:

25 Q. If you could turn to the DPU Exhibit No. 1,

1 the amended recommendations, page 8. Eight of nine?
2 And Recommendation No. 5. We'd like to get some
3 clarification on how the separate accountings and
4 annual reports will be made.

5 I guess our concern is that Recommendation
6 No. 5 seems to be superfluous to what's required, if
7 you go back to page 7, to Recommendation No. 3,
8 subpart (d)? We'd just like to get, get a
9 clarification and ask you a couple questions regarding
10 those.

11 MS. SCHMID: May Mr. Long just have a moment
12 to get the documents in front of him?

13 THE COURT: Uh-huh.

14 MR. BRYNER: Yeah, that's fine.

15 THE WITNESS: Do you want me to comment on
16 that now, or ask me questions?

17 Q. (By Mr. Bryner) Yeah, let me ask you some
18 specific questions.

19 A. Okay.

20 Q. Under, let's see, page 7 subpart 3(d) says
21 that Hidden Creek shall provide an annual accounting
22 of the capital reserve account with its annual report.
23 Who is that annual accounting provided to? Is that
24 provided to the customers or to the Division?

25 A. The item in (d) would be provided to the

1 Division only. And that would be marked as
2 confidential because it should include bank statements
3 as well as a lot of information that shouldn't be
4 public information.

5 Q. Okay. And then an annual -- the annual
6 report that's also provided to the Division, is that
7 public information?

8 A. Yes, it is.

9 Q. And would that contain any information
10 regarding the capital reserve account funds?

11 A. That would contain the Recommendation No. 5,
12 where they provide a summary of the capital reserve
13 account showing the beginning balance, the annual
14 deposits, annual withdrawals, and the ending balance.
15 With no other details necessary than that.

16 Q. So the Recommendation No. 5 does not require
17 a provision of bank statements or other confidential
18 financial information --

19 A. No, certainly not.

20 Q. -- to the customers?

21 A. No.

22 Q. Another -- let's see.

23 MR. TANNER: Well, no. My understanding is
24 this recommendation 3(d) is information be provided to
25 the Commission that includes --

1 THE COURT: Let me, let me, let me have you
2 stop there real quick, Mr. Tanner.

3 Do you, do you want to have Mr. Tanner and
4 Ms. Tanner testify? And then we can maybe get back to
5 what their concern is with Mr. Long's recommendation?

6 MR. BRYNER: Yeah. Yeah, I'm going to ask
7 them questions. They're going to testify regarding
8 this as well. I wanted to get a clarification from
9 Mr. Long as to how this works to make sure that we're
10 all on the same page.

11 THE COURT: Okay. I just, I just want to
12 make sure that we -- you're not testifying before
13 you're sworn in. So if you need to speak to your
14 attorney to clarify what your concern is, you can take
15 that time right now.

16 MR. TANNER: No, I was just asking a
17 clarification of Mr. Long.

18 THE COURT: Have your --

19 MR. TANNER: I'm trying to understand how
20 this process --

21 THE COURT: Let's have your attorney ask it.

22 (Pause.)

23 Q. (By Mr. Bryner) Let me just ask a couple
24 follow-up questions. Recommendation 3(d), would that
25 require -- the way we read it it looks like it

1 requires 12 bank statements, for each month of the
2 year, showing deposits and withdrawals from the
3 capital reserve account. Is that correct?

4 A. That would be correct. Or if you, say, get a
5 printout from your bank that includes all 12 months,
6 that would be fine as well.

7 Q. So if there's just one financial statement
8 provided at the end of the year that shows each
9 month's deposits and withdrawals, that would suffice?

10 A. Right. But I, I'd like to have the bank
11 statements so that I can see that the funds actually
12 went into the bank. And not just shown on a financial
13 statement just as --

14 Q. And that information --

15 A. -- part of the checks and balances.

16 Q. Excuse me. And that information would be
17 confidential?

18 A. Certainly.

19 Q. Those, those bank statements --

20 A. Yes.

21 Q. -- and the annual accounting?

22 A. Yes.

23 Q. Okay.

24 MS. SCHMID: Just as a clarification, I
25 believe that the Company would want to mark those

1 confidential --

2 MR. BRYNER: Right.

3 MS. SCHMID: -- when it submitted the annual
4 report.

5 MR. BRYNER: Yes. Yes, we would mark that.

6 THE WITNESS: Okay.

7 Q. (By Mr. Bryner) And then the Recommendation
8 No. 5, that's only a summary provided at the end of
9 the year. That would not need to include bank
10 statements or financial --

11 A. That's correct.

12 Q. -- documents?

13 A. That's correct.

14 Q. Okay. And then moving on to Recommendation
15 No. 7. As -- it appears that an exemption is provided
16 for customers that have a leak in their system from
17 paying the amounts -- the expenses that are billed to
18 the Company as a result of that leak.

19 Is that, is that the intent of this
20 recommendation?

21 A. Can you repeat that?

22 Q. Recommendation No. 7, I'll just quote the
23 second paragraph:

24 "As an assurance to the water
25 customers that they will not be billed

1 at Tier 3 rates as a result of a leak,
2 during the time period that the meters
3 are not read monthly, the maximum
4 monthly billing adjusted after the first
5 spring reading cannot exceed that of the
6 maximum usage allowed through Tier 2,
7 unless it can be established that the
8 customer actually used an excessive
9 amount of water."

10 I guess our question is, if there is a leak
11 that the volume of that leak extends into Tier 3, how
12 would that customer be billed?

13 A. According to this, they would not be billed
14 into Tier 3 unless there was a notice made or the
15 customer somehow notified that they're using -- that
16 there is a leak and they failed to fix it.

17 But in order to protect the customer since
18 they're not -- the meters aren't being read monthly,
19 then that would add some assurance to the customers
20 that they're not going to be billed hundreds or
21 thousands of dollars extra for a leak that they're not
22 aware of.

23 Q. So would the bill for those amounts
24 exceeding -- or -- exceeding Tier 2, would those
25 amounts still be billed at Tier 2 rates?

1 A. Yes.

2 MR. BRYNER: I don't think I have any other
3 questions. Let me have just a minute to confer with
4 my clients.

5 (Pause.)

6 Q. (By Mr. Bryner) Okay. And so if they're --
7 if a customer is billed -- if there is a leak and it
8 enters into the Tier 3, that -- the bill would reflect
9 that they are going to be billed at Tier 2. Would
10 that be a reasonable recommendation?

11 A. You know, originally I hadn't thought of
12 that. But I -- that would be reasonable to bill them
13 for the amount, but not into the Tier 3 rates.

14 Q. Okay.

15 (Pause.)

16 Q. (By Mr. Bryner) And one last item on
17 Recommendation No. 7. The Division recommends reading
18 the meters monthly from April 1st through October 1st
19 annually, weather permitting.

20 I don't know if you're aware, with the
21 location of the Water Company, the Water Company
22 doesn't typically read the meters until June 1st.
23 Would it be reasonable to, to clari -- because of the
24 snow and the elevation, would it be reasonable to
25 amend Recommendation No. 7 to begin the meter readings

1 June 1st?

2 A. The reason that the Division recommended they
3 start in April, and that was qualified with "weather
4 permitting," the more monthly meter readings that are
5 available out there the better conservation message it
6 sends. It's going to notify people that they're --
7 that they have a leak, for example.

8 And, you know, if there's -- if they can't do
9 it, then they can't do it. But we would encourage
10 them to read those more often. And if there's too
11 much snow, then so be it. They won't be able to.

12 MR. BRYNER: Okay. I don't think -- I
13 think if there are any questions I have I'll ask my
14 clients when we swear them in.

15 THE COURT: All right, thank you. And do you
16 need a recess?

17 MR. BRYNER: Can I have just a moment to
18 clarify?

19 THE COURT: Okay. So quarter till.

20 (A recess was taken from 9:38 to 9:44 a.m.)

21 THE COURT: Go ahead Mr. Bryner.

22 MR. BRYNER: Okay. Just one or two other
23 questions for Mr. Long.

24 Q. (By Mr. Bryner) In your experience as a
25 utility analyst, do these proposed rates that the

1 Division is recommending -- how do those compare to
2 the water rates for other water companies in this
3 state?

4 A. How do they compare in what way?

5 Q. Are they, are they similar in the -- I'll
6 strike that question.

7 MR. BRYNER: I think we're done.

8 THE WITNESS: Okay.

9 THE COURT: All right.

10 Any redirect, Ms. Schmid?

11 MS. SCHMID: None.

12 THE COURT: Okay. Are your -- are the
13 Tanners gonna testify at all?

14 MR. BRYNER: Yes, Mr. Jason Tanner will
15 testify.

16 (Mr. Tanner was sworn.)

17 THE COURT: Thank you, go ahead.

18 JASON TANNER,

19 called as a witness, having been duly sworn,
20 was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. BRYNER:

23 Q. Mr. Tanner, please state your name.

24 A. Jason Tanner.

25 Q. And what is your position with the Hidden

1 Creek Water Company?

2 A. Secretary and -- excuse me, vice president
3 and treasurer.

4 Q. Okay. And how long have you had that
5 position with the Water Company?

6 A. I believe, I believe I was -- I've been the
7 treasurer the entire time. I believe I've been the
8 vice president for between five and six years.

9 Q. Okay. And have you had a chance to review
10 the Division's original recommendation and the amended
11 recommendation?

12 A. I have.

13 Q. And I'll ask you a question first about the
14 rates and charges. Do you have any ques -- do you
15 have any concerns or issues with the recommended rates
16 and charges?

17 A. I do. I have a couple of issues. Number
18 one, I'd like to correct the record. On his -- on
19 page 6 of 9 on the rate changes, the current tariff of
20 \$5 a month is actually on the first 6,000 gallons.

21 Q. Okay.

22 A. Not 12. So I'd just like to make sure that's
23 corrected for the record.

24 Q. Okay.

25 A. Number two, something that's not in here that

1 I think needs to be addressed. We have had a number
2 of incidents where payments have not been made and
3 have not been able to have been collected, or there's
4 been partial payments.

5 Now that we have both fixed and capital
6 reserves we need to establish, if there's a partial
7 payment or a catch-up payment that's not complete,
8 which -- to which gets applied first. It's kind of a
9 hierarchy thing. It's very common in contract law.

10 I believe that if a partial payment comes in,
11 the fixed and variable requirements are to be met
12 first. And then the capital reserve is to be met when
13 all other payments have been -- expenses have been
14 covered. But that's something that we ought to get
15 some clarification on.

16 Q. Okay.

17 A. Number three, I think that the -- on the
18 Recommendation No. 7, as to a leak? My concern is
19 that if a customer knows that there's a leak there's
20 absolutely no motivation whatsoever for them to fix
21 this. And we lose the water conservation goals that
22 the State shares with us.

23 So I think that there should be something in
24 here that says if it can be established the customer
25 either knew of the leak or was notified of the leak

1 and failed to fix or remedy the leak after such
2 knowledge or notice, that they ought to be billed
3 based on however much water is being used or lost --
4 and/or lost because of the leak.

5 Secondly, I think that the Company ought to
6 have the right, weather, weather permitting, to do
7 meter readings at any time during the year to make
8 sure that, in fact, there are not excessive uses of
9 water possibly because of leaks.

10 Q. Now, the meters are currently read during
11 which months?

12 A. Weather permitting, generally June --
13 occasionally May -- but generally it's June --
14 starting June, July, August, September, and
15 October 1st.

16 Q. So you would like to have -- the Company
17 would like the right to review -- read the meters
18 during the winter months on occasion?

19 A. Yeah. If weather permits, yeah.

20 Q. Okay. And again, what would be the purpose
21 for doing that, for reading the meter during those
22 times?

23 A. Well, as Mark's chart here says, we've had
24 one customer who's had a longstanding leak. And this
25 way the sooner we find out about it, hopefully the

1 less expense is involved, the less water lost.
2 Sometimes leaks get worse. So it's just prudent to
3 find out. The sooner the better.

4 Q. Okay. And do you have any other concerns or
5 proposed revisions to the DPU's recommendation, other
6 than what you've testified to?

7 A. Well, again, my understanding as to the
8 capital reserve reporting requirement is that we will
9 report to the Commission the beginning balance of the
10 capital reserve as evidenced by bank statements. All
11 of the deposits. Any withdrawals. And ending balance
12 as verified by bank statements. Marked conf --
13 confidential.

14 As to the information we're providing
15 directly to the customers, it's just a summary of that
16 information.

17 (Ms. Tanner is talking privately.)

18 THE WITNESS: Well, according to five we are.

19 (Ms. Tanner is talking privately.)

20 THE WITNESS: Has recommend five -- has
21 recommendation five been stricken or not?

22 MR. BRYNER: I guess we do have a question
23 regarding Recommendation No. 5. Whether the summary
24 is provided directly to the customers, or just the --
25 in the annual report that is publicly available to the

1 customers for review.

2 MR. LONG: It would be provided in the report
3 that's available to the customers.

4 MR. BRYNER: Okay. So -- okay. So we'll
5 need, we'll need to clarify Recommendation No. 5 too.

6 MR. TANNER: Okay.

7 THE COURT: Let me make sure I understand,
8 too, because I'm not clear. So this Divi -- where it
9 says:

10 "The Division recommends that an
11 accounting of the capital reserve
12 account be provided to the water
13 customers on an annual basis by the
14 water company showing, at a minimum, the
15 beginning balance, annual deposits,
16 annual withdrawals, and the ending
17 balance."

18 So this accounting, not containing
19 confidential information, is essentially gonna be a
20 sheet I guess provided during the year to each
21 customer saying, This is the beginning balance, this
22 is the annual deposits, this is our annual
23 withdrawals. But it's just a summary form; is that
24 right, Mr. Long? Or is --

25 MR. LONG: I guess we envision that as just

1 being a summary form that will be turned in annually
2 with their annual report. And then the customers can
3 request that annual report, which will include the
4 summary.

5 And at the same time as the annual report the
6 Water Company will send in a detailed accounting of
7 that, which would include the bank statements. And
8 that needs to be marked confidential because it will
9 have information that --

10 THE COURT: So if a customer wants it they
11 have to get it from the Division, then?

12 MR. LONG: Yes.

13 THE COURT: Okay.

14 MR. BRYNER: That's our understanding as
15 well.

16 THE COURT: All right.

17 MR. BRYNER: And so I think we'll need to
18 clarify Recommendation No. 5, which states that the
19 accounting is provided to the water customers. I
20 think that should be clarified to state that it's
21 provided to the Division with the annual report.

22 MR. LONG: You're right, that needs to be
23 revised.

24 MR. BRYNER: And I think that will address
25 our concern with that. Okay, now moving to the

1 testimony of Mr. Tanner.

2 Q. (By Mr. Bryner) So other than these items
3 that you've identified as recommendations to cover the
4 priority of payments, and meter readings during winter
5 months, and also the rates to be charged for leaks,
6 are you -- is the water company in accordance with the
7 Division's recommendations?

8 A. Yes.

9 Q. And have you been in contact with any of the
10 customers of the water company regarding their
11 concerns with the Division's recommendations?

12 A. Yes. I've, I've received forwarded emails
13 from Mr. Balian indicating that five, I believe five
14 customers were willing to sign a stipulation that
15 they're in agreement with the recommendations.

16 Q. Okay.

17 A. Five interveners.

18 MR. BRYNER: Okay. And I think that may be
19 all. If I can just ask -- may I just have one moment?

20 (Pause.)

21 MR. BRYNER: Okay, I think that's all we
22 have.

23 THE COURT: Okay. Ms. Schmid, any questions
24 for Mr. Tanner?

25 MS. SCHMID: None.

1 THE COURT: Okay. All right then, anything
2 else from either party?

3 No? Okay, then we'll go ahead and proceed
4 with public witness testimony.

5 MS. SCHMID: Oh, perhaps one, one -- a couple
6 brief follow-up questions for Mr. Long.

7 THE COURT: Okay.

8 MARK LONG,

9 called as a witness,

10 having previously been duly sworn,

11 was examined and testified as follows:

12 REDIRECT EXAMINATION

13 BY MS. SCHMID:

14 Q. Do you agree that the correct gallon amount
15 is 6,000 rather than 12,000?

16 A. Yes.

17 Q. Do you agree with the recommendation that
18 partial payments be attributable first to the fixed
19 and variable components of the rate, and then, after
20 that has been satisfied, to the capital reserve?

21 A. Yes, I do. And there just needs to be a
22 brief explanation as to why the capital reserve
23 account isn't including that amount. And that's --
24 that would be good.

25 Q. Do you also agree with the Company's

1 recommendations regarding leaks and meter readings?
2 Particularly meter readings in the winter, if
3 possible?

4 A. Oh, yeah. The more meter readings, the
5 better that would be.

6 MS. SCHMID: Thank you.

7 THE COURT: And let me, let me make sure I
8 understand then with regards to leaks. If there is a
9 leak will the customer be charged at Tier 2 if they
10 aren't aware about it -- or I guess what I want to
11 know is, is there agreement between the Company and
12 the Division that if there is a leak and the customer
13 is not aware of it, they'll be charged at Tier 2
14 rates. If there is a leak and they are aware of it,
15 then they may be charged at Tier 3 rates. Is that, is
16 that your --

17 MR. LONG: That's what I understand.

18 MR. BRYNER: Yes. Or if the customer is
19 notified after a meter reading that there is a leak.

20 THE COURT: Okay.

21 MR. LONG: And maybe we need to establish
22 what would be a reasonable amount of time to fix a
23 leak if they're notified of it.

24 THE COURT: Okay. Do you want to talk about
25 it after the hearing and make a recommendation to the

1 Commission?

2 MR. BRYNER: Yes, we can do that.

3 THE COURT: Okay.

4 MR. BRYNER: And perhaps also what would
5 constitute reasonable notice given to the customer?

6 THE COURT: Okay. All right, anything else,
7 Ms. Schmid?

8 MS. SCHMID: Nothing else.

9 THE COURT: Okay. Then public witness. For
10 those of you that haven't participated before, we're
11 not as formal as a court so hopefully you'll be --
12 you'll feel free to say whatever you'd like to say.
13 And we'll have you just come up at this last chair, so
14 you don't have to come up to the witness stand.

15 There's two ways that you can testify. You
16 can testify under oath. So I'll have you raise your
17 right hand and you'll be, you'll be placed under oath.
18 And if you do testify under oath then the Commission
19 can take what you say into consideration in rendering
20 a decision.

21 You'll also be subjected to cross
22 examination. In other words, the attorneys can cross
23 examine you, ask questions as they'd like and as
24 permitted by the Commission.

25 If you don't want to do that under oath, then

1 you can just make general comments. However, they
2 can't be taken under consideration by the Commission
3 in rendering a decision. So with that, let me begin
4 with -- Mr. Balian, are you on the phone?

5 MR. BALIAN: Yes, I'm still here.

6 THE COURT: Okay. Did you want to make any
7 comment?

8 MR. BALIAN: Not really, no.

9 THE COURT: Okay. Anybody -- you four back
10 there, anybody that would like to make comment? Okay.
11 Let me have you, let me have -- right here, sir.
12 Would you like to make any comment?

13 SPEAKER FROM AUDIENCE: No.

14 THE COURT: No? Ma'am, can I have your name?

15 MS. BARRON: Dion Barron.

16 THE COURT: Okay. And then Mr. Scharffs, you
17 wanted to testify as well?

18 MR. SCHARFFS: Yes.

19 THE COURT: Mr. Thompson?

20 MR. THOMPSON: Yes.

21 THE COURT: Okay. We'll, we'll proceed from
22 this side then. Ms. Barron, would you come up to this
23 last chair here?

24 MR. THOMPSON: Your Honor, I work at the
25 museum as a docent.

1 THE COURT: Okay.

2 MR. THOMPSON: And if you don't mind, I'd
3 like to go first.

4 THE COURT: Sure, go ahead. Come up to this
5 last chair here. And then do you see the light on on
6 that microphone? Is it on? If not, press the button
7 that says "Push."

8 MR. THOMPSON: It's on.

9 THE COURT: Okay. And would you like to
10 testify under oath?

11 MR. THOMPSON: Yes.

12 (Mr. Thompson was sworn.)

13 THE COURT: Go ahead.

14 MR. THOMPSON: First of all, Mr. Long had
15 mentioned that there were about -- there were 20 users
16 now in the, in the Hidden Creek Water Company
17 boundaries, you might say. But there are now 24, at
18 least. And there will be a 25th, they're hope --
19 we're hoping by next month. In August.

20 I spoke with Mr. Jan Anderson yesterday --
21 and I wrote down on the paper that I'll submit to you
22 for, for a -- evidence or whatever. I spoke with
23 Mr. Jan Anderson today about our water concerns at
24 Hidden Creek Water Company in Springville.

25 Mr. Anderson is on the planning commission of

1 Utah County and is acquainted with the water policy of
2 that -- of Utah County. He stated, and I quote.
3 Quote: Usually each home owner is allotted so much
4 water based on size of lot, where the water comes
5 from, et cetera. He mentioned one or two other
6 parameters that I didn't record.

7 And that, that is a base rate. If an owner
8 exceeds that base rate of quantity they are penalized
9 about triple the normal rate per 1,000 gallons used
10 over that base rate. This promotes conservation of
11 water, unquote.

12 Since Hidden Creek Water Company was
13 authorized .45 acre foot of water, plus the 1.0 for
14 landscaping, plus the 1.5 for the irrigation purposes
15 in the Cottages at Hobble Creek subdivision by the
16 Utah County Planning Commission -- and I've attached
17 the letter that this has come to our attention since
18 our last meeting -- which equates to a little over
19 961,000 gallons of water per lot, per year, then that
20 is the base rate each owner is entitled to.

21 Then and only then, when an owner exceeds
22 that amount, then we should be assessed an amount of
23 penalty over that amount by the Public Service
24 Commission. And that's to be determined by you.

25 We propose an \$80 flat rate per homeowner,

1 which will satisfy the revenue requirements set forth
2 by the PSC. And if the PSC deems necessary to reduce
3 the non-user lot's rate, then the capital reserve
4 should be reduced to offset the loss of income.

5 For example, if the non-user rate is set at
6 \$60, then the capital reserve could be reduced from
7 approximately \$16,000 to approximately \$8,000. Since
8 this is a relatively new water system, this reduction
9 will not hurt the overall effect of income
10 accumulation needed for the system.

11 As seen by the previous consumption of the
12 owners, all were under our allocated amount due to our
13 own conservation procedures put into effect when we
14 built our homes. Thank you for your hearing some
15 input in this matter. It is our desire that this is
16 kept at a very simple accountable matter.

17 THE COURT: Thank you Mr. Thompson.

18 Ms. Schmid, any questions for Mr. Thompson?

19 MS. SCHMID: No questions.

20 THE COURT: Mr. Bryner?

21 MR. BRYNER: Yes.

22 CROSS EXAMINATION

23 BY MR. BRYNER:

24 Q. Mr. Thompson, we just have a question
25 regarding your statement that there are currently 24

1 users in the water company and there will be a 25th by
2 August.

3 A. We hope, yeah.

4 Q. Who are -- do you know the names of these
5 additional --

6 A. Four additional?

7 Q. Yes.

8 A. Well, the previous accounting the Tanners --
9 or Tan -- sis -- Tracy Tanner and the Whites were not
10 on that original list of 20. We have the Hyde family,
11 H-y-d-e.

12 Is that how you spell it, Dion?

13 That just moved in this last week. And we
14 have the Dal Wilson family who built a home and they
15 are now in. There are -- they are Mountain Air number
16 whatever. They're a Mountain Air portion of the
17 Hidden Creek water.

18 Q. So -- sorry. You just said Mount Air. Which
19 lot number, do you know?

20 A. I'm not sure. Is that No. 10? I'm not sure
21 which one it is. But Tracy could certainly tell us,
22 because it's, it's the new brick home that just
23 finished there. And they moved in.

24 MR. BRYNER: Okay. We'd like to call as a
25 witness later, Tracy Tanner, to address that --

1 THE COURT: Okay, that's fine.

2 MR. BRYNER: -- situation. I don't know if
3 you want to do that now or after all the --

4 THE COURT: We'll do that after the public
5 witness.

6 MR. BRYNER: Okay.

7 THE COURT: All right. Anything else,
8 Mr. Thompson?

9 MR. THOMPSON: I don't, I don't think so,
10 other than -- I think that's it, sir.

11 THE COURT: Okay. If you'd like to file
12 something you can file it with the Commission, just
13 right in here.

14 THE THOMPSON: Okay, I will.

15 THE COURT: And then whoever is on the docket
16 will get a copy of that electronically.

17 THE THOMPSON: Thank you.

18 THE COURT: All right. Thank you,
19 Mr. Thompson.

20 MR. THOMPSON: I'll stay around for a while
21 until I have to go, thank you.

22 THE COURT: All right. Ms. Barron?

23 Ms. Barron, would you like to testify under
24 oath?

25 MS. BARRON: Yes, I would.

1 (Ms. Barron was sworn.)

2 THE COURT: Thank you.

3 MS. BARRON: Thank you.

4 THE COURT: You can go ahead, Ms. Barron.

5 SPEAKER ASSISTING MS. BARRON: Judge, we have
6 a few papers. Do you want to -- can we give those to
7 you?

8 THE COURT: Sure, I can take them. And then
9 you just have to give copies to the Company and the
10 Division as well.

11 SPEAKER ASSISTING MS. BARRON: Yeah.

12 Oh, that's the original. Can I get one of
13 the copies?

14 THE COURT: Then do you want to give a copy
15 to the reporter as well? Thank you.

16 SPEAKER ASSISTING MS. BARRON: Yes, we have
17 one other.

18 MS. BARRON: And then also that one too, but
19 I'll begin.

20 The plat map that you were just given
21 outlines the area that we're talking about. And the
22 blue line is the creek that goes up the canyon that
23 many of the homes in Mountain Air are on the -- on
24 that side of the creek are able to use for irrigation
25 purposes.

1 So there's different, there's different water
2 available for the different developments.

3 MR. THOMPSON: Excuse me, Dion. Did you do
4 yours under oath or were you gonna do yours --

5 MS. BARRON: I did.

6 As a homeowner of the Cottages at Hobble
7 Creek for the last three years I appreciate the
8 opportunity of addressing the Judge and the Commission
9 regarding the increase and introduction of tariffs
10 regarding our water use in the development.

11 I hope that these concerns and objections are
12 met with an open mind and a decision has not yet been
13 made in regard to this proposed plan.

14 As soon as I was aware of any rate changes I
15 have been active in homeowner and neighborhood
16 meetings. The area affected by this rate change is
17 marked in black on the map that I gave you, and the
18 blue line represents Hobble Creek.

19 I have five areas of objections and concerns.
20 Number one, when considering the location of where we
21 wanted to build our home we looked at many
22 developments and compared their value. There were
23 many locations that were experiencing water shortages
24 and challenges, others with smaller lots and
25 convenient locations, and then this development at the

1 Cottages.

2 We were told by the developer that there was
3 ample water with 400 -- with a 400-foot well, a water
4 commitment required by the County, and it was a
5 nonprofit water company. We purchased our property at
6 a premium because it included water rights as
7 described by Ordinance No. 1996-02.

8 The County used water engineer experts to
9 arrive at this figure of the amount of water that is
10 needed to maintain a mountain home landscaping, and
11 fuel breaks, and irrigation needs. According to
12 Brandon Larsen, land planner in Utah County, the
13 County obtained the opinion of qualified professionals
14 to establish the required water for this mountain
15 development.

16 It was carefully analyzed, taking into
17 consideration water, rainfall -- first rainfall, water
18 for maintaining landscaping, and fuel breaks around
19 the dwellings and occupied structure.

20 The amount of water required by the County to
21 be provided by the water company was .45 acre feet per
22 year, per dwelling, water for landscaping and fuel
23 breaks for each dwelling, and water for irrigation in
24 a perpetual supply of 1.5 acre foot per acre, per
25 year, per parcel.

1 The amount of water required by the County
2 was approximately 960,000 gallons. All water
3 delivered to our property is metered and is not in any
4 way dis -- distinguished in any other way in these
5 categories.

6 If a separate irrigation system were
7 installed it would be from the same well, at -- and at
8 this time with exactly the same water, with no
9 chemicals added to the water.

10 The graph that I provided shows the metered
11 water use of the home. And I drew the red line at the
12 top. In the document titled: Water Requirements For
13 the Cottages at Hobble Creek, Plat A Water Supply,
14 with the subheading (a) Water Rights, it states:

15 "The property within all plats shall
16 be provided by the developer with
17 perpetual water rights meeting the
18 following standards."

19 The red line is the amount established by the
20 County, and that is in the document that the
21 developers and the owners of Hidden Creek signed, that
22 was available for our lot and that was required by the
23 County.

24 The graph demonstrates the water usage for
25 the past year. We are very water conscious and

1 deserve a pat on the back, rather than a slap on the
2 cheek.

3 I will use Lot No. 27 as an example, because
4 according to the skewed small sampling of homes they
5 appear to be a heavy user of water and under the
6 current Commission's proposal will be penalized for
7 their water usage in the highest tier.

8 Their water is on one acre, and has
9 approximately a 5,500-square-foot home. Two thousand
10 five hundred square-foot homes are -- on one floor is
11 required before we can hand in our plans for approval
12 to build a home there.

13 We have to have a home of that size. It's
14 required by the developers and the owners of Hidden
15 Creek Water Company, that size of a home.

16 They have a garden with a drip system, water
17 efficiency sprinkler system, front-loading washing
18 machines, low-water-volume toilets, and a hot water
19 pump for immediate delivery of hot water.

20 Every water efficiency product was installed.
21 They are the only lot in the Cottages with a completed
22 landscape, garden, and family with children. By
23 comparing averages with uncompleted landscaping and
24 empty-nester families they appear to be a heavy user
25 of water and are penalized by this short-sighted

1 proposal.

2 Their annual usage is 501,000 gallons --
3 501,110 gallons of water. It's almost half of what
4 the County recommended being available using a
5 professional analysis.

6 We are doing water conservancy in the very
7 most mindful manner. Three others home in the
8 Cottages that were used in the comparison usage were
9 unoccupied or incomplete.

10 On your map -- on your graph there the ones
11 that were unoccupied or incomplete were starred in
12 red. And the majority of homes have -- or the --
13 there is a -- the ones marked in green have another,
14 other source of water to be able to water outside
15 their home.

16 They're -- for the most part they're the ones
17 on the blue -- on the side where Hobble Creek is.
18 Where the blue line is. So they have the right to use
19 that water, where we -- it's not possible for us.

20 The dev -- number three, the developers are
21 also the owners of Hidden Creek Water Company, a
22 for-profit water company. They currently have nine
23 lots in the Cottages. What once was a lot selling for
24 \$60,000 is now being marketed for over \$300,000 by the
25 developers.

1 I am proposing that when a lot is sold by the
2 developers that they put \$100,000 into the fund to
3 support the water company. In the Declaration of
4 Covenants, Conditions, and Restrictions of the
5 Cottages at Hobble Creek, Article 12.1, it states,
6 under Project Phasing:

7 "It is anticipated that the project
8 will be developed in a series of phases.
9 Accordingly, declarant hereby reserves
10 the option to expand the project upon
11 the terms and provisions set forth in
12 this article without the prior consent
13 of the owners of the Association."

14 The developer is using the owners of the lots
15 to develop and secure the future funding of their
16 personally-owned water company. It is proposed that
17 the current owners of the lots being serviced by the
18 water company pay \$80 flat fee per month, with no
19 penalties for allocated water.

20 If they should go over the annual water
21 allotments that the County gave us and was, was agreed
22 to and given to by the developers, then a penalty of
23 \$7 per 1,000 gallons be assessed.

24 It is further proposed that the amount of
25 money going to reserve from the lot owners be placed

1 in escrow till the developers pay in their allotment
2 for remaining lots or additional lots to fulfill the
3 capital reserve fund, at which time the money be
4 returned to the lots who contributed to the, to the
5 fund required by the State -- or by the Commission.

6 The current rate -- number four, the current
7 rate for the Hidden Creek water company is under
8 a .075 -- or it's under 80 cents. The water company
9 committed to provide a perpetual supply of water to
10 each dwelling, to each dwelling unit and parcel within
11 the Cottages at Hobble Creek, Plat A Development, in a
12 perpetual culinary supply of .05 acre foot per
13 dwelling.

14 Water for landscaping, fuel breaks for each
15 dwelling unit and parcel -- fuel breaks and a parcel
16 and irrigation in a perpetual supply of, of per-acre
17 feet per parcel. It's certified that the system can
18 continue to meet all water commitments for its
19 preexisting conditions.

20 The delivery of water -- this is quote:

21 "The delivery of water shall be
22 subject to the payment of all hookup
23 fees and all usual monthly water
24 delivery charges."

25 The proposed tariff is not usual. The

1 support for a for-profit water company that intends to
2 continue to sell lots and develop plats place an undue
3 burden on people who've already paid a premium for the
4 lots where they live.

5 Number five, the projected tier usage is
6 punitive and unjust to the only individuals who have
7 their total water usage in a meter, while those who
8 have access to Hobble Creek have no added tier.
9 There's no water conservation going on there.

10 And we're the ones that have to use all of
11 this water. It's going through a meter. And we're
12 far under what was proposed that is needed by the
13 professional analysis at the County.

14 So in summary, number one, we purchased lots
15 at a premium price, and paid for development of water
16 as guaranteed by the developers and required by the
17 County.

18 Two, current owners are already conserving
19 water to the best of their ability. And using much
20 less than the County-allocated water.

21 Number three, developers and owners of Hidden
22 Creek Water Company continue to make a huge profit by
23 the sale of their remaining lots and future
24 development.

25 Number four, the developers made a commitment

1 to the County and the owners to continue to meet all
2 water commitments for the preexisting conditions and
3 all usual monthly water charges. The tariff is not
4 usual.

5 Five, conservancy measures in the projected
6 tier structure targets only the homes in the Cottages.

7 Six, we propose a flat fee of \$80 per month
8 on all homes and lots in Hidden Creek water system,
9 with return of money from developer's profitable lot
10 sales and future developments.

11 And this is the first time I've addressed the
12 Commission, and I appreciate your time. And I have
13 other papers here that will be the letters from the
14 County that was the requirement. Their commitment
15 letter that committed that I quoted throughout this.
16 And if you want them, I'll make them available.

17 THE COURT: Okay. What you can do,
18 Ms. Barron, is just if you'd like to file a copy of
19 your statement that you read --

20 MS. BARRON: Okay.

21 THE COURT: -- along with those documents
22 that you just pointed out with the Commission. Just
23 go into our office and do that.

24 MS. BARRON: All right.

25 THE COURT: And they'll take it from you.

1 And everybody that's on the record as a party will get
2 a copy of that. Okay?

3 MS. BARRON: Thank you.

4 THE COURT: All right, thank you.

5 Ms. Schmid, any questions for Ms. Barron?

6 MS. SCHMID: None.

7 THE COURT: Mr. Bryner, any questions for
8 Ms. Barron?

9 MR. BRYNER: None at this time.

10 THE COURT: All right, thank you.

11 Mr. Scharffs, please.

12 MR. SCHARFFS: Judge, there's an additional
13 customer intervener who's arrived who may want to
14 present testimony as well.

15 THE COURT: Okay, who's that? Okay. Sir,
16 could I get your name?

17 MR. CROSBY: Ray Crosby.

18 THE COURT: Okay. All right, thank you
19 Mr. Crosby.

20 Mr. Scharffs, do you want to proceed under
21 oath?

22 MR. SCHARFFS: Yes.

23 (Mr. Scharffs was sworn.)

24 THE COURT: Go ahead, thank you.

25 MR. SCHARFFS: My name is Brett Scharffs, and

1 I'm a lot owner in the Mountain Air Estates and an
2 intervener in this matter.

3 I would like to thank the Commission for the
4 opportunity to be heard regarding this proposed rate
5 increase which, based upon the Division's
6 calculations, will result in our water bill increasing
7 from \$581 per year to \$1,470 per year. An increase of
8 153 percent, or two and-a-half times our current rate.

9 I would like to acknowledge that this is an
10 improvement over the previous Division recommendation
11 which would have resulted, by their calculations, in
12 charges to our family of approximately \$2,100.

13 At the outset I'd like to say I hope the
14 Commission is genuinely open to customer input. And
15 that this meeting is not just a pro forma opportunity
16 for customers to have their say about a proposal that
17 the Commission has already decided to adopt.

18 I have a number of concerns about the current
19 proposal, but I will limit myself to speaking about
20 only one. The one that I think is most fundamental,
21 that of utilizing a tiered rate structure.

22 When we bought our lots they came with water
23 rights. Some owners utilized those rights directly,
24 drawing water from Hobble Creek for their landscape
25 needs. Other owners -- like me, and the other owners

1 on the west side of Hobble Creek Canyon Road, and the
2 Cottages owners -- use that water indirectly through
3 the Hidden Creek Water Company.

4 But all of us bought water when we bought our
5 lots. This was a condition placed upon the
6 developers. For example, in a letter to the Utah
7 County Planning Commission the water company stated
8 that it:

9 "Hereby commits to provide a
10 perpetual supply of water to each
11 dwelling unit and parcel within the
12 Cottages at Hobble Creek, Plat A
13 Development, in a perpetual culinary
14 supply of 0.45 acre feet per year, per
15 dwelling unit and parcel, at a flow rate
16 of not less than 0.015 cubic feet per
17 second, per dwelling unit and parcel.

18 "Water for landscaping and fuel
19 breaks for each dwelling unit and parcel
20 in a perpetual supply of 1.00 acre foot
21 per year, per dwelling unit and parcel.
22 And water for irrigation in a perpetual
23 supply of 1.5 acre feet per acre, per
24 year, per parcel, excluding
25 10,000 square feet.

1 "And certifies that the system can
2 continue to meet all water commitments
3 for its preexisting connections."

4 Thus, as a condition for having the
5 development approved, the Company committed to provide
6 a perpetual supply of water at the stated levels.
7 There is a provision relating to charges the Company
8 may impose in connection with meeting these
9 commitments. The certification states, and I quote:

10 "The delivery of water shall be
11 subject to the payment of all hookup
12 fees and all usual monthly water
13 delivery charges."

14 There are two type of payment -- two types of
15 payment contemplated. The first is for water hookups.
16 The Company has and continues to charge for this
17 service. The second is for "all usual monthly water
18 delivery charges."

19 There is nothing in the certification
20 defining what constitutes delivery charges, but it
21 seems very unlikely that this provision contemplated a
22 tiered rate structure that would dramatically increase
23 the cost of water that came with the lot.

24 The Division's recommended rate structure
25 strikes me as unduly punitive, punishing some

1 customers for using the amount of water that came with
2 their lot, while not punishing others, based upon
3 whether customers have access to the creek.

4 The Division cites conservation as a reason
5 in favor of the tiered structure. But as a
6 conservation plan, this rate structure is poor. The
7 largest users of water in our neighborhood will
8 continue to utilize large amounts of water because
9 they draw their landscaping water from the creek.
10 While the smaller users of water will be penalized for
11 using levels of water that they purchased when they
12 bought their lots.

13 As others have suggested, a flat rate
14 structure could easily be implemented that would be
15 fair to everyone in that they would share equally in
16 the annual costs associated with running the Company,
17 and would share equally in the money paid into the
18 capital improvements account.

19 For example, under the Division's proposal
20 the Company will have revenue of approximately \$48,000
21 per year. If this number is divided by the number of
22 customers, 50 or 49, and the number of months in the
23 year, 12, this results in a per-customer charge of \$80
24 per month. This would result in a full funding of the
25 \$48,000 budget.

1 Under this proposal it is true that some
2 customers who do not use water at this time will be
3 paying the same amount as customers who are using
4 water at this time. But everyone would be paying the
5 same amount for the same right: The right to use the
6 amount of water that they purchased when they bought
7 their lot, subject to hookup fees and delivery
8 charges.

9 In the long run this structure favors all
10 owners, since when others build they will not be
11 subject to the punitive rate structure. More
12 fundamentally, this system does not penalize lot
13 owners for using water that came with their lots.
14 Thank you.

15 THE COURT: Thank you, Mr. Scharffs.

16 Ms. Schmid, any questions for Mr. Scharffs?

17 MS. SCHMID: No questions.

18 THE COURT: Mr. Bryner?

19 MR. BRYNER: No questions.

20 THE COURT: Okay. Thank you Mr. Scharffs.

21 Mr. Crosby, please. Would you like to
22 testify under oath, Mr. Crosby?

23 MR. CROSBY: Yes, I would.

24 (Mr. Crosby was sworn.)

25 THE COURT: Thank you. Go ahead.

1 MR. CROSBY: Judge, I don't really have a
2 prepared statement. I'd like to just go on record
3 saying that from the research and involvement I've had
4 I think our reserve -- the reserve account is
5 excessive. And I think it needs to be reconsidered.
6 I think it needs to be reduced.

7 I -- there's a number of questions that I
8 have yet to have resolved about amounts of how the
9 reserve account is determined. What kind of account
10 it goes into. Whose money is it? Is it interest
11 bearing? Who authorizes withdrawals? After a
12 reasonable level does this reserve amount -- can it be
13 reduced?

14 There's a lot of questions on this reserve
15 account. And I've done a little research on a
16 comparable-size water company, Alpine Cove Water.
17 It's in Utah County. They have 58 users. And their
18 rates are at \$22 for the first 1,000 gallons per
19 month, then it goes up to 60 cents per 1,000 gallons
20 for the next 40,000.

21 And so -- and then above that, at 75,000 it
22 goes to \$1.25 -- or excuse me. At 50,000 it goes to
23 \$1.25. And then it -- at 75,000 increases to \$2.75.
24 They have a ready-to-serve fee of \$20, which is a
25 standby, per month. And they have a hookup fee of

1 \$100 per month.

2 Now, this is a Utah County water provider.
3 And I think if we compare their proposed plan of the
4 Hidden Creek to the Alpine Cove I think one clearly
5 sees that it is excessive. On the Alpine Cove Water
6 Company they have no reserve amount.

7 I talked with their bookkeeper, I've talked
8 with their water master, I've talked to members of the
9 board, and they have no reserve amount. And yet we're
10 proposed with a -- I think an excessive reserve
11 amount.

12 With the number of users that we have paying
13 in, in ten years, from the numbers that I've run,
14 there will be a quarter million dollars in that
15 account. I think that's excessive, and I think it
16 needs to be reconsidered.

17 THE COURT: Thank you Mr. Crosby. Anything
18 else you'd like to add?

19 MR. CROSBY: No, that's all. Thank you.

20 THE COURT: Thank you.

21 Ms. Schmid, any questions for Mr. Crosby?

22 MS. SCHMID: None.

23 THE COURT: Mr. Bryner?

24 MR. BRYNER: None.

25 THE COURT: All right, thank you.

1 Then we'll, we'll proceed with the Division,
2 if you'd like to respond to any public witness. And
3 we'll conclude with the Company, since they have the
4 burden.

5 MS. SCHMID: Could we please have a
6 five-minute recess?

7 THE COURT: Sure. Let's take a -- actually,
8 let's take a ten-minute recess till 10:35, and we'll
9 come back on.

10 MS. SCHMID: Thank you.

11 (A recess was taken from 10:26 to 10:35 a.m.)

12 THE COURT: We'll go ahead with the Division.

13 MS. SCHMID: Thank you.

14 MARK LONG,

15 called as a rebuttal witness,

16 having previously been duly sworn,

17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MS. SCHMID:

20 Q. Mr. Long, I have a few questions pertaining
21 to the comments that were made during the public
22 witness portion of this hearing. First I'd like you
23 to address the comment that there are 24 current
24 connections. Could you please address that?

25 A. Yes. And the water company might be able to

1 better address this. But I believe the four customers
2 that they specifically mentioned -- either
3 Mr. Thompson or Mrs. Barron -- referred to that --
4 four of the customers that are included in our
5 analysis already.

6 They weren't included in the original
7 recommendation, but they were included in the amended
8 recommendation.

9 Q. So you believe that the correct number of
10 lots is 20?

11 A. Correct.

12 Q. With regard to the fact there might be
13 another lot coming on, do you have any comments with
14 regard to that?

15 A. This is the first I've heard of that. And
16 you know, we can keep batting lots forever. But at
17 some point in time we have to, to take an actual usage
18 and project that forward.

19 If there, if there is another lot or other
20 lots coming on, then that would be ideally addressed
21 in two or three years if there -- when there's another
22 rate case.

23 Q. Do you have any comments regarding the
24 proposal for a flat fee which includes, as I
25 understand it, a lot not receiving water now paying

1 the same fee as an occupied house with landscaping?

2 A. You know, I, I can't understand the basis
3 for, for doing that at all. A flat rate is going to
4 make all the smaller users subsidize all the use for
5 the other company -- the other customers. It has no
6 conservation incentive at all.

7 But to charge the people that aren't using
8 any water a standby fee the same amount, flat rate, as
9 the other customers just -- I don't know what basis
10 they're getting that from.

11 Q. Mr. Long, do you believe that the
12 recommendations and rates set forth in your
13 memorandums, and as further clarified today, are based
14 upon empirical facts?

15 A. Yes. And there's been a lot of feedback
16 between the water company and several of the customers
17 that are also in agreement with these -- the tier
18 structure that we've recommended now.

19 Q. Do you have any general comments on the
20 nature of ratemaking, and how setting rates combines
21 theory, art, and empirical knowledge?

22 A. You know, setting rates isn't an exact
23 science. It is more of an art than a science. And we
24 can -- what we do is take the best information and try
25 to present those in a rate structure that will promote

1 conservation, has equity for the customers that are
2 using more to pay more, and to help conserve water.

3 Q. Having heard the comments from the public --
4 and we do appreciate those -- do you still believe
5 that the recommendations set forth in DPU Exhibit 1.0,
6 with its attendant Exhibits 1.1, 1.2, and now 1.3,
7 results in rates and recommendations that are just,
8 reasonable, and in the public interest?

9 A. I do. But once again, the Division is aware
10 that this is a big increase. There's only so many
11 users to pay set fees. And, you know, this is the
12 best, I believe, that we can set up for a rate
13 structure.

14 MS. SCHMID: Thank you. Those are all my
15 questions regarding the public witness statements to
16 Mr. Long.

17 THE COURT: All right. Thank you, Mr. Long.
18 Mr. Bryner?

19 MR. BRYNER: I have no questions for
20 Mr. Long.

21 THE COURT: Okay. Would you like to have
22 your rebuttal?

23 MR. BRYNER: Yes. We'd like to ask a few
24 questions to Mr. Jason Tanner.

25 Oh, excuse me. We'll start with Tracy

1 Tanner.

2 THE COURT: Okay. Ms. Tanner, if you could
3 raise your right hand for me, please?

4 (Ms. Tanner was sworn.)

5 THE COURT: Thank you.

6 Go ahead, Mr. Bryner.

7 TRACY TANNER,

8 called as a rebuttal witness,

9 having been duly sworn,

10 was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. BRYNER:

13 Q. Ms. Tanner, you --

14 A. Do you want to ask me questions?

15 Q. Yeah, I'll ask you questions.

16 A. Okay.

17 Q. Okay. You, you heard the public witness
18 testimony, correct?

19 A. Correct.

20 Q. Do you have any comments regarding the, the
21 testimony provided by the customers?

22 A. I do.

23 THE REPORTER: You need to speak up, ma'am.
24 I cannot hear you.

25 THE WITNESS: I do, sorry.

1 MR. TANNER: Turn on the mike.

2 THE WITNESS: Oh, sorry, my mike isn't even
3 on. That will help. I do.

4 Q. (By Mr. Bryner) Let me ask you a quick
5 question about the connections --

6 MR. BRYNER: Oh, yeah. We have an exhibit we
7 would like to submit. Do you have any other copies?

8 (Pause.)

9 MR. BRYNER: We don't have any other copies.
10 We can go -- we could make some after the hearing.

11 THE COURT: Let me -- I'll give my copy to
12 the court reporter after.

13 MR. BRYNER: Okay. Can we -- we'd like to
14 identify this exhibit as the Water Company's Exhibit
15 No. 1. I don't know our name designation for
16 exhibits.

17 THE COURT: What is this?

18 MR. BRYNER: Ms. Tanner, if you could
19 testify --

20 THE WITNESS: These are just photographs of
21 some of the homes within our water company system.

22 THE COURT: Okay.

23 THE WITNESS: Just to provide more
24 information to the Commission as to our area type of
25 context.

1 THE COURT: Who, who took the photos?

2 THE WITNESS: I did.

3 THE COURT: Okay. Any objections,
4 Ms. Schmid?

5 MS. SCHMID: No objection.

6 THE COURT: All right. We'll admit Company
7 Exhibit 1.

8 (Company Exhibit No. 1 was admitted.)

9 THE WITNESS: I'd like to first start off
10 with noting to the Commission that five of the
11 interveners had agreed prior to this hearing, via
12 email, to the Division's most recent recommendation.
13 And those were Barron, Householder, Clingo, Balian,
14 and Thompson. Of those, Mr. Thompson and Mrs. Barron
15 testified today.

16 I'd like to also address the exhibit entered
17 by Mrs. Barron, the graph. For some reason she, she
18 has marked in "X" other -- some of the connected users
19 with a green "X" that indicates other source of water.
20 These would be the Mountain Air Estate lots that
21 reside down on the Hobble Creek stream bottom?

22 For some reason she did not mark Mountain
23 Air 5 and Mountain Air 4 with green, which also reside
24 in that same area on the stream bottom. I just want
25 to make note of that.

1 I'm gonna let Jason address all the issues
2 regarding water right allocation. Which we feel is
3 somewhat irrelevant to the rate case, but nevertheless
4 he will make comments on that.

5 Mrs. Barron also stated that the developer
6 had sold some lots at \$60,000. That statement is
7 incorrect. In fact, Mrs. Barron was able to purchase
8 lots in the Cottages at a considerable discount from
9 current market values at that time.

10 We have a lot sale as high as 280,000. And I
11 know that at least one of them she purchased at
12 114,000. So those statements were not correct.

13 She spoke somewhat about usage on the lot
14 next to her, Lot 27, which is her daughter. We feel
15 that those -- the comments of what any particular
16 customer is using is, again, irrelevant to the rate
17 case overall.

18 It is correct that the developer made
19 commitments to Utah County as per Utah County
20 requirements. And via that the water company has
21 continued, from the beginning of that point, to meet
22 Utah County requirements as to supply and flow to all
23 of its customers.

24 Q. (By Mr. Bryner) If I could ask you a
25 question.

1 A. Yeah.

2 Q. You heard the testimony that there are
3 currently 24 connections on the system? Is, is that
4 correct, or what's your understanding of the number of
5 connections?

6 A. That's not correct. The current number of
7 connections is 20. The, the graph that Mrs. Barron
8 submitted lists those connected lots. Now, some of
9 those started off during this process last year as
10 standby customers.

11 There was a home built during this process.
12 And -- well, let's see. There was two homes built,
13 I'm sorry. The second one, the Mountain Air Lot 4, is
14 the Hydes'. No, I'm -- excuse me, that's incorrect.
15 Let's see.

16 I guess Hyde is on the Mountain Air Lot 4.
17 No, I'm sorry. That's Wilson on Mountain Air Lot --
18 I'm sorry. Mr. Hyde that she referred to is, is the
19 person that purchased Lot 24 from Zions Bank. That
20 one has been connected from the beginning of this rate
21 case.

22 So I think there's been some confusion as far
23 as description of, of what's a connected customer
24 versus non-connected. I think some of that confusion
25 has come from them thinking that, Well, a home sitting

1 there is unoccupied, and they might -- may have --
2 this is an assumption on my part -- may have thought,
3 Well, that's not really a connected customer, when in
4 fact it is.

5 Once a meter is installed and that hookup is
6 paid, it's a connected customer. Whether a home is
7 occupied or not. So that may be where some of that
8 confusion is. But we do, in fact, have at this time
9 20 connected customers.

10 Q. And are you aware of any other connections
11 coming onto the system in the future?

12 A. Not that I'm aware of right now.

13 Q. Okay. And, now you work as the Company's
14 water operator; is that correct?

15 A. Yes.

16 Q. How does the water company get water? What's
17 the source of its water?

18 A. The source of the water system is a deep
19 well.

20 Q. And so what are the costs associated with
21 providing water from the well?

22 A. Well, I don't have all those numbers right
23 here.

24 Q. Or --

25 A. That's kind of a complicated calculation.

1 Q. But it's based on -- isn't it correct that
2 it's based on the electricity costs for pumping the
3 water -- so I guess my question for you is, is the
4 amount of water used, does it -- what -- does the
5 amount of water that's used change the cost to the
6 Company to pay -- to provide that water?

7 A. Yes. There, there are variable costs. And
8 Mr. Long has detailed that in a -- almost a year-long
9 analysis of our system and its users.

10 Q. So would it be just and reasonable to require
11 customers that use excess -- that use great amounts of
12 water to pay the same fee as customers that don't
13 use -- that currently aren't using water or that use
14 smaller amounts of water?

15 A. I wouldn't think so. My understanding is
16 that a tiered rate system is quite typical, and would
17 be considered usual in the State of Utah. And at this
18 time, since we're on this topic, I'd like to address a
19 letter from Utah County Planning which Mrs. Barron
20 submitted.

21 Even in that letter from Utah County the
22 Planning staff individual, Mr. Larsen, indicates that
23 previous requirements for the County were actually
24 much lower than they are today as far as, as far as a
25 system providing a perpetual quantity of water to the

1 customers.

2 I think it's important for the Commission to
3 understand that Utah County has the ability to
4 increase or decrease that allocated amount of use as
5 they see fit. And sometimes those numbers do change
6 as the Division of Water Rights determines, based upon
7 duty factors, what would be appropriate to a given
8 area within the State of Utah.

9 So from that standpoint the Company manages
10 its water rights in an aggregate basis, because that
11 is a -- can be a fluid quantification. So I'll leave
12 the rest of that discussion on water rights to
13 Mr. Tanner when he -- Jason when he gives his
14 testimony.

15 I want to address a couple other things in
16 Ms. -- Dion's testimony. She indicated -- quoted some
17 sections out of the Covenants, Conditions, and
18 Restrictions of the Cottages at Hobble Creek. Quoting
19 a statement about future development. The developer
20 has the option of doing future development.

21 That, that phrase or that part of that
22 document is a very standard part of a CC&R document.
23 As a matter of fact, the attorney that prepared that
24 for us indicated this is very typical of what you
25 would see in a CC&R.

1 I want to also outline -- or point out to the
2 Commission that the developer met all of the Utah
3 County requirements -- and that's why we were able to
4 get those projects approved -- as to all components
5 and aspects of the Utah County Zoning Ordinance.
6 Including the requirements, at that time, for
7 perpetual supply of water to the lots.

8 MR. BRYNER: We're done with questions for
9 Ms. Tanner.

10 THE COURT: All right. Thank you,
11 Ms. Tanner.

12 Mr. Tanner?

13 MR. TANNER: Yeah. I want to get back to
14 Mrs. Barron's graph here. I just want to make sure
15 that the significance of her omission to put the green
16 "X's" on those last two lots is understood.

17 Both Mrs. Barron and Mr. Scharffs indicated
18 that somehow the lots on Hobble Creek are, are being
19 treated advantageous to the other lots. And in fact
20 we find out that the highest-metered two users in the
21 entire project are, in fact, two lots on Hobble Creek.

22 Next I want to make note of Mrs. Barron's
23 request that the developers contribute monies into the
24 system. In fact the developers have contributed in
25 excess of \$725,000 into the system infrastructure.

1 Five hundred and fifty thousand are on the annual
2 reports. Since our first annual report we've spent an
3 additional \$175,000 plus. Which we have not recouped
4 or repaid ourselves.

5 And per this process those monies are
6 formally not to ever be recouped. So it's formally
7 treated as a contribution.

8 JASON TANNER,

9 called as a rebuttal witness,
10 having previously been duly sworn,
11 was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. BRYNER:

14 Q. Let me just ask you some questions on that.
15 You heard the public testimony of Mr. Crosby
16 concerning the capital reserve account being excessive
17 and should be reduced. What, what is your
18 understanding that the capital reserve funds are used
19 for?

20 A. The capital reserve funds are to be used to
21 replace infrastructure as it either wears out or goes
22 bad. Such as pumps, distribution lines. Any other
23 components of the water delivery infrastructure
24 system.

25 Q. So would \$250,000 be sufficient to cover the

1 infrastructure costs and replacement needs of the
2 water company?

3 A. Well, no, not in total. Not even -- not --
4 probably not even a fourth. But obviously you're not
5 gonna be replacing everything at one time. Some
6 things will go out sooner than other things.

7 It's hard to project how much money is gonna
8 be needed and when. But I don't think over the next
9 ten years collecting \$250,000 is excessive -- is
10 excessive at all.

11 Q. Okay.

12 A. We may find out that it's, it's not adequate.
13 Only time will tell.

14 Q. Okay.

15 A. Now, in relation to the capital reserve
16 information that Mr. Crosby brought up -- and he
17 mentioned another system and their rates -- I find it
18 interesting that their rates are really not that far
19 off our rates, at least in the first 50,000 gallons
20 used. Particularly since they don't have the burden
21 of collecting the capital reserve.

22 Q. Are you referring to Alpine Cove?

23 A. Yes.

24 Q. Okay.

25 A. Their first 12,000 gallons of use is at

1 28.60, ours is at 32. You know, if they had -- if
2 they were burdened about collecting money for a
3 capital reserve, those rates would be substantially
4 higher. And certainly more consistent with where
5 we're gonna be.

6 I also wanted to reiterate what Tracy Tanner
7 said, that the water rights issue is irrelevant to the
8 rate case issues. Mr. Scharffs is incorrect if, in
9 fact, his assumption is that he bought water rights
10 when he bought these lots. That was made very, very
11 clear.

12 The water rights are owned by the water
13 company. The water company is obligated, per Utah
14 County and per the State of Utah, to deliver water
15 based on the minimum requirements that are in place at
16 any particular time by the County and the State. And
17 as Ms. -- Mrs. Tanner indicated, those may change.

18 Therefore, the water company is obligated to
19 manage those water rights such that we can deliver the
20 water, as we're obligated to per those requirements,
21 at any given time to our customers. Which we have
22 done since our inception, both as to quality and as to
23 quantity.

24 And then I also want to reiterate that based
25 on our research, based on all of our conversations

1 with the Commission, it is, in fact, unusual for a
2 water system not to have a tiered rate system. And
3 it's, it's ironic that Mr. Crosby used as an example a
4 small system that, in fact, has a tiered rate system.
5 That's the norm.

6 Q. So is the Company in, in agreement with the
7 Division's proposed recommendation in rates and
8 charges?

9 A. With note to the various clarifications and a
10 few changes that were made, yes, we are.

11 Q. Okay.

12 MR. BRYNER: I don't think, I don't think we
13 have any other questions.

14 THE COURT: All right, thank you.

15 Ms. Schmid, any questions for either Mr. or
16 Ms. Tanner?

17 MS. SCHMID: No questions.

18 THE COURT: All right, thank you.

19 Then with that, we'll go ahead and conclude
20 this hearing. Are there any public witnesses that
21 didn't comment that wanted to comment?

22 Ms. Barron?

23 MS. BARRON: I, I just wanted to clarify that
24 this Hidden Creek annual water usage was a graph that
25 was provided by Mark Long. And I, I will mark

1 Mountain Air 4 and 5 with the green. It was just to
2 show the analysis that there are alternative uses of
3 water that are not being -- that are not subject to
4 any kind of rate increase.

5 THE COURT: Okay.

6 MS. BARRON: And so I will mark those with
7 the papers that I leave with the Court.

8 THE COURT: All right, thank you.

9 MR. BRYNER: I think we do have one last
10 clarification.

11 THE COURT: Okay, go ahead.

12 MS. TANNER: Just a last clarification on
13 this graph. I just want to make sure the Commission
14 understands, just because someone is residing or
15 builds by the stream does not give them a papered
16 water right to use water out of the stream.

17 You have to, you have to own a water right
18 that says you can take it out of the stream for use of
19 irrigation or whatever use. And that is an issue with
20 the Division of Water Rights. So some of these may or
21 may not have some additional rights out of the creek.
22 Some do not.

23 So that, again, I think is irrelevant to the
24 rate case.

25 THE COURT: Okay, thank you. We'll go ahead

1 and conclude, and I'll make a recommend --
2 recommendation to the Commission regarding this
3 matter. Thank you.

4 (The hearing was concluded at 10:56 a.m.)

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

This is to certify that the foregoing proceedings were taken before me, KELLY L. WILBURN, a Certified Shorthand Reporter and Registered Professional Reporter in and for the State of Utah.

That the proceedings were reported by me in stenotype and thereafter caused by me to be transcribed into typewriting. And that a full, true, and correct transcription of said proceedings so taken and transcribed is set forth in the foregoing pages, numbered 1 through 81, inclusive.

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

SIGNED ON THIS **14th** DAY OF **July**, **2010**.

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Utah CSR No. 109582-7801

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