

PUBLIC SERVICE COMMISSION

MARTELL, KIMBALL,	)	Docket Nos. 11-097-01
CUMBERLAND, ZINI,	)	11-097-02
SMITH, et al.,	)	11-097-03
	)	
Complainant,	)	
	)	
vs.	)	
	)	HEARING RE
MOUNTAIN SEWER	)	INTERIM RATE
CORPORATION,	)	INCREASE
	)	
Respondent.	)	

\* \* \*

May 21, 2012

9:12 a.m.

Public Service Commission  
160 East 300 South, Fourth Floor  
Salt Lake City, Utah 84111

\* \* \*

Letitia L. Meredith  
-Registered Professional Reporter-  
Certified Shorthand Reporter

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

2 HEARING OFFICER: On the record, this is the  
3 time and place for a hearing duly noticed in  
4 Consolidated Docket Nos. 11-097-01, -02, and -03, and  
5 in particular the focus of today's hearing is the  
6 application for interim rate increase filed in  
7 Docket No. 11-097-03, and the caption for that docket  
8 is In the Matter of the Application of Mountain Sewer  
9 Corporation for a General Rate Increase.

10 My name is David Clark. I've been  
11 designated as the presiding officer for this hearing  
12 this morning, and we'll begin by taking appearances  
13 of counsel. Let's begin with the Applicant,  
14 Mr. Smith.

15 MR. C. SMITH: Thank you. Mr. Clark, my name is  
16 Craig Smith. I'm here on behalf of the Applicant.  
17 Seated next to me is Mr. Ray Bowden. He is a  
18 principle of the applicant. Seated next to him is  
19 Mr. Mel Smith who is co-counsel. You know, I know  
20 I'm as good looking as Mel but we're not brothers,  
21 but we'll try to keep that straight. And then  
22 sitting next to him is Rick Rathbun who is with my  
23 firm. Mel is with Smith Knowles firm in Ogden, so  
24 we're different firms even though we have the same  
25 last name. That's who's here for the Applicant.

1 HEARING OFFICER: Thank you.

2 MS. SCHMID: Good morning. Patricia E. Schmid  
3 with the Attorney General's Office for the Division  
4 of Public Utilities, and with me also from the  
5 Attorney General's Office is Wes Felix. Our  
6 witnesses will be Mr. Mark Long employed by the  
7 Division. Thank you.

8 HEARING OFFICER: Thank you. Mr. Zini.

9 MR. ZINI: My name is Larry Zini. I'm one of  
10 the Complainants in the three dockets, and we're here  
11 representing the view of the complainants on this  
12 issue.

13 HEARING OFFICER: And Mr. Cumberland is not here  
14 today?

15 MR. ZINI: His wife is undergoing cancer  
16 treatments and he has to take her in for these  
17 treatments and he could not make it today.

18 HEARING OFFICER: And is their counsel for  
19 Celtic Bank?

20 MS. RINALDI: Yes. Sitting back here,  
21 Leslie Rinaldi for Celtic Bank.

22 HEARING OFFICER: Thank you. Anyone else who  
23 intends to enter an appearance? All right. Thank  
24 you. Let's be off the record.

25 **(off the record)**

1 HEARING OFFICER: On the record please, we're  
2 going to begin this morning with statements of  
3 counsel regarding the Application for Interim Rate  
4 increase. Mr. Smith, you'll go first and then  
5 Ms. Schmid, and then any other parties that would  
6 like to address the application. Mr. Smith.

7 MR. C. SMITH: Thank you. I'll try to be brief  
8 on this, but I do want to give a little bit of a  
9 historical context to set the stage for the testimony  
10 of evidence we'll be entering today in support of the  
11 interim rate increase that we're asking for.

12 HEARING OFFICER: Mr. Smith, is your mike on?

13 MR. C. SMITH: It is now.

14 HEARING OFFICER: Thank you.

15 MR. C. SMITH: Sorry about that. I thought it  
16 was on before, but obviously it wasn't, so that  
17 should be a little better.

18 HEARING OFFICER: Thank you.

19 MR. C. SMITH: Mountain Sewer was established  
20 back in the 1980s. It's had the same rate since  
21 1986, 1987. We have currently 127 customers and 55  
22 who pay standby fees. Frankly and simply put, we  
23 have insufficient revenues to operate the system. We  
24 have no reserves that replace or repair things. Lack  
25 of maintenance and improvement caused a number of

1 customers including some of the same folks that are  
2 here today to file a formal Complaint to the  
3 commission in 2011. In July of 2011 Mr. Ray Bowden,  
4 who is sitting next to me, took control through  
5 Valley Utility, LLC, ownership of Mountain Sewer.

6 It was through -- he had been a lender. So  
7 people understand his coming onto the scene and what  
8 he's doing. He had been a lender to the previous  
9 owner, had loaned money to the previous owner.  
10 Previous owner was unable to repay those loans, and  
11 so took basically a deed in lieu of foreclosure or  
12 took the company to pay for those loans.

13 Mr. Bowden immediately took steps to obtain  
14 credit for the company so they could undertake  
15 immediate repairs and improvements to address those  
16 very concerns and complaints that some of the  
17 customers had. We've also, as you know, filed for  
18 this rate increase. And today we're here to present  
19 evidence to obtain our interim rate increase, and  
20 while we are obviously we have a proceeding --  
21 several other things are proceeding. We will not  
22 address those things today.

23 We're not obviously going to do more than  
24 that. We're going to provide evidence that shows  
25 that we have made a prima facie showing that the

1 interim rate increase as requested in the amount  
2 requested is justified, and that's pursuant to Utah  
3 Code Annotated 547124A, three little i's, is the  
4 section I'm quoting from there.

5 Most of the evidence we are presenting is  
6 already in our application, but we're going to  
7 explain a few things, and Mr. Ray Bowden will be our  
8 witness. That's the only witness we anticipate  
9 calling today unless something comes up that we're  
10 not aware of. Simply put, we have an annual revenue  
11 requirement of \$103,643 for annually. 71,566 is put  
12 in our schedules as needed for operations. 4,385 for  
13 taxes. 26,766 for capital reserves. And we have a  
14 whopping \$926 as a return on investment on that or  
15 return on rates.

16 We are asking for the same amount both in  
17 our interim and permanent rate proceeding. We're  
18 asking for a fixed system fee of \$12.14 per month  
19 per -- this would be both for connected and standby  
20 lots. There's a capital reserve fee of \$12.26 per  
21 month and a usage fee of \$32.67 per month. That  
22 would make the totals for people with the standby --  
23 let me make sure we all understand what the  
24 categories are.

25 Standby are those within our territory that

1 have a lot but are not connected to our system.  
2 Those are people that have not yet built their home  
3 and have not asked for a connection and have no  
4 connection, so we charge them the standby fee.

5 The usage fee is paid by those who are  
6 customers who are getting monthly service or regular  
7 service from the company, and the total -- the money  
8 that will be raised when this rate increases will be  
9 \$86,959 a year from the connected user customers and  
10 \$16,104 per year for the standby.

11 Now, we have projected a little bit of  
12 growth, but we do not believe we can either do --  
13 it's very difficult to predict much growth when we've  
14 had very little growth in the last few years as far  
15 as additional customers. We're always hopeful that  
16 more people will connect. Obviously economies of  
17 scale that will kick as we get more connected  
18 customers, but we have no way of controlling or  
19 requiring people to connect to the system until they  
20 build their house and get a building permit, so  
21 that's the situation we have.

22 We are appreciative of the Division's  
23 favorable recommendation. We realize that this is a  
24 large increase, but we have to also hope that people  
25 realize that it's been 25 years since there's been

1 any increase. I can't think of any utility or really  
2 anything else that has not had an increase in  
3 25 years. Obviously, from what Mr. Bowden  
4 encountered when he became the owner, is there was a  
5 lot of deferred maintenance. The prior owner for, I  
6 guess, reasons known to the prior owner had not  
7 sought a rate increase for 25 years, and so we've had  
8 to play a little bit of catch up and do some pretty  
9 major improvements. We'll talk about those a little  
10 bit too.

11 We will not today try to address things  
12 such as special assessment. That's not before the  
13 Commission today or our permanent rate application.  
14 Again, that's for another day. Or another what we  
15 consider to be extraneous issues such as whether the  
16 company was well managed in the past and things like  
17 that. We believe those are not properly before the  
18 Commission today and ask that the Commission -- we'll  
19 ask as we go along the Commission address only those  
20 things or we only address those things that are  
21 before the Commission today which is our interim rate  
22 increase request.

23 And as I said before, our first and likely  
24 only witness is Mr. Ray Bowden who has been operating  
25 the system since he took ownership through his



1 company in the middle of 19- -- I'm sorry -- 2011.  
2 Thank you. That's our opening statement.

3 HEARING OFFICER: Ms. Schmid.

4 MS. SCHMID: Good morning. We're here today in  
5 response to the interim rate request filed by  
6 Mountain Sewer. As Mr. Smith mentioned, that is only  
7 thing before us today. Interim rate recovery is  
8 permitted by statute, Section 54-7-12 Subsection 4,  
9 Subsection A. This provides some guidance as well as  
10 cases which have construed the statute. Importantly  
11 4A Romanette 3 states -- and I'll quote -- "The  
12 evidence presented in the hearing held pursuant to  
13 the Subsection 4 need not encompass all issues that  
14 may be considered in a rate case hearing held  
15 pursuant to Subsection 2D but shall establish an  
16 adequate prima facie showing that the interim rate  
17 increase or decrease is justified."

18 In 1985 prior to that statute the  
19 Commission had the opportunity to investigate whether  
20 or not an interim rate increase was warranted. In  
21 that case the Commission used a financial harm  
22 standard among other things. Later in 1990 in a 1990  
23 docket, U.S. West Communications Docket No. 9004906,  
24 the Commission expanded on interim rates. And I  
25 quote.

1           "The amended statute makes clear that the  
2 rights of the parties are somewhat restricted in an  
3 interim proceeding and an abbreviated hearing is  
4 contemplated." Skipping down, "The statute only  
5 requires an adequate prima facie showing that an  
6 interim rate increase or decrease is justified."

7           The Commission cautioned that it cannot  
8 permit an interim rate case to become a mini rate  
9 case because -- and I quote once more -- "to do so  
10 would be to prejudge the final outcome of the docket  
11 on the basis of incomplete and in fact one-sided  
12 information."

13           Also the Commission stated that because of  
14 the effect of an interim rate increase, an interim  
15 rate increase must be conservative and must not set a  
16 floor for the final rate case outcome. Third, an  
17 interim rate increase that is granted must be spread  
18 to classes of service and rate elements on a basis  
19 that does not upset existing relationships. As to  
20 whether or not the imposition of rates to standby  
21 customers who have not so far had to pay rates is  
22 affected by this third criteria I leave open at this  
23 moment.

24           Finally, the Commission said that the  
25 criteria is important. Serious financial harm is a

1 proper standard for interim rate relief. In fact,  
2 the Commission stated "as we conclude herein, record  
3 evidence that financial harm is likely in the absence  
4 of an interim rate increase is the proper basis for  
5 our decision." With that, I look forward to the  
6 hearing proceeding.

7 HEARING OFFICER: Thank you, Ms. Schmid. Any  
8 other party desire to make a statement before?

9 MR. ZINI: Yes, I would --

10 HEARING OFFICER: Mr. Zini.

11 MR. ZINI: -- Mr. Clark. Yes, we are -- to  
12 start with, we're not opposed to the idea of a rate  
13 increase. I think we've made that clear in previous  
14 meetings. We think it has been a long time, and our  
15 feedback from the customers that we represent  
16 indicated they are not opposed to a rate increase.  
17 It's just that 159 percent increase is pretty stiff  
18 as we see it. We feel it's not a reasonable increase  
19 particularly when we get into the numbers.

20 And there's three areas that we wish to  
21 discuss on this thing. One of them is the inclusion  
22 of the expenses for the special assessment in the pro  
23 forma, the latest pro forma, 5/10 of 12, even though  
24 you had made it quite clear on the 10th of May that  
25 date that that was not to be part of the rate case --

1 of the interim rate case. Yet those fees are -- the  
2 deductions for those expenses are left into the pro  
3 forma in the calculations.

4 The second issue is standby fees. We have  
5 a problem with this calculation on the standby fees  
6 because of the new tariff that I believe is supposed  
7 to take effect as of today, 5/21 of 12. Am I  
8 incorrect on that? We are under the impression the  
9 tariffs were filed and would take effect today.

10 HEARING OFFICER: If interim rate -- if the  
11 application is granted, it would be granted today,  
12 and it could be granted either in total or in part.

13 MR. ZINI: Right. The reference to standby fees  
14 is in conflict with the new tariff. We feel is in  
15 conflict with the new tariff, that are suggesting for  
16 standby fees because it is a brand-new charge. The  
17 Mountain Sewer Customers never paid a standby fee for  
18 sewer fees before. And the third thing is there  
19 appears to be -- I am ready to be corrected if I'm  
20 wrong -- we thoroughly examined the rate case, and we  
21 could not find any reference to the status of the  
22 existing lots in the Mountain Sewer service area.

23 There's a provision in there for the new  
24 lots to come on board, that they would pay the new  
25 connection fees prior to obtaining plat approval, but

1 there's no reference to what happens to those  
2 existing lots under the new tariff.

3 HEARING OFFICER: Those are lots that have not  
4 been sold or have been sold?

5 MR. ZINI: Well, they could be sold. They are  
6 scattered around the area. We have some in our own  
7 development that we know have not paid the standby  
8 fees, and therefore we feel the idea that they would  
9 be able to not pay the standby fees effective with  
10 the new tariff is preferential treatment.

11 MR. C. SMITH: If I could interpret, I hate to  
12 interpret Mr. Zini, but I will. I'm not aware of any  
13 preferences.

14 HEARING OFFICER: Are you comfortable with  
15 Mr. Smith addressing this?

16 MR. ZINI: Sure. I'm willing to learn here.

17 HEARING OFFICER: Go ahead, Mr. Smith.

18 MR. C. SMITH: Every plotted lot -- I'm not  
19 aware of any preferences. Everybody pays -- again,  
20 as I see it, there are several classes. Obviously if  
21 you're connected you pay the usage and connection fee  
22 to get connected. If it's a platted lot, it's the  
23 standby fee that is paid. When I say lot, it's a  
24 recorded lot in a subdivision. They pay the standby  
25 fee. We obviously can't make them pay a connection

1 fee until they connect, and then when people come and  
2 connect they pay a connection fee. I'm not aware of  
3 any lots that are exempt from paying standby fees  
4 that are platted, recorded lots.

5 Now, there may be lots in some sort of  
6 process of entitlement approval, but until they are  
7 actually a recorded lot, they are not a lot of  
8 record, and we have no way of charging people that  
9 own parcels of land that aren't lots of anything.  
10 They haven't installed the infrastructure. We don't  
11 have a line. We don't have any way to do those.

12 So I'm not exactly sure -- I'm happy to  
13 have Mr. Zini explain what lots he's talking about,  
14 but as far as I know, we're charging everyone now.  
15 Obviously, if somebody owns a lot in a subdivision,  
16 we have little -- obviously, we can require them to  
17 make payment, but we're not providing any service so  
18 we can't cut off service for nonpayment if they are  
19 just paying the standby fee because they are not  
20 connected.

21 HEARING OFFICER: Mr. Zini, do you have --

22 MR. ZINI: Well, yes, my --

23 HEARING OFFICER: -- response.

24 MR. ZINI: -- answer to that is in our own  
25 subdivision we're aware of three lots that have been

1 there for a long time. They have been platted, but  
2 they are not connected to anything, and they are --  
3 they have not paid the connection fees. All right.  
4 What that sets up is, if you have someone say, for  
5 instance, Celtic Bank comes in and they say, "Now,  
6 you're going to have to pay the connection fee up  
7 front before you do anything else, before you even  
8 get your lot plotted, that's the new tariff" --

9 MR. C. SMITH: That's not what I understand the  
10 new tariff to say.

11 HEARING OFFICER: Did you complete your thought,  
12 Mr. Zini?

13 MR. ZINI: No, I didn't. That creates a  
14 situation that I believe is covered under 54.3.8 and  
15 54.3.7, which is preferential treatments or varying  
16 the rates for different customers for the same cost  
17 which is the connection fee. Did I confuse you by  
18 saying that?

19 HEARING OFFICER: I understand your point.

20 Mr. Smith, and your response?

21 MR. C. SMITH: Our response is our tariff  
22 applies to all equally within our service area.  
23 There's no one that a free pass of not paying.  
24 Everybody pays connection fees when they connect. I  
25 think that's standard practice with every utility

1 I've represented and been involved with. You really  
2 can't make people prepay their connection fees until  
3 they connect.

4 MR. ZINI: With the exception of Celtic Bank.  
5 They are going to be required to pay those connection  
6 fees before they get plat approval. It says that in  
7 the tariff. Anybody that seeks plat approval must  
8 pay those connection fees first. That, in our mind,  
9 creates a preferential treatment to the advantage of  
10 someone and to the disadvantage of someone else as it  
11 reads in the statute book, and that's what it says.

12 HEARING OFFICER: Mr. Zini, have you completed  
13 what you wanted to present?

14 MR. ZINI: Yes, thank you.

15 MS. RINALDI: And we're unclear on that. We  
16 would like a clarification as to how that would work.  
17 We have four lots currently plotted, record in  
18 Phase 1. 164 lots in Edge Water Beach Resort that  
19 are yet set up in a PRUD. They are not recorded yet,  
20 and no connection basically sitting there as far as  
21 I'm aware.

22 So we'd like to know what is the status  
23 first of what we would be required to pay as of today  
24 and, second, capacity questions. We don't see that  
25 the -- I'm assuming that these fees are also used to



1 expand capacity to ultimately take the remainder of  
2 our PRUD online, eventually someday. Those are just  
3 a number of questions we've got. I'm not sure they  
4 are pertinent to the interim rate increase today, but  
5 we do have questions how those fees are going to  
6 apply absolutely.

7 HEARING OFFICER: Before you sit down,  
8 Ms. Rinaldi, would you mind describing -- step back  
9 and kind of describe Edge Water Beach Resort's  
10 relationship to Mountain Sewer, when that  
11 relationship was established. We've had a number of  
12 status conferences and other meetings of these  
13 parties that have occurred off the record, but I  
14 don't recall having an awareness or having your  
15 entity discussed in any of those.

16 MS. RINALDI: Correct.

17 HEARING OFFICER: So I'd like to have a broader  
18 understanding of your client's relationship to the  
19 utility and when that developed.

20 MS. RINALDI: Sure. Celtic Bank foreclosed upon  
21 and took basically repossessed the Edge Water Beach  
22 Resort in -- I believe it was 2010, maybe 2009. It  
23 is a 168 unit condominium complex there in Weber  
24 County. It has an approved PRUD, Phase 1 of which is  
25 four condos which have been recorded -- which have

1       been platted, recorded, and getting ready to be  
2       sold -- sold.

3               We had quite a bit of roundabout as to will  
4       serve letters and that prior to recording, but we  
5       have a letter dated July 18th, 20'6 from  
6       Mr. Catanzaro approving six sewer and six water line  
7       hookups for the property so far for Edge Water Beach.  
8       We have 164 pending condominium units or approval to  
9       build those eventually. Those have not been -- to my  
10      knowledge, I don't believe any of those have been  
11      platted or recorded yet. I think it's just an  
12      approved subdivision, and that's where it sits.

13              To the best of my knowledge, we have no  
14      infrastructure. I don't believe the infrastructure  
15      was built out to the 164, and we do have sort of what  
16      passed for a receipt back in the day for connection  
17      fees for those units. So it's my understanding -- I  
18      guess, my clients we're trying to get an  
19      understanding what we would be liable to be paying as  
20      of today which I would be paying, I guess, for four  
21      connected properties, and then I don't know -- we're  
22      left with the 164, and we have questions about future  
23      capacity. I'm not sure if that's responsive to your  
24      question.

25              HEARING OFFICER: That's very helpful. What was

1 the amount of the connection fee that was paid? Was  
2 that in 2006 as well?

3 MS. RINALDI: Correct. Well, as far as we can  
4 see, it was \$4,704.88. We believe that is --

5 HEARING OFFICER: And that would have applied to  
6 the four?

7 MS. RINALDI: I believe that is correct. That's  
8 what we see. That's all the records that we have.  
9 So I'm not sure -- I am not sure. That could be  
10 completely incorrect, but we do have a letter that  
11 states that we have six sewer and six water hookups.

12 MR. ZINI: What was the amount, Leslie?

13 MS. RINALDI: Well, as far as I can tell, it's  
14 \$4,704.88, but I am not sure if that is -- but I  
15 cannot tell you with precision because of the way  
16 this is written as to what that covers or if that  
17 applies to this. So that's -- so honestly I really  
18 can't tell you. I don't know.

19 MR. ZINI: I would submit, if it's okay, that  
20 the connect fee for each lot is \$3,000 for sewer at  
21 that time, so I don't think that that \$4,004  
22 constitutes, in my opinion --

23 MS. RINALDI: I don't know.

24 MR. ZINI: -- that those are for hookup fees or  
25 connection fees.

1 MS. RINALDI: I don't know. I couldn't tell  
2 you, and apparently we don't have records from,  
3 Mr. Catanzaro.

4 HEARING OFFICER: Yeah.

5 MR. M. SMITH: Mr. Clark, I do have information  
6 that might be helpful. Those four condos that Leslie  
7 is speaking about were built under the ownership of  
8 Ron Catanzaro. They had a loan with Celtic, and  
9 those fees were paid during Ron's ownership. So  
10 there wouldn't be anything on Celtic's records that  
11 would indicate how much was paid for the four units  
12 at least.

13 There has been some discussion -- this  
14 takes a little bit of history, but we were counted a  
15 the body politic, and the Complainants before they  
16 filed with PSC actually filed a Complaint with Weber  
17 County, and there was a series of meetings with Weber  
18 County. And it was during this time that there was  
19 the foreclosure by Celtic Bank, and Celtic had  
20 acquired some potential purchasers. There was  
21 actually some litigation over the acquisition of this  
22 property, others that were trying to buy the property  
23 before, during, and after the foreclosure.

24 So there was some discussions with Weber  
25 County as to what it would take to get a will serve

1 letter. There's been some efforts to get  
2 entitlements. Now, Leslie was correct: There's over  
3 160 units that have been approved, but the last that  
4 we saw -- we've worked with Brandi Hammon who is the  
5 real estate agent for Celtic, and she's indicated to  
6 me and we have some plans showing that they are not  
7 going to build 160-plus units. They wanted on the  
8 water front to actually have some residential homes,  
9 and they are looking more like a density of 60.

10 If there's 160 and 160 connects come on  
11 board, the sewer doesn't have capacity, so there's  
12 been some discussion with the county in the  
13 entitlement process. Depending on the number of  
14 connects, we'll have to decide when those fees are  
15 paid, and because there's no capacity. And the sewer  
16 can't just create capacity. It needs money. So the  
17 county has indicated there might be a requirement for  
18 an agreement with Mountain Sewer in the entitlement  
19 process to pay those connection fees up front, but  
20 this is very, very preliminary.

21 And so there's not any indication or any  
22 desire of Mountain Sewer to have different rate  
23 systems or different payment schedules. It's just a  
24 practical solution to a situation where there's not a  
25 capacity. And so there might be a contract where the

1 developer will volunteer to pay those connection fees  
2 up front, but it's not going to be a requirement from  
3 the rate case today or the decision from this body is  
4 going to be a matter of contract to get the  
5 infrastructure in place for a project that is just  
6 again very, very preliminary.

7 We went to the point where they -- Celtic  
8 has laid out preliminarily what they would like to  
9 do. I don't think there's even been a formal filing  
10 with the county, but that came to us. We've actually  
11 had the engineer for Mountain Sewer review those  
12 plans and Celtic then would be paying the engineer to  
13 come with what would be necessary in order to provide  
14 the capacity, and that hasn't happened, so it's kind  
15 of a standstill as far as we know.

16 HEARING OFFICER: Thank you. Ms. Rinaldi?

17 MS. RINALDI: Yes. My client just got here. I  
18 have a little update. We do, in fact -- Celtic Bank  
19 has in fact reduced the density, has made application  
20 for reduction in density to 55 lots.

21 REESE HOWELL: It's 55 plus the four, so total  
22 of 59.

23 MS. RINALDI: 59 with final Phase 1 approval  
24 expected in June.

25 REESE HOWELL: Preliminary approval has been

1 given, and we're looking for final approval for  
2 Phase 1 in the next 30 to 60 days. Phase 1 is only  
3 nine --

4 MS. RINALDI: Right.

5 HEARING OFFICER: Would you please identify  
6 yourself.

7 REESE HOWELL: I'm sorry. I'm Reese Howell.  
8 I'm CEO of Celtic Bank.

9 HEARING OFFICER: Thank you, Mr. Howell.

10 Ms. Rinaldi, just another question or two  
11 for you. If I understood your statements correctly,  
12 you, at least at this point, have objections to the  
13 applications for rate increase and special assessment  
14 but not for the application for interim rate of  
15 increase that we're addressing today.

16 MS. RINALDI: I believe we stand -- I believe we  
17 join the pro se complainants, Mr. Zini, et al., as  
18 far as what the eventual amount is going to be. We  
19 have questions as to how the accounting was done, the  
20 calculations. We don't have an objection to some  
21 increase. We realize that's necessary. We certainly  
22 need capacity to serve our property, but as far as  
23 how those numbers were figured, based upon what,  
24 we're still a little unclear at this stage of the  
25 game. So that's the basis for our objections.

1           We agree they've made a prima facie case  
2 for some rate increase. What that eventual increase  
3 will be, that's what our objection is and as to when  
4 those fees -- the timing of when those fees will be  
5 due and payable, that's another question we have so  
6 far, but I'm not sure that applies to the interim  
7 rate increase as far as today.

8           HEARING OFFICER: Mr. Zini.

9           MR. ZINI: If I may make one more point, on the  
10 Regulation A, Facility Extension Policy for Mountain  
11 Sewer, A2, the last part -- I'll cut to the chase to  
12 the end of the paragraph. It says, "Advance payment  
13 of the connection fees for proposed subdivision is an  
14 express condition precedent to receiving final plat  
15 approval by the company."

16           So I think it's very clearly stated there  
17 that these things will be paid up front and we  
18 believe that that constitutes a preferential  
19 treatment. If not all lots that are prepared to --  
20 that should pay the connection fees are paying them  
21 at the same time, and we think that that saps money  
22 from going into Mountain Sewer because they are  
23 \$5,000 a pop under the new tariff.

24           HEARING OFFICER: Mr. Zini, if you're able to,  
25 to create a factual basis for this discussion that



1 you've been having with Mr. Smith --

2 MR. ZINI: Okay.

3 HEARING OFFICER: -- it would be helpful, I  
4 think if you could direct questions to the company's  
5 witness about a specific lot that you might have in  
6 mind that you feel has been -- is being treated in a  
7 preferential way, and then we can develop a factual  
8 record of what preferences or what discrimination you  
9 might feel is underway. And that would help to frame  
10 the issue for the Commission.

11 Any other preliminary statements?

12 MS. SCHMID: I have one matter.

13 HEARING OFFICER: Ms. Schmid.

14 MS. SCHMID: I do not believe that Celtic Bank  
15 has intervened in this case, and I'm wondering if it  
16 would be appropriate for Celtic Bank to make such a  
17 motion now.

18 MS. RINALDI: We have filed intervention. We  
19 have filed a petition. We did file a petition on  
20 Friday to intervene. I don't know whether that's  
21 been approved or not, but we have it on file. I do  
22 have a copy of it.

23 HEARING OFFICER: Thank you.

24 MR. C. SMITH: I don't have a copy. I haven't  
25 seen that petition.

1 HEARING OFFICER: Let's be off the record.

2 (off the record)

3 HEARING OFFICER: On the record.

4 Mr. Zini?

5 MR. ZINI: Thank you. Mr. Long suggested that  
6 the original sheet -- we got this sheet from --

7 MRS. ZINI: Mountain Sewer, new tariffs.

8 MR. ZINI: The new tariffs.

9 MRS. ZINI: In the rate case.

10 MR. ZINI: In the rate case. That's the source  
11 that I just read straight off the copy of that page,  
12 so this is, you know, not a piecemeal. This is  
13 something that was in the tariffs. I have the sheet  
14 right here. The next issue --

15 HEARING OFFICER: Can you identify the sheet by  
16 title, page number.

17 MR. ZINI: Regulation A, Facility Extension  
18 Policy. It's got a corner heading "Mountain Sewer  
19 Corporation, Original Sheet No. 12, PSC Utah No. 1."

20 HEARING OFFICER: I understand this is a part of  
21 the proposed tariff.

22 MR. ZINI: Right.

23 HEARING OFFICER: You've taken it from the  
24 application.

25 MR. ZINI: Right. And that, as we understand

1 it, is effective as of today with approval, but I  
2 mean this was the date, May the 21st. So is that  
3 sufficient?

4 HEARING OFFICER: It's not effective yet, but  
5 it's certainly under consideration.

6 MR. ZINI: Should I phrase it that, if this is  
7 approved, then this becomes facts. That's  
8 satisfactory to me.

9 HEARING OFFICER: Thank you, Mr. Zini.

10 MR. ZINI: One other issue on the standby fees,  
11 we feel that the expression of the standby fees in  
12 the pro forma of 5/10/12 is that they are inaccurate,  
13 and then I'll explain why. According to Mountain  
14 Sewer, new tariffs -- again, we're butting up against  
15 the new tariff, so it's all based -- Regulation D,  
16 Billing D1, "fees to be paid, all owners of platted  
17 and recorded lots for which the connection fees have  
18 been paid shall pay the monthly standby fees set  
19 forth in the rates and fee schedule of the tariff."

20 There is no indication on Mountain Sewer's  
21 pro forma of May of 10, 2012 of how many of the 54  
22 lots -- I heard someone say 55. The figure we had  
23 was 54 -- have paid or not paid their connection  
24 fees, and it is impossible to determine how many of  
25 the 54 lots should pay or not pay the new standby

1 fees. Until the status of the 54 lots are  
2 established, this could be a violation of 543.8A, B,  
3 and 2, Preferences Forbidden. Those are the three  
4 main issues that we wanted to bring up.

5 HEARING OFFICER: And, again, let me suggest to  
6 you that you can ask the Company's witness about the  
7 status of payment relative to the 55 lots.

8 MR. ZINI: That's fine.

9 HEARING OFFICER: But I do have a question about  
10 that for Mr. Smith.

11 So as I look at the application for interim  
12 rate increase, it says, "Standby fee, none." That  
13 would be the current status, but we're discussing now  
14 a standby fee, and I think you mentioned 55 --

15 MR. C. SMITH: That's the number I have;  
16 correct.

17 HEARING OFFICER: -- currently pay a standby  
18 fee. So I'm trying to reconcile in my mind the  
19 information there is no standby fee currently and 55  
20 customers are paying standby fees.

21 MR. C. SMITH: I'm sorry. I don't know what  
22 you're looking at.

23 HEARING OFFICER: I'm looking at the Application  
24 for Interim Rate Increase. Under Current Rate,  
25 Standby Fee, None.

1 MR. C. SMITH: I see. Yeah, I'll have to take a  
2 look at that.

3 HEARING OFFICER: Do that, please, and then  
4 report back to me. Let's be off the record.

5 (off the record)

6 HEARING OFFICER: On the record.

7 Mr. Smith.

8 MR. C. SMITH: I'm sorry. I think I  
9 misunderstood this, and I apologize for the confusion  
10 I caused you. But currently no one is paying a  
11 standby fee. We have, we believe, 55 who should pay  
12 a standby fee and will pay one if we get our new  
13 rates approved. Those are again lots that are  
14 platted but are not connected to the system. And  
15 they have not paid a connection fee because they  
16 haven't connected.

17 HEARING OFFICER: Thank you.

18 MR. ZINI: Well, again, may I rebut that. The  
19 fact it says here if you haven't paid the connection  
20 fee, you can't charge them the standby fee in the new  
21 tariff, so we're cross purposes to the new tariff  
22 again as I see it.

23 HEARING OFFICER: Thank you, Mr. Zini.

24 Anything else? Let's turn now to the  
25 Applicant, Mr. Smith.

1 MR. C. SMITH: At this time we would like to  
2 call Mr. Ray Bowden as our witness.

3 HEARING OFFICER: Thank you.

4 Mr. Bowden, please step to the witness  
5 stand. Before you sit down, if you would face me and  
6 raise your right hand please.

7 (The witness is sworn.)

8 HEARING OFFICER: Thank you, please be seated.

9 MR. C. SMITH: Mr. Clark, we have some exhibits.  
10 I have them in binders. I would like to distribute  
11 those at this time. I hope I have enough for  
12 everybody.

13 HEARING OFFICER: Please do. Off the record.

14 **(off the record)**

15 HEARING OFFICER: We'll be on the record. The  
16 record will reflect that Mr. Smith has distributed  
17 black binders, and within the binder are exhibits  
18 that Mountain Sewer intends to introduce. They are  
19 numbered 1 through 29.

20 MR. C. SMITH: Thank you. I'm not going --  
21 there's some of those I'm not going to introduce, but  
22 I'll try and be clear about that. If it's okay, I  
23 would like to stand. I always like to stand when I  
24 examine witnesses. It helps me to focus if that's  
25 okay.

1 HEARING OFFICER: Absolutely.

2 DIRECT EXAMINATION

3 BY MR. C. SMITH:

4 Q. Mr. Bowden, would you state your name and  
5 address.

6 A. Ray Bowden. And I live at 5393 East  
7 3850 North in Eden, Utah.

8 Q. What's your connection with the Applicant  
9 Mountain Sewer?

10 A. I'm operator of the sewer company.

11 Q. How did you become the operator of the  
12 sewer company?

13 A. I lent some money to Mr. Ron Catanzaro, and  
14 over a period of time he needed additional funds  
15 which I gave him, and there was a point to where Ron  
16 come to me and told me he wouldn't be able to repay  
17 the debt. And I had the real estate and the sewer  
18 and water company held as collateral on that debt  
19 that he had to me, and he indicated to me that he was  
20 just going to go back Florida and at that point I  
21 could take over his entities. So that's what we did.

22 Instead of a foreclosure, we got a deed in  
23 lieu, and I ended up -- I knew there was some  
24 problems with the sewer company and stuff, but from  
25 that point I mean he defaulted on a loan, so

1 basically I inherited his debt and real estate and  
2 sewer and water company.

3 Q. Do you have a background -- can you talk  
4 about your background in relation to your current  
5 duties as operating the sewer company. Do you have  
6 background in that area?

7 A. I was a general contractor for about  
8 ten years. As far as sewer companies go I sit on the  
9 Wolf Creek sewer board for about seven and a half to  
10 eight years. I have extensive service in  
11 plumbing-related entities. I owned the John Company  
12 for 33 years. We had toilet facilities throughout  
13 Utah, Wyoming, and Nevada through mining through  
14 different things. I'm pretty well versed when it  
15 comes to sewer operations. I had another sewer  
16 company in Wyoming that I ran and operated for  
17 several years, so I've got an extensive background as  
18 far as plumbing and sewer.

19 Q. Now, how long have you been the manager of  
20 the Applicant?

21 A. Since July.

22 Q. And tell me what you've done. What your  
23 responsibilities have been as the manager of the  
24 Applicant.

25 A. Well, I knew there was some issues when I



1 inherited the sewer company. There was some issues  
2 with the water company. The water company was able  
3 to address those because there's actually enough  
4 money to run that company. What I found with the  
5 sewer company is there's not enough money coming in  
6 on a monthly basis to pay the bills.

7 There was some flooding and stuff that  
8 happened. I had to pay our insurance company. It  
9 was one of my major things. I didn't like the  
10 liability of this entity, and I knew there was  
11 issues, and so as soon as I took over, I had a  
12 meeting with as many homeowners that I could get  
13 together and let them know I was the new owner, told  
14 them we had issues and problems we needed to address  
15 and take care of.

16 And after that we had several other  
17 meetings, but there was some money that needed to be  
18 spent, and at my first meeting, when everybody was  
19 there I said, "I can take care of these issues. We  
20 can fix them, but the people here are going to pay  
21 for these." And there was, you know, some comments  
22 back and forth, but I made it very clear that, you  
23 know, it was my intentions that the owners pay for  
24 thing that needed to be done.

25 And then I went in and had all the lines

1 camerad to see where we had issues and problems, and  
2 there was several hundred feet of sewer line that was  
3 collapsed that needed to be replaced and repaired.  
4 And I was able to -- I had to get a loan to Mountain  
5 Sewer from the bank to have some funds to pay for  
6 some of these things that had to be done.

7 And I started working on the issues that  
8 the complainants had that -- I don't know if they  
9 were suing the sewer company, but there were  
10 complaints that he wanted to have addressed, and I  
11 think at this point I pretty well addressed every  
12 issue that was on these complaints. If they are not  
13 done, I did the best of my capacity to make sure  
14 those issues were done.

15 There's still a lot of other things there  
16 that need to be handled and worked on which I did a  
17 spreadsheet to show the additional money that we need  
18 to go ahead and have this company up and running the  
19 way it should be.

20 Q. Was there any cash reserves in the company  
21 when you took it over to do these repairs?

22 A. There was nothing when I took over.

23 Q. And so as I think you already testified,  
24 you arranged to get a loan for the company; is that  
25 correct?

1           A.     I went down to the Bank of Utah, and I had  
2     our bank set up a loan to Mountain Sewer to take care  
3     of some of the needs that I had to address.

4           Q.     Could you just take a minute and talk a  
5     little bit about the type of facility the sewer  
6     company is or what kind of facilities it has.

7           A.     Right now it's got -- and I'd like to let  
8     some of the people see -- the biggest problem we have  
9     is the lift station, and when I took over there was  
10    two pumps in there, and there was some flooding that  
11    had taken place just before I took over, and it  
12    flooded some condos.  And as we got into it, we found  
13    out that a truck had knocked over a manhole, and a  
14    lot of debris and rocks and wood got into the sewer  
15    system up on the old Snow Basin Road, and it went  
16    down into the lift station and tore both pumps out.

17           They was able to get some vac trucks up  
18    there and try to minimize the flooding so it wouldn't  
19    go into Pine View Reservoir, which I think some of  
20    the people should have seen how close -- this lift  
21    station is just a few hundred feet from Ogden City's  
22    water source.

23           Q.     Look at what's been marked as Exhibit 9 in  
24    the book and ask if you can identify Exhibit No. 9.  
25    So it should be under Tab 9.

1           A.     Okay.  Yeah, that's the primary lift  
2     station.

3           Q.     I don't know if all of these -- some of  
4     these don't have color photos.  I could distribute  
5     these, Mr. Clark.  I think yours may be  
6     black-and-white, but we have a color photo.

7           MR. ZINI:  I have a color photo.

8           MR. C. SMITH:  Does everybody have color photos?

9           Q.     (BY MR. C. SMITH) See, yours is not.  Maybe  
10    you have the only one that's not color, but I'll give  
11    that to you.  Is that the lift station you were  
12    talking about?

13          A.     That is.  That's the lift station.

14          Q.     For those of us who may not be experts on  
15    sewer, what is a lift station and why does Mountain  
16    Sewer system need a lift station?

17          HEARING OFFICER:  For my clarification, are we  
18    talking about the building that is in the shadows?

19          A.     Yes.  It's right behind.  There's a vac  
20    truck there, was working on that about two weeks ago.  
21    And the vac truck goes up to pump out debris and  
22    stuff that's clogging in the pumps at this time.  
23    There's rags and different things that can go in  
24    there because there's not -- I proposed to have a  
25    catch basin before -- all the sewer from, not all the

1 homes, but majority, probably 90 percent of the  
2 homes, all feed down the mountain and into this lift  
3 station and then from this lift station it's pumped  
4 up the hill and into the sewer lagoons, which at the  
5 point is pressurized.

6 When there's enough affluent in these  
7 tanks, the pumps kick on automatically and pump this  
8 affluent about a half a mile up the mountain and into  
9 these sewer lagoons we have. When I was there, the  
10 one pump was not working. I expressed to the  
11 homeowners we had to get both pumps up and have them  
12 work so we don't have another flood situation on our  
13 hands.

14 So I started working on -- we rebuilt the  
15 other pump, and we took the other pump out and  
16 rebuilt it. But inside the lift station, you have a  
17 series of valves and -- gate valves that can shut.  
18 If you need to work on that stuff, you have a valve  
19 that you can shut off to work on your pumps. Well,  
20 these valves haven't worked since back in the '80s.  
21 If you don't work them and manage them or maintain  
22 them -- they had froze up, and there's no way you  
23 could ever shut off any affluent coming into them.

24 And not only that, there's a check valve in  
25 there -- I don't want to get this complicated, but

1 these pumps would pick up affluent that was about  
2 10 feet down in this lift station, pump it up to  
3 about eight feet and shoot it up the mountain. When  
4 that pump would cut off, the check valve is supposed  
5 to pump back like this to let the rest of the sewer  
6 stop at that point.

7 Q. So it doesn't flow back down?

8 A. So it doesn't flow back down into the tank.  
9 Well, those check valves haven't worked for years and  
10 years and years. Mitch that worked on them says as  
11 long as he's been there they've never worked. So  
12 after the pumps would stop, all the affluent from the  
13 top of the mountain would run back down into the lift  
14 station, raise it up about five or six feet so the  
15 pumps would constantly --

16 Q. So you were recycling or recirculating the  
17 same affluent back and forth between where they were  
18 being collected below and the ponds where the  
19 treatment takes place?

20 A. Right. Right. So I ordered the valves --  
21 and this is all stuff that I mean has to be done.  
22 The pumps are just going to keep wearing out. At  
23 this point there's not a catch basin to collect rags  
24 and the other debris. And Frank Cumberland was there  
25 one day when we had the vac truck up there, and we

1 showed him all the blow line. The seals where these  
2 pumps would hook onto the pressurized line, the pumps  
3 would kick on and about 30, 40 percent of it would  
4 blow backwards because the seals were shot. And I  
5 showed those to Frank, and he could see that we had  
6 that issue, and I just wanted to have some of the  
7 people to be aware some of the things we was trying  
8 to get accomplished, you know.

9 Q. What would have happened if this system  
10 failed and the pumps failed and they didn't pump up  
11 the affluent? What happens? Where does the affluent  
12 go?

13 A. That water would go right into Pine View  
14 Reservoir.

15 Q. And in the background of Exhibit 9, that's  
16 Pine View Reservoir?

17 A. That's Pine View Reservoir. That's the  
18 drinking source for Ogden City.

19 Q. Right. Okay.

20 I move for admission of Exhibit 9 at this  
21 time.

22 HEARING OFFICER: Any objection?

23 MS. SCHMID: No.

24 HEARING OFFICER: Be received.

25 Q. (BY MR. C. SMITH) By the way, have you been

1 able to repay any of that -- it sounds like we have a  
2 loan to do these repairs you were just talking about.

3 A. Yeah.

4 Q. Has that loan been repaid?

5 A. No.

6 Q. Why not?

7 A. We haven't come to terms with the  
8 homeowners to see how it's going to get paid. It got  
9 to a point where I had some negotiations and they  
10 wanted somebody else besides them to pay for all this  
11 work that's getting done, and I didn't really want to  
12 do it.

13 MR. ZINI: I object, Your Honor. That touches  
14 on the special assessment which is not to be brought  
15 and discussed in the interim rate case that  
16 testimony, the loan.

17 HEARING OFFICER: Objection. Overruled.

18 MR. C. SMITH: Thank you.

19 HEARING OFFICER: Let me be clear. The subject  
20 you're describing isn't under consideration today,  
21 but the information is --

22 MR. ZINI: Okay. All right.

23 HEARING OFFICER: -- relevant.

24 MR. C. SMITH: Thank you.

25 Q. (BY MR. C. SMITH) Mr. Bowden, I'd like you



1 to take a look at Exhibit 1 in your book and ask if  
2 you can identify Exhibit 1 for me. From now on, I  
3 think we'll pretty much follow the order through  
4 that. Can you identify Exhibit 1.

5 A. I do. That's from Eileen Thomas. She does  
6 the payables for the company, and she does also a  
7 portion of the receivables.

8 Q. And she was informing you that there wasn't  
9 sufficient funds to make payments; is that correct?

10 A. And it still that way today.

11 Q. Okay. And so you simply -- the company  
12 doesn't have the money to pay its debts at this point  
13 in time?

14 A. No.

15 MR. C. SMITH: I move for admission of  
16 Exhibit 1?

17 HEARING OFFICER: Any objection? It's received.

18 Q. (BY MR. C. SMITH) Okay. Let's have you  
19 also for a minute take a look at Exhibit No. 2 and  
20 ask if you can identify that.

21 A. I do.

22 Q. And what is that?

23 A. Well, we submitted for a general rate  
24 increase.

25 Q. And Exhibit 2 is the Application for

1 Interim Rate Increase; is that correct?

2 A. Yes.

3 Q. Have you had a chance to review that?

4 A. I have.

5 Q. And to the best of your understanding is  
6 the information contained in that Exhibit 2, the  
7 Application for Interim Rate Increase, accurate?

8 A. It's accurate.

9 Q. And why do you need an interim rate? Why  
10 can't we wait until the general rate increase is  
11 approved or not approved? Why are we here today  
12 asking for an interim rate increase?

13 A. Well, if somebody doesn't pay the utility  
14 bills and power bills and pay for a state licensed  
15 engineer that it's mandated by the state that we  
16 have, he hasn't been paid for last month. You're not  
17 going to have an engineer that's certified with the  
18 state to inspect the system and the power should be  
19 shut off here within -- I don't know how long they'll  
20 give us, but you've got utilities bills that can't be  
21 paid. You've got engineers that can't be paid, and  
22 Eileen can't even get paid.

23 Q. Eileen's the person that takes care of the  
24 records for the company and does the billing; is that  
25 correct?

1           A.     That's correct.

2           MR. C. SMITH:  I'll move for admission of  
3 Exhibit 2.

4           HEARING OFFICER:  Objection?  It's received.

5           Q.     Let's now go to Exhibit No. 3.  Can you  
6 take a minute and identify Exhibit No. 3 for me,  
7 Mr. Bowden.

8           A.     General rate increase.

9           Q.     Have you had a chance to review the general  
10 rate increase?

11          A.     I have.

12          Q.     In fact, you had input on the creation of  
13 that document; is that correct?

14          A.     I did.

15          Q.     Is that information contained in there  
16 accurate and correct to the best of your knowledge?

17          A.     To the best of my knowledge it is.

18          Q.     The general rate increase that the company  
19 is asking for, that's the same as the interim rate  
20 increase; is that correct?  Same amounts?

21          A.     That's correct.

22          Q.     And let me have you take a look at some of  
23 the schedules that are part of that rate increase  
24 application.  If we could go to -- first of all, I'll  
25 move for admission of Exhibit No. 3.

1 HEARING OFFICER: Objection? It's received.

2 Q. Let me have you go to Exhibit 3 that's  
3 marked as G 2 that's in the back there. If I can  
4 show you what that is so you can find that, that's  
5 this proposed rate schedule. It should be near the  
6 end of Exhibit No. 3 right there. Okay. Has  
7 everybody found that?

8 HEARING OFFICER: I'm going to need help to make  
9 sure I'm in the right place.

10 MR. C. SMITH: You're close. If I could help  
11 you, the numbers are up in the corner here. It's  
12 hard to see, but that's G 2 where we are right now.

13 HEARING OFFICER: So we're on a page that has in  
14 the left-hand corner, "Mountain Sewer Corporation  
15 General Rate Case, G2. rate schedule," and it's dated  
16 4/6/2012.

17 MR. C. SMITH: That's correct. So the record is  
18 clear, that's an exhibit to the Application for  
19 General Rate Increase that's marked as Exhibit No. 3.

20 Q. (BY MR. C. SMITH) Okay. And can you tell  
21 us what Exhibit G2 shows, Mr. Bowden?

22 A. Yes. It shows your fixed expenses set at  
23 \$12.14. Capital reserve is \$12.26. The usage  
24 expenses to connect to customers is \$32.67 with a  
25 standard of 57.06.

1 Q. Okay.

2 A. And we also have a standby fee of \$24.40.

3 Q. Okay. Thank you. Now, let me have you  
4 turn to Exhibit G4. That's three pages past G2, and  
5 that's entitled Revenue Requirement Calculations. Do  
6 you have that in front of you, Mr. Bowden?

7 A. I do.

8 Q. And, Mr. Bowden, can you briefly explain  
9 what this Revenue Requirement Calculations is doing  
10 or attempting to show?

11 A. Well, it tries to break everything out in  
12 separate categories to show how we can come to a  
13 figure of our \$57.

14 Q. Now, is that how the rates were determined  
15 was by calculating the expenses of the company?

16 A. Yes.

17 Q. Let me have you look at -- let me go  
18 through a few of these. It appears that if we look  
19 at the total operating revenue, which is line seven  
20 on Exhibit 3G4, it has a total revenue requirement of  
21 \$103,643; is that correct?

22 A. Yes, uh-huh.

23 Q. That amount is based on the expenses that  
24 are shown below that; is that correct?

25 A. Yes, uh-huh.

1 Q. And just to run through some of those, it  
2 looks like you have calculated an annual salary for  
3 office employees of 6,600?

4 A. Yes.

5 Q. Is that the Eileen we we're talking about?

6 A. Yes. I have two ladies that help me do  
7 that. Eileen does about 80 percent of it.

8 Q. They help you on a part-time basis.

9 A. Part time.

10 Q. This certainly isn't what -- next one, I  
11 guess there's things you're not paying for. You  
12 don't have any wages, employee benefits or anything  
13 like that. But if you go down to line 15 on that  
14 exhibit -- do you see that line 15 that says Purchase  
15 Power?

16 A. Uh-huh.

17 Q. What is that? What is purchase power?

18 A. I would assume that would be the utilities.

19 Q. Is that the electricity?

20 A. Yes.

21 Q. To run the --

22 A. Uh-huh.

23 Q. And you need electricity to run the system,  
24 I take it.

25 A. Well, you need electricity to run the lift

1 stations, and we've repaired the pumps at this point,  
2 but still aerators and sewer lagoons, out of three  
3 ponds there's half of them that work in one pond. So  
4 once we get to a point where we get all of them  
5 working, our utilities will go up a little bit, the  
6 power.

7 Q. I see. And this 5,400 is what you're  
8 forecasting per year for electric power.

9 A. Yes.

10 Q. And that's based your experience so far in  
11 running the system?

12 A. Well, the records that we've had since I've  
13 taken over, that's what we've come up with.

14 Q. Okay. Next, line 17 -- I'm sorry. Line --  
15 I'll get my lines straight here. I should have  
16 brought a ruler to keep track of these. Yeah, it's  
17 Line 17, chemicals, and it's \$150 for chemicals. Do  
18 you see that?

19 A. Yes.

20 Q. I take it you need to buy chemicals to run  
21 the system?

22 A. The chemicals we're talking about here is  
23 the weed killer and stuff we have to apply around the  
24 sewer lagoons to keep the weeds and stuff out of the  
25 lagoons. They are clay lined, and you can't have

1 weeds growing through them to let water appropriate  
2 through the clay.

3 Q. If you allow weeds to grow through the clay  
4 line, you would lose the benefit of the lining and  
5 you start leaching into the ground?

6 A. Right. That's what those chemicals are  
7 for.

8 Q. Below that you have contractual services  
9 for engineering for \$1500 on Line 19. I'm sorry.  
10 I'm skipping ahead. Materials and supplies. That  
11 will help me. Thank you. I'm having a hard time  
12 keeping these straight. Yeah, Line 18, material and  
13 supplies, \$1500. Tell me what that's for? Is that  
14 just miscellaneous?

15 A. That's miscellaneous, plumbing, supplies,  
16 stuff like that.

17 Q. Below that on Line 19 we have contractual  
18 services, engineering. Can you explain what \$1,200  
19 per year for that. What's that for?

20 A. Well, we use Great Basin Engineering to do  
21 our engineering, and where the lines are run and  
22 stuff, they have all that information. So as we need  
23 their assistance and help, then they come to our aid  
24 as far as giving us where the lines are, the depth of  
25 the line, when the lines were put in, and that's why



1 I use them.

2 Q. Also, you have Line 21, contractual  
3 services, legal. Is that for legal counsel for the  
4 company?

5 A. Yes.

6 Q. That's not for the rate increase we're here  
7 for today?

8 A. No.

9 Q. That's just ongoing regular, every year,  
10 legal help?

11 A. Yes.

12 Q. Contractual services, management fees, do  
13 you see that?

14 A. I do.

15 Q. That's \$22,000 -- \$24,000. Who is that and  
16 what's that for?

17 A. That would be for me to oversee the  
18 payables, receivables, our state engineer, work with  
19 him on almost a daily basis and to make sure the  
20 system is up and operating. I estimated that I'm  
21 putting way more than ten hours in a week now, but I  
22 estimated about ten hours a week to manage and  
23 oversee the company at \$50 an hour.

24 Q. Have you been paid so far for your  
25 management of the company?

1 A. I haven't been paid anything.

2 Q. I take it you're not willing to continue to  
3 work for free for the company?

4 A. I'm not going to keep working for free.

5 Q. So that's to pay you for your time that you  
6 estimated, \$10 an hour?

7 A. Per week.

8 Q. And have you investigated some other  
9 potential managers for the company what that would  
10 cost?

11 A. Yes. I contacted two other contractors  
12 to --

13 Q. Go ahead. If I could have you look at  
14 Exhibit 4 and 5. Still hold your place there. We're  
15 not finished with that. I want to cover that while  
16 that's fresh in everybody's mind. Can you identify  
17 Exhibit 4 for me.

18 A. These are outside contractors that have the  
19 expertise and experience to do the same job I could  
20 do at Mountain Sewer.

21 Q. I see Exhibit 4 that's a United Team  
22 Mechanical. That's somebody that has the expertise  
23 to run a sewer system, I take it.

24 A. Right.

25 Q. They would want \$2,400 a month for that

1 service?

2 A. That's right.

3 Q. That's more than what you're going to get  
4 paid if we get this approved?

5 A. Yes.

6 Q. Tell me what when Exhibit 5 is.

7 A. Exhibit 5 is Smedley, and they are somebody  
8 that I don't use on a day-to-day -- I hardly ever use  
9 them, but I wanted to get somebody with an outside  
10 input on what they would charge if they had to come  
11 up and do the same duties and responsibilities I had  
12 and got a quote.

13 Q. They would want \$2,700 a month; correct?

14 A. That's right.

15 MR. C. SMITH: I move for admission of  
16 Exhibit 4 and 5.

17 HEARING OFFICER: Objections? Received.

18 Q. (BY MR. C. SMITH) I take it you feel paying  
19 you \$24,000 a year is a very fair and reasonable rate  
20 for company?

21 A. I think it's very fair.

22 Q. Okay. Let's go down to -- the next item is  
23 contractual services. Now, we're back -- I'm sorry  
24 we're back at Exhibit 3 page G4 of Exhibit 3, line 24  
25 where it says "Contractual services, other, 2300."

1 Tell me what that's for.

2 A. I lost my -- where am I?

3 Q. Sorry to make you look back and forth.

4 A. I should have put my thumb on that.

5 Q. Yeah, let me get you back to that spot.

6 A. Okay. All right.

7 Q. That's \$2,300 for contractual services,  
8 other. Can you explain what that's for a little bit.  
9 Is that for other contract labor you might need  
10 during the year?

11 A. Yes, uh-huh. That's probably where I have  
12 Mitch. He would fit in that category. He's over all  
13 the electronics and the phone system and stuff for  
14 the lift station. If the lift station -- the pumps  
15 do clog up. It's an electronic system there. It  
16 needs to be updated. The one we have calls him at  
17 home. He calls me and let's me know what the problem  
18 is.

19 Q. So Mitch is contract help.

20 A. Right. Contract engineer.

21 Q. What's Mitch's last name? Do you know it?

22 A. Winegar.

23 Q. Winegar.

24 A. Yeah.

25 Q. You have some other contract workers, I

1 take it, that help you on occasion?

2 A. I do.

3 Q. Down to line -- we'll now skip down to  
4 Line 31 where it says insurance, \$12,000. Do you see  
5 that?

6 A. I do.

7 Q. Can you take a moment and explain what the  
8 insurance needs of the company are?

9 A. Well, we really needed it because at this  
10 point the insurance company is being sued because of  
11 all the flooding and stuff, liability.

12 Q. Part of that insurance is liability  
13 insurance?

14 A. Yeah.

15 Q. Do you have property and casualty insurance  
16 as well?

17 A. Yes.

18 Q. That cost came from what you're paying as  
19 premiums, I take it, at the present time for your  
20 insurance?

21 A. It does.

22 Q. Okay. And then we have amortization of the  
23 rate of case. That's this case here. That's number  
24 33; is that correct?

25 A. Yes.

1 Q. Down to miscellaneous -- then you have  
2 miscellaneous expenses, 3,760. I take it that's just  
3 kind of a catch-all for other expenses that the  
4 company may have during the year?

5 A. Yes, it is, uh-huh.

6 Q. Those numbers, as I see, make up -- if you  
7 look at line 38, the total operating expense yearly  
8 of 71,566; is that correct?

9 A. It is, uh-huh.

10 Q. Below that we have some lines for some  
11 taxes, total of -- to save some time, I won't go  
12 through each tax individually, but it looks like you  
13 have a total tax requirements of \$4,385 a year. Do  
14 you see that?

15 A. Yes.

16 Q. Is that based on what you're paying on  
17 taxes now?

18 A. Yes. Last year, yeah.

19 Q. Last year's taxes. Okay. So if we were  
20 then to go down to Line 49, you have -- would still  
21 have -- you know, if you take the 71,566 from the  
22 103,643, you have a net operating income of 27,692  
23 under the new rate structure that we're asking the  
24 Commission to approve?

25 A. Yes.

1 Q. Then would you have some depreciation, and  
2 of that \$27,000 you would -- I think we'll cover that  
3 on another sheet, but that would go into your reserve  
4 accounts to start building up a reserve?

5 A. Yes.

6 Q. Let's now go to -- Mr. Clark, unless you  
7 have other questions about Exhibit G4 I'm ready to  
8 move to the next part of the exhibit, but if you have  
9 something unclear, I'd be happy to have Mr. Bowden  
10 answer any more questions that you may have on  
11 schedule G4.

12 HEARING OFFICER: I'm curious about -- and I can  
13 ask these at the end.

14 MR. C. SMITH: This is fine. Why don't we do it  
15 while we are here.

16 HEARING OFFICER: That's fine with me to do that  
17 as well as long as it's acceptable to you.

18 The plant in service valuation, how is that  
19 arrived at? And I'm looking at line 50.

20 MR. C. SMITH: Yeah, there's earlier schedules  
21 that help explain that. Let me direct Mr. Bowden to  
22 help you answer that question since you're the one  
23 that needs to answer it, not me. Let me find the  
24 schedule that covers that.

25 HEARING OFFICER: Is it G3?

1 MR. C. SMITH: Yeah, it is G3. Have Mr. Bowden  
2 look at G3.

3 HEARING OFFICER: And I see the numbers. What  
4 I'm really interested in is, recognizing that the  
5 corporate records left something to be desired, my  
6 inquiry is about the source of the numbers on this  
7 page if Mr. Bowden knows.

8 Q. (BY MR. C. SMITH) Do you know, Mr. Bowden,  
9 how we came up -- this was the value of the fixed  
10 assets of the company and we applied the depreciation  
11 schedule to those fixed assets. Fixed assets include  
12 land and then depreciable equipment is the other one,  
13 \$77,760. So do you know where those figures came  
14 from that we determined the value of the land and  
15 another assets of the company?

16 A. I think they came through accounting  
17 services and Mel Smith's office.

18 Q. Would they also be that that came from  
19 other information that had been previously filed with  
20 the Public Service Commission?

21 A. Yes.

22 Q. And I see from that you have a land value  
23 of \$77,760. How much land does the sewer company  
24 hold, just approximately?

25 A. I would say around seven acres.



1 Q. And that has ponds and other facilities, I  
2 take it?

3 A. Yes.

4 Q. And as you see on this, we have a lot of --  
5 some figures for the equipment and other structures  
6 of the company. That's the mechanical workings --

7 A. Yes. The blowers and all that.

8 Q. -- ponds and all that sort of thing.

9 A. Yes.

10 MR. C. SMITH: Mr. Clark, does that answer your  
11 question on that?

12 HEARING OFFICER: It does. I'm going to address  
13 a question to Mr. Smith, Mr. Mel Smith. He's not a  
14 witness but has perhaps most familiarity with the  
15 corporate governance and filings. So the annual  
16 filings with the Commission have over time generated  
17 the numbers that we're seeing here on G3. There's  
18 been an orderly process of additions to rate base,  
19 depreciation.

20 MR. M. SMITH: That's correct. If you go clear  
21 back to when the PSC first approved, there was  
22 approval of about \$5,000. There was another large  
23 infusion of capital in about 2002 when the Lake Side  
24 Condominiums came on. From year to year,  
25 Ron Catanzaro through his accountant did file the

1 annual returns to the PSC. Those returns that we  
2 were able to obtain, most all from PSC -- we had  
3 ten years I think we were able to get from PSC, and  
4 it's from the latest year that Brian had discussion  
5 with the two of us that we plugged those number in.  
6 They were very consistent from year to year, and we  
7 passed it by our accountant who filed several of  
8 these years, and he said they were very accurate and  
9 felt comfortable with the numbers.

10 HEARING OFFICER: So for purposes of the prima  
11 facie case that we are developing today, I would like  
12 to consider that information that counsel has  
13 offered. Is there any objection to me doing that?  
14 That doesn't mean that parties would not be entitled  
15 to dispute the accuracy of any of these entries in  
16 the case in chief, but I'm interested in having  
17 information in the record as to the source of the  
18 numbers, the rate of based numbers that are before  
19 the commission.

20 Mr. Zini, did you want to address that?

21 MR. ZINI: Yes. There's a question I have, and  
22 I realize there's different dates. They are work off  
23 of a sheet that's called the GA Revenue Requirement  
24 Sheet dated 4/2 of 2012. And I'm wondering why they  
25 are quoting those figures when we have an updated pro

1 forma dated 5/10/12 that have the same numbers on  
2 them, and they are not exactly the same.

3 HEARING OFFICER: The same categories of numbers  
4 but not the same numbers.

5 MR. ZINI: Yes. The numbers are different as  
6 you go through each one of those. I'm just wondering  
7 where why we're using an old sheet when they  
8 themselves put out a newer sheet on May the 10th.

9 HEARING OFFICER: Do you mind if we ask  
10 Mr. Mel Smith?

11 MR. ZINI: Not at all.

12 MR. M. SMITH: I'm not sure what he's referring  
13 to. I'm looking at the exhibit.

14 HEARING OFFICER: Off the record.

15 **(off the record)**

16 HEARING OFFICER: For the information of the  
17 participants here today, we're going to have a recess  
18 in just a minute. We'll try to resolve this  
19 question. Mr. Zini has been referring to a pro forma  
20 that has a date of May 10.

21 MR. ZINI: May 10th.

22 HEARING OFFICER: Could you describe the source  
23 of that, how you received it and --

24 MR. ZINI: If you recall at the meeting on  
25 May 10th you were conducting a status hearing, a

1 meeting, and Mr. Mel Smith handed out some sheets and  
2 we had a member -- a homeowner from the Lake Side  
3 Villages there who happens to be an accountant with  
4 us. Apparently, Mr. Smith went over and gave him  
5 these sheets or maybe sent them to him later. I'm  
6 not quite sure. He came in possession of it. We  
7 were not aware of these until after we had mailed in  
8 our first narrative.

9           So our accountant -- Ray Allen is his  
10 name -- sent these to us. In fact, you might  
11 remember. He sent this pro forma to us, and our view  
12 is that evidently they want to work from the latest  
13 figures that they've worked up except now when we're  
14 talking about this they go back to the old figures,  
15 and it's very confusing on what set of figures we're  
16 going to use here. I think that needs to be  
17 established.

18           HEARING OFFICER: We'll be in recess until  
19 quarter to 11, and when we come back the company can  
20 respond --

21           MR. C. SMITH: Thank you.

22           HEARING OFFICER: -- the matter Mr. Zini has  
23 raised. Thank you very much. We'll be off the  
24 record.

25                                   **(off the record)**

1 HEARING OFFICER: We'll be on the record. So we  
2 were considering before the recess the pro forma  
3 information and what, if any, role it will have in  
4 the case, recognizing that the corporate operations  
5 is sort of a moving target and the application  
6 represents a snapshot in time, so apparently there's  
7 been some information that was distributed that  
8 postdates the application. Mr. Craig Smith, would  
9 you address that, please.

10 MR. C. SMITH: That's exactly right. These are  
11 projections. This is a moving target. What we're  
12 here asking for today is what's in our application  
13 which was done back in April. We have done some  
14 minor tweaks to some of the numbers after that. I  
15 think the difference when looking at the sheet that  
16 Mr. Zini had -- about \$500 in difference was all  
17 there was.

18 So rather than -- as we will gather and as  
19 we prepare for the rate case, we will get better  
20 information as we have more experience with the  
21 system, but as far as what we're trying to accomplish  
22 today, we'll stick with the numbers and the exhibits  
23 that we have as part of our application. That way  
24 everybody's had a chance to look at that.  
25 Everybody's had a chance to digest that. I think

1 that makes more sense.

2 You know, as we go on and learn more, sure  
3 we're going to -- it is a moving target as you  
4 mentioned, and we're going to try to refine the  
5 numbers as much as we can as we get ready for our  
6 final rate proceeding. But as far as what we're  
7 trying to get accomplished which is get these interim  
8 rates in place, I think the best numbers to use are  
9 the ones that we have in our application.

10 HEARING OFFICER: Mr. Zini, any comment or  
11 objection to that process?

12 MR. ZINI: No problem, not at all. I just want  
13 to make sure we're all working from the same source.

14 HEARING OFFICER: Thank you.

15 MR. C. SMITH: If I can continue, I have just a  
16 few more questions --

17 HEARING OFFICER: Mr. Smith, please continue.

18 MR. C. SMITH: -- for Mr. Bowden.

19 Q. (BY MR. C. SMITH) If I could have you,  
20 Mr. Bowden, go to Exhibit G6, I have a few questions  
21 about that exhibit. That's a couple pages after G4  
22 and it's entitled -- when I'm saying G6, it's  
23 Schedule G6 on Exhibit 3. So keep the record clean  
24 on that.

25 HEARING OFFICER: Thank you.

1 MR. C. SMITH: So Schedule G6 on Exhibit 3 says  
2 test your data, profit and loss, August 2011 through  
3 February 2012. Was this an exercise that you used to  
4 try to develop a budget for the upcoming year?

5 A. Yes.

6 Q. And this is based on actual experience from  
7 July until February; is that correct?

8 A. Yes.

9 Q. And then you've done some projections for  
10 the four months after that. You had to project?

11 A. Yes.

12 Q. But, to the best of your knowledge, is  
13 this -- does Schedule G6 show, at least to the best  
14 you can tell at the time, what your monthly budget  
15 would need to be?

16 A. As close as I can get.

17 Q. Yeah. Then you obviously annualize that  
18 for an annual budget, and that's how you came up with  
19 the numbers and Schedule G4; is that right?

20 A. That's correct.

21 Q. And to the best of your knowledge this is  
22 the amount of funding that is needed by the company  
23 to continue to operate?

24 A. It is.

25 Q. Let me have -- I have a few more exhibits

1 I'd like to go through to have you also identify. If  
2 we can go to Exhibit 6, just to put these into the  
3 record, I don't think I have a lot of questions. Can  
4 you identify Exhibit 6 for me?

5 A. Yes. This looks like from the onset of  
6 Mountain Sewer, from the time it started to the best  
7 of our -- I don't think we missed anything. We could  
8 have missed one. I doubt it. But these are all the  
9 connections, when they were -- when they come online.  
10 This is probably even before -- probably building  
11 permit stage.

12 Q. Okay. So this is a list of at least to the  
13 best your knowledge all of your connections to the  
14 sewer system?

15 A. Right. When they came on, yeah.

16 Q. And then Exhibit 7, tell me what that is.  
17 Exhibit 7, is that the standby?

18 A. Oh, yes.

19 Q. List of standby --

20 A. This is the standby customers, yes.

21 MR. C. SMITH: I move for admission of  
22 Exhibit 6 and 7.

23 HEARING OFFICER: Objections?

24 They are received.

25 Q. (BY MR. C. SMITH) Let me have you take a



1 minute and look at Exhibit 8, and tell me if you can  
2 identify Exhibit 8?

3 A. For the general rate increase.

4 Q. That should be the application for special  
5 assessment. Is that what that is?

6 A. Oh, special assessment?

7 Q. Yeah.

8 A. Oh, yes, yes, yes.

9 Q. We're not covering the special assessment  
10 today, but just to give a little background, why are  
11 you asking for a special assessment?

12 A. Well, this is the money that I was able  
13 to -- we got a loan from the Bank of Utah to Mountain  
14 Sewer, and after the flood there was all these things  
15 and the homeowners had several different items that I  
16 had to do a punch list in and try to get corrected  
17 and brought up to speed.

18 That's what I started working on, and there  
19 was -- after we camerad the lines and found there was  
20 broken and distressed sewer lines, I had to go in and  
21 make those repairs. But it was all stuff to just  
22 keep the system running and not to flood again. But  
23 that's the money that I've spent, and I've got every  
24 penny itemized to where it goes and what it's for.

25 Q. And the 71,566 annual operating expenses

1 that are in Exhibit 3, Schedule G4, that won't repay  
2 this debt, I take it?

3 A. No.

4 Q. There's not -- that's not that -- repayment  
5 of that debt's not built into the regular rate  
6 schedule?

7 A. No.

8 Q. Now, you have asked -- in a supplement we  
9 filed just last, you've asked to be able to make some  
10 payments on the line of credit or the debt that the  
11 company has?

12 A. Yes.

13 Q. You know, borrow these regular payment  
14 funds to do that. Why do you need to do that?

15 A. Well, if we don't keep the interest current  
16 and stuff, the bank will foreclose, and we'll go back  
17 to the sewer company again.

18 Q. So you have to make at least interest  
19 payments to the bank --

20 A. I do.

21 Q. -- while we're waiting to see if our  
22 special rate can be approved -- or special assessment  
23 is approved; is that correct?

24 A. Yes and they are running late right now.

25 MR. C. SMITH: Okay. I move for admission of

1 Exhibit 8.

2 HEARING OFFICER: Objections?

3 MR. ZINI: Yes, Judge. I still -- I don't see  
4 how this affects the interim rate case.

5 MR. C. SMITH: Well --

6 HEARING OFFICER: Do you want to address that?

7 MR. C. SMITH: Yeah, let me address that. We  
8 filed a supplemental filing last week and it was  
9 objected to, but we did file it, and what we're  
10 asking, Mr. Clark, is to have the ability to take  
11 monies that we receive from our fees, to borrow that  
12 money and have kind of an inter-fund loan, borrow  
13 from ourselves, and apply that to the interest  
14 payments we need to make to the bank. Right now we  
15 have no funds to do that. The bank doesn't care that  
16 we don't have these rates approved yet. What the  
17 bank wants is the interest paid every month, and we  
18 need to keep current with the bank so we don't go  
19 into default on our loan.

20 In a perfect world, I guess, we would have  
21 money to do that; we'd have some reserves to do that.  
22 We don't have any reserves. So what we're asking --  
23 the only way this is relevant is -- the only thing  
24 that's relevant about that is we're asking to be able  
25 to have the permission of the Commission to take

1 money that's paid to us monthly either by the standby  
2 or by the usage fees and apply that money to our  
3 loan. We will account for that, and when we  
4 hopefully get our special rate -- our special  
5 assessment approved, then we will repay that loan to  
6 ourselves.

7 But our creditors, again, they don't care  
8 where we are with the Public Service Commission or  
9 what is approved, they want to get paid. And we were  
10 in a position where we were forced to come in and do  
11 immediate work, and our customers were very unhappy  
12 with us. They filed a formal complaint. As  
13 Mr. Bowden I think has already testified, he was  
14 concerned about leaking into -- we could have easily  
15 leaked into the lake from overflows. It's money we  
16 had to spend, and we just want to be able to stay  
17 current on our debts while we're going through this  
18 process. And that's my response.

19 HEARING OFFICER: So a few questions about that.  
20 First, if I'm understanding your representations,  
21 there isn't any recovery of interest or principal  
22 relating to this line of credit in the -- I think  
23 it's G4, the presentation of monthly operating  
24 expenses. Is that true?

25 MR. C. SMITH: That's correct. We are

1 addressing that through our special assessment which  
2 will either be paid in a lump sum or over time, but  
3 that's where we're going to get those funds  
4 hopefully.

5 HEARING OFFICER: Would it be your intent to pay  
6 principal and interest on the line of credit in this  
7 loan --

8 MR. C. SMITH: Yeah, I think in this interim  
9 period we just need to pay interest. I think we've  
10 got the deal with the bank -- I should use a more  
11 formal term than that, but the requirements of the  
12 bank is that we keep the interest current for now.

13 HEARING OFFICER: And what's the monthly  
14 interest burden?

15 MR. C. SMITH: Mr. Bowden, what are you paying  
16 every month?

17 MR. BOWDEN: At this point we're about 125,000,  
18 and we're paying about 7 percent interest.

19 MR. C. SMITH: So break that down to a monthly  
20 and that would be it.

21 MR. BOWDEN: Yeah, it's probably around five or  
22 six hundred dollars a month.

23 MR. C. SMITH: That's all we're asking at this  
24 time. We're not asking to pay the principal at this  
25 time. We're asking to be able to keep current with

1 our bank so that we don't have the problems you have  
2 when you default to a bank. And I guess Celtic Bank  
3 could address that even better than we can. I see  
4 the person left from Celtic. But when you don't pay  
5 your bank, they come and foreclose. That's how they  
6 became owners. The prior owner didn't pay his bank,  
7 and that's why the bank is one of our owners.

8 HEARING OFFICER: So the estimate is five to six  
9 hundred a month interest payment?

10 MR. C. SMITH: That's right.

11 HEARING OFFICER: Mr. Zini, any questions based  
12 on my questions?

13 MR. ZINI: Yes. We were the party that objected  
14 to this proposal for two reasons. First of all, the  
15 filing was late by Mr. Bowden, and second of all, we  
16 don't feel that the ratepayers should absorb any more  
17 costs because the legal team from Mountain Sewer did  
18 not include the special assessment in the interim  
19 rate case.

20 HEARING OFFICER: Thank you.

21 MR. C. SMITH: And I've just -- Mr. Mel Smith  
22 ran the numbers. It's really about \$730 a month is  
23 what it is.

24 MR. BOWDEN: That was just an estimate.

25 MR. C. SMITH: He ran the numbers, and it would

1 be nice if we had another way to pay for these  
2 things. The only way we have to pay for everything  
3 is from our ratepayers.

4 One other exhibit -- and maybe we don't  
5 even have to worry about this. I would -- there was  
6 a question about notices. We do have an affidavit  
7 that shows notice was sent to Celtic Bank. I don't  
8 know if --

9 MS. RINALDI: No.

10 MR. C. SMITH: You're not objecting to the  
11 notice.

12 MS. RINALDI: No.

13 MR. C. SMITH: So I can bypass that. I believe  
14 that's all questions I have for Mr. Bowden at this  
15 time.

16 HEARING OFFICER: I'm interested in that. When  
17 was the notice served?

18 MR. C. SMITH: According to the affidavit, if I  
19 can approach --

20 HEARING OFFICER: Sure.

21 MR. C. SMITH: I have copies of the affidavit so  
22 you can have that.

23 HEARING OFFICER: Thank you.

24 MR. C. SMITH: The Notice was sent like it was  
25 to everyone else. I have copies here for everyone.

1 It's the same place that the bills are sent to Celtic  
2 Bank for their sewer fees for their lots that are  
3 connected, and it was sent on April 4th.

4 HEARING OFFICER: Looks to me like April 18th.

5 MR. C. SMITH: I'm sorry. I looked at the wrong  
6 date on the paper. We sent out notice to everybody,  
7 and, you know, probably went to somebody that -- I  
8 don't know who it went to at the bank. We have  
9 address, and we sent it to that same address.

10 HEARING OFFICER: Is this an extra copy?

11 MR. C. SMITH: That is an extra copy.

12 MS. RINALDI: That was simply during the time  
13 Celtic moved its entire operation downtown. So God  
14 only knows what else went missing. This was one of  
15 the things, so we're fine.

16 MR. C. SMITH: I wanted to try to point out that  
17 we did our best to get notice to everybody, and we  
18 didn't miss anybody. But that's all the questions I  
19 have for Mr. Bowden at this time.

20 HEARING OFFICER: Thank you, Mr. Smith.

21 Ms. Schmid.

22 MS. SCHMID: I have just a few for clarification  
23 purposes.

24 **CROSS-EXAMINATION**

25 **BY MS. SCHMID:**



1 Q. Mr. Bowden, in the application for special  
2 assessment it says the principal of the loan is  
3 215,000. Did I hear you say that the true amount was  
4 225,000 or did I misunderstand?

5 A. Well, there's -- one is a loan. The other  
6 is additional funds I need to make the other  
7 improvements on the system.

8 Q. So the amount of the loan is \$215,000?

9 A. No. The loan at the Bank of Utah is around  
10 125,000, and then we have -- there's almost -- the  
11 difference would be the other things we need to do to  
12 the sewer system to bring it up to state and  
13 operating conditions that we need -- requirements. I  
14 think there's a breakdown on that that shows all the  
15 other items that we need to keep working on.

16 Q. Okay. That makes more sense. Thank you  
17 for the explanation.

18 When you prepared your interim rate  
19 request, you had rates for both connected customers  
20 and for standby customers; is that correct?

21 A. Correct.

22 Q. What happens if rates for standby customers  
23 are not approved?

24 A. Well, there's -- it's just -- that's a  
25 source for us to get revenue on the sewer system

1 that's run right by their lots that they are not  
2 paying anything for and the other homeowners sitting  
3 there -- it's around three or four lots that  
4 investors have bought -- is sharing the whole burden.

5 Q. So if you don't get revenues from the  
6 standby fees, am I correct that it would cause  
7 financial harm to the company?

8 A. If we don't get that, the rest of the  
9 people that are connected would pay even more.

10 MS. SCHMID: Thank you. Those are all my  
11 questions.

12 HEARING OFFICER: Thank you, Ms. Schmid.

13 Mr. Zini.

14 MR. ZINI: Yes. Can I do that from -- I guess I  
15 can.

16 HEARING OFFICER: Absolutely.

17 MR. ZINI: First of all, I would like to pass  
18 out our narrative and updated narrative and  
19 spreadsheets and so forth. Here's for the --

20 HEARING OFFICER: Off the record.

21 (off the record)

22 HEARING OFFICER: On the record.

23 **CROSS-EXAMINATION**

24 **BY MR. ZINI:**

25 Q. Mr. Bowden, did you perform any audits or

1 due diligence prior to this transfer of assets?

2 A. No.

3 Q. So you went in and bought this company with  
4 the idea that -- can you describe the agreement that  
5 you had with Mr. Catanzaro?

6 A. Well, I didn't walk in and just buy this  
7 company.

8 MR. C. SMITH: If I can jump in, I'm sorry. I'm  
9 going to object to this line of questioning about  
10 things that happened before Mr. Bowden became the  
11 owner. I don't think that's relevant to what's  
12 before the Commission today, what due diligence he  
13 may or may not have done. He testified he was a  
14 lender and ended up foreclosing that. Again, I don't  
15 see the relevance.

16 HEARING OFFICER: I'm going to overrule the  
17 objection, Mr. Zini. You can ask these questions.

18 MR. ZINI: Thank you.

19 HEARING OFFICER: The matter was raised in the  
20 direct testimony, but I just want you to know that I  
21 expect that this line of inquiry would be  
22 principally -- would principally take place in the  
23 case in chief. So I think they've opened the door to  
24 some examination on this subject, so you proceed with  
25 your questions.

1 MR. ZINI: Thank you.

2 HEARING OFFICER: I want you to know, again, the  
3 issue is going to be central in the case in chief.

4 Q. (BY MR. ZINI) Okay. Can you describe --  
5 again, I'll repeat the question. Can you describe  
6 the agreement that you had with Mr. Catanzaro?

7 A. My agreement with -- I was a lender, and I  
8 lent Ron money, and in doing so I secured real estate  
9 and the water and sewer company, not thinking I was  
10 ever going to have to run or own this. He defaulted.  
11 We had a deed in lieu, and I ended up with the  
12 properties he had with debt that I still had to go  
13 take care of and a sewer company and a water company.

14 Q. Okay. Have you met with the complainant  
15 subcommittee on three occasions in a mutual attempt  
16 to reach a settlement on these issues?

17 A. I have.

18 Q. How would you describe those meetings?

19 A. Well, I thought it was -- you know, I got  
20 along really well with everybody, and I think I kept  
21 everybody up to speed on what I was doing, what I was  
22 spending. Towards the end I think when I met with  
23 you and Sharon and Frank it just got down to -- you  
24 know, you guys not wanting to pay for money that I've  
25 already spent to keep this system -- to get this

1 system up to speed, and that's where it kind of broke  
2 down.

3 Q. Would you be able to pay all the bills that  
4 you've described if all qualified connection fees  
5 were collected under the new tariff, that means  
6 immediately, of those qualified lots?

7 A. Well, first of all, your connection fees  
8 can't go --

9 HEARING OFFICER: Mr. Smith.

10 MR. C. SMITH: I don't understand what is meant  
11 by -- I think it's a confusing question. If he can  
12 explain what is meant by "qualified lots."

13 MR. ZINI: Those that would qualify under the  
14 new tariff.

15 HEARING OFFICER: Just a minute, Mr. Zini.

16 Did you complete your statement, Mr. Smith?

17 MR. C. SMITH: Yes. I would like to -- before  
18 we have Mr. Bowden answer questions, let us clarify  
19 what a qualified lot is in Mr. Zini's understanding.

20 HEARING OFFICER: Are you able to do that  
21 Mr. Zini, please.

22 MR. ZINI: The qualified lots are those that are  
23 ready to pay the connection fees because they have  
24 satisfied the previous criteria under the new tariff.  
25 They have done the plots or before the plot the new

1       tariff says that those lots must pay the connection  
2       fees.   Okay.

3                   But then the question of the existing lots  
4       raises its head again.   What is the status of those  
5       lots?   Why would they be exempt, if that's the proper  
6       word, from paying the connection fees if -- such as  
7       the lots in the Summit at Ski Lake where I live.  
8       Those lots have been platted long ago.

9                   HEARING OFFICER:   Mr. Zini, we want to ask a  
10       question at a time so the witness can answer.   So  
11       could we start with the first question that you'd  
12       like to address to the witness.

13                  Q.    (BY MR. ZINI)   Okay.   Do you believe that  
14       all lots should pay the same connection fees?

15                  A.    Yes.

16                  Q.    At what point do you believe that should  
17       happen?

18                  A.    When the sewer is connected to the house.

19                  Q.    Okay.   Now, there are two other fees  
20       involved in the hookup fees.   One is called the  
21       hookup fee.   What does that connote?   A hookup fee as  
22       opposed to a connection fee?

23                  A.    A hookup fee and inspection fee goes  
24       through Jim Banks.   He's a state certified contract  
25       labor.   He will go out and inspect the sewer line

1 from the road to the house and Jim charges our  
2 company I think \$300. And then there's an inspection  
3 fee where he'll go out and prior to hooking up to the  
4 house, he'll inspect everything to make sure it's to  
5 state standards. And I think that's -- I think it's  
6 \$50. I'd have to look. Or it might be a hundred  
7 dollars. I don't know. But that goes to Jim Banks.

8 Q. I'm a little confused. That means -- the  
9 connection fees being paid doesn't mean you're hooked  
10 up to the sewer system yet, only when you pay the  
11 hookup fee and then turn-on fee?

12 A. Well, when it's hooked up to your house,  
13 Jim Banks goes down and inspects that, and when he  
14 inspects it, we collect that, and we pay Jim for  
15 doing his work.

16 Q. So those combined fees come to \$5400 per  
17 connection?

18 A. Uh-huh, yeah.

19 Q. Okay. I need to get back to this -- I'm  
20 curious that you -- we've gone to several meetings  
21 including on May the 10th when you and Mr. Mel Smith  
22 said the company was on the ragged edge financially  
23 and you didn't know where you were going to go from  
24 here. Isn't it true if you were able to infuse, say,  
25 ten lots with the connection fees under the new

1 tariff, that would put \$54,000 into the coffers of  
2 Mountain Sewer?

3 A. It doesn't work that way.

4 Q. Can you explain how it works?

5 A. Yes. I mean, the connection fees don't go  
6 to the monthly operation of the sewer company. I  
7 think you think it does, but it doesn't. Those  
8 connection fees are to go ahead and have additional  
9 monies to add on another sewer lagoon if you need it  
10 or add on additional sewer lines. That's where that  
11 money goes unless I'm mistaken, but that's where --  
12 when I sit on the sewer board at Wolf Creek, you  
13 can't commingle those funds. You can't take a  
14 connection fee and use it to pay the monthly  
15 overhead, and I think that's what you think, but I  
16 might not be right.

17 Q. Well, I'm willing to learn about this.  
18 What about the standby fees that we talked about  
19 earlier today?

20 A. I think it's only fair to have a standby  
21 fee. If you have ten lots out there in a subdivision  
22 and you have speculators buying these lots trying to  
23 make money down the road and you have one homeowner  
24 sitting there, is he going to pay the whole burden of  
25 that sewer company running a line all the way up the



1 block? I think it's fair to have a small amount of  
2 that paid, and I think other sewer companies do too.  
3 It's not just me. If you look, I'll bet you  
4 90 percent of all the others have a standby fee.  
5 It's only fair to the other homeowners in my opinion.

6 Q. You think the standby fee as it's written  
7 in your request is in conflict with the new tariff?

8 A. I've got to see this new tariff. I don't  
9 know where this new tariff comes from. I'm confused  
10 about a new tariff.

11 Q. Well, excuse me a minute. I'll read it to  
12 you if that's acceptable.

13 A. All right. Where does it come from?

14 Q. Well, it's in your proposal for the rate  
15 case. You didn't know that?

16 A. Well, maybe I --

17 HEARING OFFICER: Mr. Zini, would you describe  
18 for the record what you're referring to.

19 MR. ZINI: The standby fees.

20 HEARING OFFICER: No, I mean the document that  
21 you're going to read from. Can you identify that by  
22 title, date of preparation.

23 MR. BOWDEN: I'm really confused on this.

24 HEARING OFFICER: Or if it's already in  
25 evidence, what its exhibit number is.

1 MR. C. SMITH: If I could help, I think what  
2 he's referring to is part of Exhibit No. 3, and it's  
3 the proposed tariff that's attached as part of  
4 Exhibit No. 3. If I can approach --

5 HEARING OFFICER: Off the record.

6 (off the record)

7 HEARING OFFICER: Mr. Zini, would you please  
8 state for the record what you're referring to and  
9 then you can quote from it and ask your question.

10 MR. ZINI: Okay. I'm referring to Mountain  
11 Sewer's new tariffs, Regulation D, Billing D1, fees  
12 to be paid, opening quote, "All owners of platted and  
13 recorded lots for which the connection fee has been  
14 paid shall pay the monthly standby fees set forth in  
15 the rates and fee schedule of this tariff."

16 There is no indication, our view is, on  
17 Mountain Sewer's pro forma of May 10th, '12 of how  
18 many of the 54 or 55 customers lots have paid or not  
19 paid their connection fees. And it is impossible to  
20 determine how many of the 55 lots should pay or not  
21 pay the new standby fees based on their new tariff.

22 HEARING OFFICER: So is your question how many  
23 have paid and what they've paid?

24 MR. ZINI: How many will come under the new  
25 tariff because these standby fees are brand new.

1 They go today.

2 HEARING OFFICER: Would you present a question  
3 about that, please, to the witness.

4 Q. (BY MR. ZINI) Okay. Mr. Bowden, how many  
5 of the 55 lots will have to pay the standby fees with  
6 the implementation in the new tariff?

7 A. I would estimate that all 55 would.

8 MR. C. SMITH: If I could interject, I think  
9 there's probably -- and this is our fault for causing  
10 the confusion. I think this is just a typo in the  
11 fees -- in that schedule. It should say, I think,  
12 "for which the connection fee has not been paid will  
13 pay the standby fee." That's the source of  
14 confusion. The standby fee is something you pay  
15 before you connect. Obviously, once you're connected  
16 you pay the regular fee. That's just, I think, an  
17 error we have, and I apologize that's what caused the  
18 confusion. It's just an error that I would ask that  
19 we could have it amended correct at this time in that  
20 sentence.

21 HEARING OFFICER: So that we have the  
22 clarification or the correction clear on the record,  
23 you've added a word or --

24 MR. C. SMITH: Yeah, "for which the connection  
25 fee has not been paid" or just take out "for which

1 the connection fee has been paid." You can take that  
2 all out. The point being is that you pay a standby  
3 fee up until the time of connection; after you're  
4 connected, you pay the regular fee because you're  
5 getting service at that point.

6 HEARING OFFICER: So how do you want it to read  
7 of those two?

8 MR. C. SMITH: I'd say, "All owners of platted  
9 and recorded lots for which the connection fee has  
10 not been paid shall pay the monthly standby fees  
11 according to the rate and fees schedules of this  
12 tariff." That's how I would like that to read. I  
13 think that makes it clear.

14 HEARING OFFICER: Any objection to that  
15 correction being made?

16 MR. ZINI: Not at all.

17 HEARING OFFICER: Thank you.

18 MR. ZINI: That's it, Mr. Bowden. Thank you.

19 HEARING OFFICER: Ms. Rinaldi.

20 MS. RINALDI: Just a couple of clarification  
21 questions also, Mr. Bowden, Leslie Rinaldi for Celtic  
22 Bank.

23 **CROSS-EXAMINATION**

24 **BY MS. RINALDI:**

25 Q. Exhibit 2, if you turn to Exhibit 2, that's

1 the application for interim rate increase, page three  
2 of that exhibit. Let me know when you're there.  
3 There is \$24.40 unconnected consumer standby fee that  
4 would be due today for folks that are on standby,  
5 unconnected. That fee would be due under the tariff  
6 application we just were referring to, which is  
7 Exhibit 3, Regulation D, Paragraph D1. In order to  
8 pay standby fees you have to have platted and  
9 recorded lots; correct?

10 A. Correct.

11 Q. So in the case of -- now, I'm going to  
12 refer specifically to Celtic Bank.

13 A. Okay.

14 Q. Realize it's a special case. There's some  
15 number of lots that have not been recorded, not  
16 platted. They have been approved as PURD. There's  
17 somewhere between 55 and 160. The unknown,  
18 unplatted, unrecorded lots currently would not be  
19 charged any kind of a fee until they were -- until  
20 such time as they were platted or recorded; is that  
21 correct?

22 A. Correct.

23 Q. Turning to, let's see, the same -- still  
24 Exhibit 3, G4, Schedule G4, revenue requirements, and  
25 behind that in my book anyway is G5 revenue

1 requirement notes. So that's Exhibit 3, and it's --  
2 let me show you.

3 MR. C. SMITH: If it will be okay, I can help  
4 Mr. Bowden find that.

5 MR. BOWDEN: It's kind of a mess.

6 MR. C. SMITH: Oh, yeah. This is a mess.

7 HEARING OFFICER: Off the record.

8 **(off the record)**

9 HEARING OFFICER: On the record.

10 Q. (BY MS. RINALDI) So we're at Exhibit 3,  
11 Schedule G4, referring back between Schedule G4,  
12 Revenue Requirement, and the page directly behind it  
13 which hopefully in your binder is also G5, Revenue  
14 Requirement Notes. Do you have that?

15 A. Uh-huh.

16 Q. I have a quick question about note 15. It  
17 talks about it -- says there's about -- the last --  
18 penultimate sentence in the notes, "Mountain Sewer  
19 has entered into an agreement with Valley Enterprise  
20 to credit the connection fees for VEI 66 lots against  
21 the outstanding principal and interest due on the  
22 note." Could you explain what that means?

23 A. I'm a little confused on that.

24 Q. Well, I am too. That's why I'm asking for  
25 clarification. I don't mean to be flippant. I'm

1       sorry.  Seriously, I'm confused.

2           A.     On what note?

3           Q.     It says, "Mountain Sewer" -- do you see the  
4 sentence beginning "Mountain Sewer has entered into  
5 agreement"?  That's in the note, sir, page G5.

6           A.     Okay.

7           Q.     Do you see the sentence for note 15, the  
8 sentence beginning "Mountain Sewer."  Do you see  
9 that?

10          A.     Uh-huh.

11          Q.     If you don't know, that's fine.  If you  
12 don't have an answer, I'm just wondering if you do.  
13 Your understanding of "Mountain Sewer has entered  
14 into an agreement with Valley Enterprise to credit  
15 the connection fee for VEI's 66 lots against the  
16 outstanding principal and interest due on the note."

17                 Do you understand what that means?  Have  
18 you had an opportunity to come to an understanding of  
19 what that means?

20          A.     Well, I think so in general.  I think that  
21 would be if this note wasn't paid, we could use that  
22 for some of the connection fees that I'd be facing.

23          Q.     So that would be a credit?

24          A.     Right.

25          Q.     To the extent we don't have a full

1 understanding of exactly how that would play out in  
2 the finances of the -- in the case in chief in the  
3 general case for the rate increase, I would like to  
4 put an objection on the record that until we get an  
5 understanding of what exactly that means, we'll  
6 object to any such credit being given. At such time  
7 the finances are made more clear, we would remove our  
8 objection at that time. I don't have any other  
9 questions. Thank you, sir.

10 HEARING OFFICER: Objection is noted for the  
11 record.

12 MR. ZINI: Judge, may I ask one more question of  
13 Mr. Bowden?

14 HEARING OFFICER: That's fine, Mr. Zini.

15 **RECROSS-EXAMINATION**

16 **BY MR. ZINI:**

17 Q. Mr. Bowden, isn't there a thing called  
18 contribution in aid of construction where you were  
19 able to take the connection fees and use them to  
20 perform construction improvements in your company?

21 A. I'm not aware of that. I don't know where  
22 you're coming from.

23 Q. Well, it's on -- again, on your sheet, your  
24 company's sheet dated 4/2/2012 where it shows  
25 \$381,000 was put in aid to construction, so I guess



1 you're going have to find out what that's about.

2 A. I guess I will.

3 HEARING OFFICER: Could you help us, Mr. Zini  
4 by --

5 MR. C. SMITH: Yeah, which --

6 HEARING OFFICER: -- providing more substantive  
7 description of the document that you were just  
8 referring to, sir? Title and --

9 MR. ZINI: This is the G4 Revenue Requirement,  
10 dated 4/2/2012, line 54.

11 HEARING OFFICER: Thank you.

12 MR. BOWDEN: Maybe I can refer to counsel and  
13 see if they can --

14 MR. C. SMITH: Yeah, I could -- I don't want to  
15 be a witness, but I think I can explain what that is.  
16 That is the application of connection fees that are  
17 received by the company. I can't remember how we  
18 came up with the number 381, but if I look at the  
19 note, it's note 20, it says it's the product of the  
20 connection fee of \$3,000 per connection times 127  
21 connected customers. So it's the former connection  
22 fee that was supposedly paid and hopefully has been  
23 paid by everybody that's connected, and that's how  
24 that amount is shown on the records of the company.

25 MR. ZINI: May I respond?

1 HEARING OFFICER: And the way you've treated  
2 that, if I'm understanding what you have here, is  
3 that that is part of your rate base calculation?

4 MR. C. SMITH: That's correct. And it's a  
5 deduction from the rate base, so it lowers the amount  
6 that we can get a return on.

7 MR. ZINI: The reason I raised the question is  
8 because Mr. Bowden said that you can't use any of the  
9 connection fees to help the company. That's what he  
10 said.

11 MR. BOWDEN: No, not to help the company, but to  
12 do the monthly operations of the company. You can  
13 use that money in other areas but not the monthly --

14 MR. ZINI: Okay. That's what I wanted to  
15 establish. That's all.

16 MR. C. SMITH: I think that hopefully that  
17 clears it up for Mr. Zini, but that's that money --

18 HEARING OFFICER: Any other cross-examination  
19 for this witness? Redirect, Mr. Smith?

20 MR. C. SMITH: I don't have any redirect for  
21 Mr. Bowden at this time.

22 HEARING OFFICER: I have a couple questions if I  
23 may.

24 MR. C. SMITH: Sure.

25 HEARING OFFICER: Additional to those I've

1 already asked.

2 **EXAMINATION**

3 **BY HEARING OFFICER:**

4 Q. Mr. Bowden, I'm looking at Exhibit 6, and  
5 my point in asking you to look at Exhibit 6 is just  
6 so that you can assist me in understanding the  
7 composition of the customers that the company serves.  
8 I see a number of subdivisions referenced here.

9 Can you give me a sense for which actually  
10 exist and have occupants and are being actively  
11 served by Mountain Sewer as opposed to those that do  
12 not yet have active customers?

13 A. Just a general synopsis of that, we're up  
14 in the valley, and there's various subdivisions and  
15 phases. Some of those are on septic tanks, and some  
16 are not. We've got the Summit. There's  
17 approximately 20-some lots up to the Summit that can  
18 still be developed. At the Chalets there's probably  
19 another maybe 45 lots up there that can be, you know,  
20 subdivided and sold at some point. I am in Phase 5  
21 now, and we had eight lots there, and some of those  
22 lots have sold, but some of them that are sold were  
23 sold to like a retirement investment account, so they  
24 are going to hold those. Those connections won't  
25 come on very soon.

1 Q. But as to those, there are customers of  
2 Mountain Sewer in those developments --

3 A. Yes.

4 Q. -- or subdivisions?

5 A. Yes. Like the Chalets, there's probably 15  
6 customers at the Chalets with a lot more to be  
7 developed and expanded upon, but the economy is a  
8 little slow right now.

9 Q. But those would be part of the 127  
10 customers --

11 A. Yes, some at the Chalets, some at the  
12 Summit. There's been various phases through the  
13 years where it's a different construction site and a  
14 different phase.

15 Q. And I see the four Edgewater lots are  
16 listed here that we referred to earlier. Those are  
17 not occupied.

18 A. That's Celtic Bank, I think, on those.  
19 They are the ones -- they have a fourplex there.

20 HEARING OFFICER: Are there customers in those?  
21 Are they --

22 MS. RINALDI: They are connected, yes.

23 HEARING OFFICER: Thank you.

24 MR. BOWDEN: They have their own lift station  
25 there. That's pumped up and then it flows down by

1 the lake and pumped back up the hill. There's a lot  
2 of crazy stuff there that needs to be addressed on  
3 how it's run now to where it needs to be run.

4 HEARING OFFICER: Okay. Thank you. That  
5 concludes my questions. You're excused, Mr. Bowden,  
6 unless you have any questions based on my --

7 MR. C. SMITH: No further questions for  
8 Mr. Bowden at this time.

9 HEARING OFFICER: Thank you.

10 Mr. Smith, anything further?

11 MR. C. SMITH: I have nothing further. I do  
12 have some brief closing remarks, but I know other  
13 people may have witnesses they will call.

14 HEARING OFFICER: Ms. Schmid.

15 MS. SCHMID: Thank you. The Division would like  
16 to call Mr. Mark Long as its witness.

17 HEARING OFFICER: Mr. Long, would you please  
18 take your place on the witness stand. Before you sit  
19 down, would you raise right hand.

20 (The witness is sworn.)

21 HEARING OFFICER: Thank you, please be seated.

22 **DIRECT EXAMINATION**

23 **BY MS. SCHMID:**

24 Q. Good morning.

25 A. Good morning.

1 Q. Could you please state your full name,  
2 title, employer, and place of employment for the  
3 record.

4 A. Yes. My full name is Mark Alan Long. I'm  
5 employed by the Division of Public Utilities. What  
6 else did you want?

7 Q. Business address.

8 A. 160 East 300 South, Salt Lake City, Utah.

9 Q. And position description.

10 A. I'm a utility analyst for the Division.

11 Q. Thank you. Mr. Long, in connection with  
12 your employment with the Division, have you worked on  
13 the Mountain Sewer matters?

14 A. Yes.

15 Q. Specifically have you examined the request  
16 for interim rate relief?

17 A. Yes, I have.

18 Q. Did you file a memorandum dated May 15,  
19 2012 which contained the Division's recommendations  
20 on this matter?

21 A. Yes.

22 MS. SCHMID: Your Honor, would you like me to  
23 request that you take administrative notice of that  
24 memorandum as it was filed or would you like me to  
25 move for admission as an exhibit?

1 HEARING OFFICER: Let's mark it as an exhibit.

2 Q. (BY MS. SCHMID) Do you have any changes or  
3 corrections to that memorandum which we will mark as  
4 DPU Exhibit No. 1?

5 A. No, not at this point. After hearing the  
6 discussion, I believe that most of the additions or  
7 corrections I was going to make have already been  
8 discussed and resolved.

9 MS. SCHMID: With that, the Division would move  
10 for the admission of DPU Exhibit 1 which would be the  
11 memorandum dated 5/15/2012 containing the Division's  
12 recommendation on the interim rate increase.

13 HEARING OFFICER: Any objections?

14 MR. C. SMITH: No objection.

15 HEARING OFFICER: It's received in evidence.

16 Q. (BY MS. SCHMID) Mr. Long, do you adopt that  
17 memorandum as your testimony?

18 A. Yes, I do.

19 Q. Do you have a summary statement and other  
20 comments that you would like to make this morning?

21 A. I think that memorandum stands on its own  
22 in terms of the Division's recommendation.

23 MS. SCHMID: Okay. Mr. Long is now available  
24 for cross-examination from the parties and from the  
25 administrative law judge.

1 HEARING OFFICER: Thank you. Any  
2 cross-examination for Mr. Long?

3 MR. C. SMITH: I have one or two questions.

4 **CROSS-EXAMINATION**

5 **BY MR. C. SMITH:**

6 Q. So my understanding, Mr. Long, is it's the  
7 Division's position that the interim rate increase  
8 should be granted -- is that correct? -- as  
9 requested.

10 A. That's correct.

11 MR. C. SMITH: That's all I have.

12 HEARING OFFICER: Any other questions?

13 MR. ZINI: Yes, I have one.

14 **CROSS-EXAMINATION**

15 **BY MR. ZINI:**

16 Q. Mr. Long, why did the DPU not note the  
17 presence of the special assessment expenses in this  
18 request since they were specifically excluded by the  
19 judge on May the 10th before you said that this was  
20 satisfactory to your department?

21 A. I guess I don't completely understand. Why  
22 did they not know?

23 Q. No. I'm sorry. Maybe the way I asked it.  
24 It appears, the DPU -- you just testified that they  
25 gave their whole-hearted support to this interim rate



1 of case; is that correct?

2 MS. SCHMID: Objection to the characterization  
3 as whole-hearted.

4 HEARING OFFICER: Sustained.

5 Q. (BY MR. ZINI) Well, okay. But you give  
6 your support and you say the report stands on its  
7 own?

8 A. Yes. I recommended that the interim rates  
9 be approved.

10 Q. Okay. During your investigation of the  
11 interim rate case facts, why did you not object to  
12 the inclusion of the expenses for the special  
13 assessment since the judge had made it clear on  
14 April the 10th -- May the 10th that those were not to  
15 be included in the interim rate case?

16 A. Can you tell me what schedule you're  
17 referring to so that I may --

18 Q. What schedule?

19 A. What amounts or what items?

20 Q. I'm so confused by that myself.

21 HEARING OFFICER: I think it's an indication  
22 he's not following your question, Mr. Zini, so  
23 perhaps you could rephrase it.

24 Q. (BY MR. ZINI) Okay. Let me rephrase it.  
25 On line 54 I'm sorry, not 54. On the most recent pro

1       forma, 5/10/2012, pro forma income statement for  
2       Mountain Sewer, lines 34, line 51, and line 65 refer  
3       to the special assessment, and those are left in the  
4       calculations even though they have been excluded by a  
5       decision by the judge.

6           MS. SCHMID:  Objection.  I don't know if the  
7       witness has that in front of him, that pro forma in  
8       front of him.

9           MR. ZINI:  I can give him a copy.

10          MS. SCHMID:  And I would like to take a look at  
11       that as well, and I may have some other concerns, but  
12       I need know where we are going.

13          HEARING OFFICER:  We're off the record.

14                           **(off the record)**

15          HEARING OFFICER:  We're on the record.

16                   Mr. Zini.

17          Q.       (BY MR. ZINI)  Mr. Long, the 4/2  
18       pro forma, is that part of this rate case?

19          A.       Which one?

20          Q.       The date of 4/2/10 -- '12.

21          A.       Yes, I believe it is.

22          MS. SCHMID:  Objection.  Could we have a little  
23       bit more clarification as to exactly what 4/2 pro  
24       forma Mr. Zini is referring to so the record is  
25       clear.

1 HEARING OFFICER: Mr. Zini, are you looking  
2 at --

3 MR. ZINI: Here it is. It's the G8 pro forma  
4 income statement of 4/2/2012.

5 HEARING OFFICER: Are you looking at G4?

6 MR. ZINI: It says G8.

7 MS. SCHMID: Is that sheet eight of Exhibit G4  
8 perhaps -- of Exhibit G perhaps?

9 MR. C. SMITH: It's Schedule G8 is attached to  
10 Exhibit 3.

11 MS. SCHMID: Exhibit 3. Okay.

12 HEARING OFFICER: All right. I think we're all  
13 on the same page, Mr. Zini. Please proceed with your  
14 question.

15 Q. (BY MR. ZINI) Okay. On that sheet, if  
16 you look at line 51, interest expense, special  
17 assessment, \$25,642 in expenses for the year 2012.  
18 Trying to see if I can find the other one now if they  
19 are on a different line or -- pardon?

20 MRS. ZINI: They should be on the same line.

21 MR. ZINI: Forgive me. I didn't expect --

22 Q. (BY MR. ZINI) Also under "other income,"  
23 line 65, "other miscellaneous waste water revenues,  
24 special assessment" are listed under income.

25 And what was the other one? 51.

1                   And line -- we already talked about 51.  
2                   51, 65, and 34. 10,897 for amortization of the rate  
3                   case expense. All those are on that pro forma, and  
4                   if that's part of the rate case, then I think it is  
5                   proper to talk about those things.

6                   HEARING OFFICER: So do you have a question  
7                   about them for Mr. long?

8                   Q.       (BY MR. ZINI) Well, the same question,  
9                   why would these be ignored in the DPU's review of the  
10                  interim rate case?

11                  A.       In my review and following through the  
12                  spreadsheets that was submitted by Mountain Sewer, it  
13                  appeared to me that they were basing their rates off  
14                  of G4, not G8. G8 is a pro forma income statement  
15                  that, you know, they are trying to project into the  
16                  future. The actual rates that I could tell were  
17                  actually calculated on G4 of the same exhibit. So I  
18                  guess short answer is no, the Division didn't rely on  
19                  the pro forma income statement.

20                  Q.       If this is part of the rate case, why  
21                  didn't you use that pro forma?

22                  A.       Well, because it's not what the company or  
23                  Mountain Sewer had based their rates on. This is a  
24                  supplemental item in support of their general rate  
25                  increase request but not used to determine the rates.

1 Correct me if I'm wrong.

2 Q. Well, I think that needs to be determined.  
3 If this pro forma is part of the rate case, which  
4 apparently it is, it goes back to the 4/2/2012, and  
5 it's already been said that this is part of the rate  
6 case, then I think anything on this form should be  
7 used in calculations.

8 MS. SCHMID: Objection. Is there a question  
9 there?

10 MR. ZINI: All right.

11 Q. (BY MR. ZINI) Don't you think that  
12 anything on this form should be used in calculations?

13 MS. SCHMID: Objection. Asked and answered.  
14 Badgering the witness.

15 HEARING OFFICER: You can answer the question,  
16 Mr. Long.

17 MR. ZINI: Thank you.

18 A. No, not necessarily everything that's  
19 included in the request ties back directly to the  
20 rates including, in my opinion, G8.

21 Q. Well, I am stunned that every form that  
22 we --

23 HEARING OFFICER: Mr. Zini, you'll have an  
24 opportunity for argument, but right now it's  
25 questions for the witness.

1 MR. ZINI: Okay. I'm through with Mr. Long.

2 HEARING OFFICER: Thank you.

3 MS. RINALDI: Couple questions based on --

4 HEARING OFFICER: Ms. Rinaldi.

5 **CROSS-EXAMINATION**

6 **BY MS. RINALDI:**

7 Q. Couple questions, Mr. Long, when you say  
8 you looked and there was adequate prima facie  
9 evidence, could you explain what you did look at as  
10 far as making determination that there was adequate  
11 prima facie evidence?

12 A. I looked at the application for the interim  
13 rates as well as the application for the general rate  
14 increase as well as the related exhibits.

15 Q. You were presented with certain forms and  
16 information from Mountain Sewer; correct?

17 A. Yes.

18 Q. Did you do anything to check on the  
19 veracity of those documents?

20 A. Not at this point. That would be done  
21 prior to the case in chief I think it's referred to  
22 as.

23 Q. So for your present recommendation, you  
24 simply were basing your recommendation at face value;  
25 correct?

1 A. Correct.

2 MS. RINALDI: Thank you. No further questions.

3 MS. SCHMID: I have --

4 MR. C. SMITH: I have a question or two  
5 following up on that.

6 HEARING OFFICER: Let's have that and then we'll  
7 have redirect.

8 MR. C. SMITH: Okay.

9 **CROSS-EXAMINATION**

10 **BY MR. C. SMITH:**

11 Q. I take it that this is not the first time  
12 that you've reviewed rates of a water and sewer  
13 company -- a rate request of a water and sewer  
14 company.

15 A. That's correct.

16 Q. And this is your job as I understand it to  
17 make these types of reviews?

18 A. Correct.

19 Q. And anything about the application of  
20 Mountain Sewer that didn't look standard, correct --  
21 I don't know what word you want to use, but, you  
22 know, the costs of about seventy, seventy-five  
23 thousand a year to run the company. Is that kind of  
24 typical for a small company like this?

25 A. Based on my experience I didn't see any of

1 the costs or the revenues being out of place. In  
2 fact, this is probably too typical of most of the  
3 companies we review, that they are having financial  
4 issues and need a rate increase.

5 MR. C. SMITH: Okay. That's all I have.

6 HEARING OFFICER: Ms. Schmid.

7 MS. SCHMID: Thank you.

8 **REDIRECT EXAMINATION**

9 **BY MS. SCHMID:**

10 Q. Mr. Long, in preparing the Division's  
11 recommendations, did you look at the exhibits that  
12 were filed by the company in conjunction with its  
13 request for a general rate increase?

14 A. Yes.

15 Q. Did you see there that there was a  
16 requested \$24,000 annual operating fee -- I can't  
17 remember the exact words.

18 MR. C. SMITH: Management fee.

19 Q. Management fee?

20 A. Yes, I did.

21 Q. Do you recall if there had been expenses  
22 previously incurred for management fees by the  
23 company?

24 A. Yes. And that was one of the points that I  
25 analyzed, and if you were to -- I don't know if I can



1 see it up here that well, but if you refer to  
2 Exhibit G4 it shows that previously -- let's see if I  
3 can find it here -- contract services were \$43,000.  
4 Let me refer to my notes here. I can read that  
5 better.

6 Basically Mountain Sewer is replacing the  
7 previous management fees of \$43,324 with wages for  
8 office employees of 6,600; management fees for  
9 Mr. Bowden of 24,000; and other contractual services  
10 for 2,300 as they explained earlier.

11 If you look at this, this actually  
12 represents a \$10,424 loss, or 24 percent reduction in  
13 the management fees.

14 Q. Thank you. So in connection with your  
15 examination, do you realize that this is for an  
16 interim rate increase and the standard is a prima  
17 facie standard?

18 A. Yes.

19 Q. What happens during the next phase before a  
20 general rate increase recommendation is made?

21 A. A thorough and complete audit will be done  
22 on all the issues that we discuss today. Amounts  
23 will be verified. The issues will be explored in  
24 depth, and the Division will make the recommendation  
25 based on that.

1 Q. And just to close then, it is the  
2 Division's recommendation that the interim rate  
3 increase be adopted as it is justified under the  
4 applicable standards?

5 A. Yes.

6 MS. SCHMID: Thank you very much.

7 HEARING OFFICER: Thank you, Mr. Long. You're  
8 excused.

9 Anything else from the Division,  
10 Ms. Schmid?

11 MS. SCHMID: Nothing more.

12 HEARING OFFICER: Thank you.

13 Mr. Zini?

14 MR. ZINI: Yes, sir.

15 HEARING OFFICER: It would now be your  
16 opportunity to present evidence if you would like to.

17 MR. ZINI: Our evidence consists of a narrative  
18 and analyzation and a proposal with two spreadsheets  
19 at two different rates and some arguments, many of  
20 which we've discussed today already, so maybe we can  
21 get through these pretty quickly. Do you want me  
22 though start now?

23 HEARING OFFICER: Before you do that, what --  
24 did you intend to take the witness stand so that  
25 counsel could cross-examine you on the substance of

1 this material?

2 MR. ZINI: My intention was to put out our  
3 position as complainants. I didn't intend to testify  
4 about anything.

5 MR. C. SMITH: If he's going to provide a  
6 witness or evidence, we'd like to have the  
7 opportunity to cross-examine.

8 MR. ZINI: Well, I saw the attorneys get up and  
9 they didn't have to be a witness and they put forth  
10 their information. Now, is it true in this state if  
11 you are called as a witness and an attorney you have  
12 to leave the case?

13 HEARING OFFICER: No.

14 MR. ZINI: Oh, I thought it was.

15 HEARING OFFICER: Are you an attorney?

16 MR. ZINI: No. I have no legal experience at  
17 all.

18 HEARING OFFICER: Well, you're doing very well,  
19 Mr. Zini, we appreciate that. The distinction is  
20 that if you're making representations of fact as  
21 opposed to legal argument, then it's the right of the  
22 other parties to be able to examine you on those  
23 representations. What I think we should do it's,  
24 let's take our noon recess, and we'll stay off the  
25 record here for a couple minutes together and sort of

1 discuss how we'll proceed this afternoon. We'll be  
2 off the record.

3 (off the record)

4 HEARING OFFICER: So it's now 1:35. We  
5 concluded our lunch recess, and we're coming back to  
6 the documents that Mr. Zini distributed which we'll  
7 identify as Zini Exhibit 1.

8 And, Mr. Zini, as we were discussing before  
9 the lunch break, you have the opportunity to present  
10 this material in some different forms, one of those  
11 would be as a witness and to be subject to  
12 cross-examination on this material. Another would be  
13 to submit it as a customer of the company and as a  
14 customer statement to the Commissioners, and you may  
15 do that either sworn or unsworn as you choose. And  
16 so among those options, having considered this over  
17 the lunch break, what would you like us to do?

18 MR. ZINI: I came to the same conclusion that  
19 you did, that I think we've had an opportunity to  
20 discuss the issues, the main issues that were  
21 concerning to the people that I'm here to represent  
22 and ourselves, and I think we'll just submit it as a  
23 customer unsworn.

24 HEARING OFFICER: And we'll receive Exhibit 1  
25 with that understanding and on those terms and

1 appreciate your participation in the proceeding and  
2 the presentation that this information for the  
3 Commissioners' consideration on the application for  
4 interim rate increase. Having --

5 MS. SCHMID: Pardon me. Could I ask some  
6 clarifying questions about who Mr. Zini is  
7 representing? I don't know if this would be the  
8 appropriate time.

9 HEARING OFFICER: That's fine. That's the next  
10 subject for us to take up. That would be a fine way  
11 for that information to come onto the record,  
12 Ms. Schmid, so please go forward.

13 MS. SCHMID: Would it be appropriate for  
14 Mr. Zini to be sworn just for the purpose of these  
15 questions or is that unnecessary?

16 HEARING OFFICER: I think it's adequate for him  
17 to just express to us his role here as he perceives  
18 it.

19 MS. SCHMID: Thank you.

20 Mr. Zini, I have just a few questions on  
21 representation. As you know, a non-attorney cannot  
22 represent other parties before the Commission unless  
23 he or she is doing it as an officer or employee of  
24 parties to the proceedings or for the principals in  
25 the proceeding. So I take it that you are not here

1 as a lawyer; is that correct?

2 MR. ZINI: That's correct.

3 MS. SCHMID: With the discussion or with the  
4 information that I just set forth, who are you  
5 representing? Are you just representing yourself and  
6 Mrs. Zini today?

7 MR. ZINI: Did you want me to go in to a  
8 detailed explanation?

9 MS. SCHMID: Yeah.

10 MR. ZINI: That's okay then. Yes, when the -- I  
11 may have to go back a little bit in time how this  
12 came about. Some residents in the Summit at Ski Lake  
13 where we live, a gated community, discovered some  
14 nocturnal sewer dumpings in our sewer heads by the  
15 previous owner and whoever he hired to do that. That  
16 generated the head of our board of -- what do I want  
17 to say?

18 MRS. ZINI: Homeowners.

19 MR. ZINI: -- homeowners to call a meeting at  
20 her house. Sharon and I attended that meeting. The  
21 discussion -- and we met at that meeting several  
22 people -- it turned out to be pretty representative  
23 of the Chalets, of the Lake Side townhouses, of  
24 every -- there was at least one or two -- there was  
25 about 14 or 15 people there, and we talked about how

1 we were going to respond to this to put an end to  
2 this thing.

3 Well, during the discussion we met some  
4 people that talked about some billing issues, for  
5 instance, and because of my background and Sharon's  
6 background we recognize there are certain rules that  
7 govern regulated utilities about consistency and  
8 fairness and, you know, not being unfair to another  
9 party, so a couple of the couples like over in the  
10 Chalet said that they had never received, for  
11 instance, a sewer or water bill and they had been in  
12 the house for 16 months.

13 Well, that set off this bell that that's  
14 not allowed in a regulated environment. So we --  
15 that's how we stayed involved because we have almost  
16 nothing to contribute about the physical working of a  
17 sewer or water company. So then the committee --  
18 because of the nature of the people that live where  
19 we live, about less than half are there year around.  
20 It's mostly people that live in another state -- that  
21 it narrowed down to just a few people if we were  
22 going to pursue this. Those people had to go forward  
23 and do things that would result in -- first, we went  
24 to the county, Weber County, because we found out  
25 after a long time that this was a bifurcated

1 oversight responsibility between Weber County and the  
2 PSC, PSC for rates and tariffs, Weber County for the  
3 operation of the sewer company and so forth.

4 So it took us I while. So we tried to the  
5 go to the county first. I think Mr. Mel Smith  
6 alluded to that today that we went to a meeting -- we  
7 were at the same meeting trying to get some  
8 resolution to this thing. Well, the county didn't  
9 seem to be interested at all in resolving, and in the  
10 interim there was a flooding situation that flooded  
11 out several of the townhomes in Lake Side Village.

12 MS. SCHMID: I think I can probably ask my  
13 question more concretely than I did. Do you have  
14 written authorization from the other complainants to  
15 represent them?

16 MR. ZINI: No, I don't.

17 MS. SCHMID: Okay. That's good. That's my only  
18 question. Thank you.

19 HEARING OFFICER: Essentially, Mr. Zini, my  
20 understanding is you are in effect stating to the  
21 commission that you support the conclusions or the  
22 representations in the Complaint you filed.

23 MR. ZINI: Uh-huh.

24 HEARING OFFICER: And in the document that  
25 you're presenting today and represent with that that



1 there are other residents, substantial numbers of  
2 them, who feel similarly to you.

3 MR. ZINI: Uh-huh. That's correct.

4 HEARING OFFICER: And you're representing that  
5 to us as a customer of Mountain Sewer?

6 MR. ZINI: We tried to get on major issues even  
7 doing this action a consensus of the ad hoc committee  
8 of the 14 or 15 people, and we have reached that with  
9 people but not in writing or anything like that.

10 HEARING OFFICER: Okay. Thank you. I  
11 appreciate that information. It's helpful.

12 And now I'd like to turn back to  
13 Schedule G4 in Exhibit 3, and we may also refer to  
14 G8 in Exhibit 3, and I'm going to direct a few  
15 questions to Mr. Bowden and Mr. Long. And I'm going  
16 to invite either of you or both of you to respond to  
17 my questions. I remind you you're still under oath,  
18 but you can respond from your seats at counsel table.

19 If we look at G4 under the Column F test  
20 year, I believe this is an effort to project revenue  
21 and expenses for the remainder of 2012. Am I correct  
22 about that?

23 MR. BOWDEN: Yes.

24 HEARING OFFICER: And the projected revenues --  
25 and this would be under current rates -- are roughly

1       \$33,000; is that correct, Mr. Bowden?

2               MR. BOWDEN:    Yes.

3               HEARING OFFICER:   And then we have a number of  
4       expense entries, and we went over some of them in  
5       detail this morning.  When we sum those, we've got  
6       total operating expense for this period of \$71,000.  
7       And so under the math here, an operating income  
8       balance of negative 37,000; is that correct,  
9       Mr. Bowden?

10              MR. BOWDEN:    Correct.

11              HEARING OFFICER:   And then we add to that  
12       depreciation expense and tax expense and that brings  
13       us to a net operating income of negative \$68,000.  Is  
14       that also correct?

15              MR. BOWDEN:    Correct.

16              HEARING OFFICER:   Mr. Long, are you agreeing  
17       with this statements?

18              MR. LONG:     Yes, I am.

19              HEARING OFFICER:   And then we have a statement  
20       that summarizes the accumulated depreciation which is  
21       \$727,000, so I take that to mean that of the roughly  
22       million dollars a plant service, about 75 percent of  
23       it's been depreciation already.

24              MR. BOWDEN:    Yes.

25              HEARING OFFICER:   And then we have this counting

1 category, contributions in aid of construction, and  
2 in rate making we subtract that from rate base also.  
3 Do you agree with that, Mr. Bowden?

4 MR. BOWDEN: Yes.

5 HEARING OFFICER: Mr. Long?

6 MR. LONG: Yes, if it's included in the original  
7 property plant and equipment.

8 HEARING OFFICER: Yeah, thank you for that  
9 clarification. So that leaves us with a rate of  
10 return calculation on a very small base relatively I  
11 would -- it's my characterization, but it's -- the  
12 return requirement is \$926. Am I reading --

13 MR. LONG: Yes.

14 HEARING OFFICER: -- accurate there? And then  
15 help me with how the capital reserves then fits into  
16 this story, and I'll be grateful. Would either one  
17 of you like to do that, Mr. Long? Can you help me  
18 with that.

19 MR. LONG: Sure. The capital reserves is  
20 basically an amount equal to the depreciation  
21 expense, and in this case if you look at Column G,  
22 they didn't include the depreciation expense up  
23 above, but they included it below the line on around  
24 line 60.

25 HEARING OFFICER: Right. So it relates directly

1 to line 40. Am I right there?

2 MR. LONG: Yeah, the amount is generally about  
3 that same amount. They are based on the same thing.

4 HEARING OFFICER: Okay.

5 MR. LONG: I will point out one area of concern,  
6 and that's deducting the land and land rights and  
7 water rights before it gets to the rate base. I'll  
8 take a further look at that, but I'm not sure that  
9 isn't part of the investment. It's not depreciated,  
10 so maybe that's what they are trying to accomplish  
11 here.

12 HEARING OFFICER: But that would be one of the  
13 things you would look at during the audit process?

14 MR. LONG: Right.

15 HEARING OFFICER: So what the company has  
16 presented is a set of rates that address the under  
17 recovery of operating expense and other expenses that  
18 are reflected here in this test year column. Do I  
19 have that right?

20 MR. LONG: I'm not sure what you mean by "under  
21 recovery."

22 HEARING OFFICER: I mean the deficit in the  
23 relationship between income and expense.

24 MR. LONG: Yeah, they are not going back in  
25 time, but yeah, you're right.

1 HEARING OFFICER: And so if we look at then the  
2 Column G, is this an effort to now reflect the new  
3 rates that would apply in 2012 if the Commission  
4 approves on an interim basis the rate request today  
5 if I have that right, Mr. Bowden?

6 MR. BOWDEN: Yes.

7 HEARING OFFICER: So the flat rate revenues  
8 would be 87,000 roughly, and then there would be  
9 15,000 of standby revenues, and is that 15,810, is  
10 that basically the standby customers that we talked  
11 about, the 55 --

12 MR. BOWDEN: Yes.

13 HEARING OFFICER: -- times the standby rate.

14 MR. BOWDEN: Correct.

15 HEARING OFFICER: Times eight months worth of  
16 that revenue; is that correct?

17 MR. BOWDEN: That's correct. Well, 12 months.

18 HEARING OFFICER: I'm sorry. This is  
19 annualized.

20 MR. M. SMITH: Right.

21 HEARING OFFICER: Thank you. And I know we went  
22 through this this morning, but just to be clear for  
23 the record, why don't we see represented in these  
24 revenues up in the first six lines revenue from  
25 connection fees?

1           MR. LONG: From the Division's standpoint,  
2 connection fees are set to recover the costs of  
3 connecting, in this case, the sewer company to the  
4 property line, and they are not considered as  
5 revenues. They are to reimburse the expenses to make  
6 that connection whether it was to the original owner  
7 or the sewer company or whoever incurred the expense  
8 of making the connection.

9           MR. ZINI: Could I ask a question?

10          HEARING OFFICER: When I'm done, Mr. Zini.

11          MR. ZINI: Okay. Go ahead.

12          HEARING OFFICER: Do you agree with that,  
13 Mr. Bowden? What type of activity is involved in the  
14 connection? What types of costs are we addressing?

15          MR. BOWDEN: Well, we kind of need a sinking  
16 fund to kind of put together so when we have  
17 additional -- right now with the county we're at  
18 maximum. As other things come on and stuff, we're  
19 going to need additional funds to maintain the system  
20 but also to go ahead and repair the overflow  
21 reservoir that's up on top. It's out of compliance  
22 and to maybe build another sewer holding pond.

23          HEARING OFFICER: So does that mean that the  
24 connection fees are being capitalized? Am I  
25 incorrect in using that term?

1 MR. BOWDEN: Call it capitalized? I would think  
2 so.

3 HEARING OFFICER: Mr. Long, do you have --

4 MR. LONG: They are generally capitalized and  
5 then also considered contribution and aid, so they  
6 add to the infrastructure of the utility, but they  
7 are taken out before the rate base is calculated.

8 HEARING OFFICER: Thank you. And I'm close to  
9 the end, but the hookup fees -- and what's the other  
10 term?

11 MR. ZINI: Turn-on.

12 HEARING OFFICER: Yeah, the turn-on fees, why  
13 wouldn't we see those as revenue in those first six  
14 lines? What's the rationale there?

15 MR. BOWDEN: Well, it's kind of tied to the lot  
16 and basically when a customer is ready to have his  
17 sewer line inspected and hooked up, our outside  
18 engineer -- we collect \$300, but he charges us \$300  
19 to go out and make sure the connection in the street  
20 and into the house is to code.

21 HEARING OFFICER: So is the expense of that  
22 engineer reflected anywhere in your operating  
23 expenses?

24 MR. BOWDEN: No. It's comes in, passes through.  
25 It comes in and goes right back to him.

1 HEARING OFFICER: What about the hookup fee?

2 MR. BOWDEN: The hookup fee, once it's ready and  
3 he stuff, he'll go down and do the final inspection  
4 on it, and that's a hundred dollars.

5 HEARING OFFICER: And is that expense reflected  
6 anywhere in your operating expense projection?

7 MR. BOWDEN: No. It comes in and goes right  
8 back out to Mr. Banks.

9 HEARING OFFICER: It's the same person  
10 performing both of those functions?

11 MR. BOWDEN: Correct.

12 HEARING OFFICER: Thank you.

13 Now, Mr. Zini, any questions based on mine?

14 MR. ZINI: Yeah, just a clarification because  
15 when we talked to Mr. Bowden he said none of these  
16 hookup or connection fees were used to run the  
17 company. I think he meant on a day-to-day basis, but  
18 they can be used, it sounds like, for construction  
19 projects and the repair projects he wants to do like  
20 the list of things that he gave to all of us at one  
21 point that things needed to be done. Am I correct in  
22 that?

23 MR. BOWDEN: Well, there is and there isn't  
24 but -- I mean, there is an expense too to -- a lot of  
25 these connection fees, the way I look at them in the



1 next few years, the few we have will barely be enough  
2 to bring the sewer lagoons back into compliance with  
3 the clay lining and the other massive winter storage  
4 tank we have up on top. So I'm looking at those  
5 funds to go ahead and improve the system, and there  
6 maybe -- and I'm not sure technically if we could use  
7 a lot of plumbing and stuff. I'm sure we can to go  
8 from one lagoon to another. But my thoughts would be  
9 to use the connection fees and stuff to enhance and  
10 bring up more connections to the system.

11 MR. ZINI: My question is -- I think he tried to  
12 answer the question, but I still don't detect an  
13 answer there. Can they use the connection fees for  
14 construction and other repairs to the unit -- to the  
15 sewer company.

16 MR. BOWDEN: Not repairs.

17 MR. ZINI: Well, updates or upgrades or  
18 whatever, the screen that you talked about, the lift  
19 pumps, the backflow valves, whether that's repair or  
20 maintenance, can those fees be used for that?

21 MR. BOWDEN: No.

22 MR. ZINI: Can you cite me the rule that says  
23 that.

24 MR. BOWDEN: I can have Jim Banks get the state  
25 code on that and have it to our next meeting or give

1 it to you next week. There's a protocol the state  
2 has and you have to follow that and different  
3 reserves you have to have and have to be maintained  
4 to be used in those certain areas. If Mr. Zini would  
5 like that, I can get ahold of Mr. Banks, and he's a  
6 qualified engineer with the state. He can go ahead  
7 and I can give you a copy of the protocol that a  
8 sewer company is supposed to follow.

9 MR. ZINI: That would be fine. Any document  
10 that verifies what Mr. Bowden said that would be  
11 satisfactory.

12 HEARING OFFICER: Mr. Zini, you can use that in  
13 the consideration and examination of the rates that  
14 are proposed --

15 MR. ZINI: Uh-huh.

16 HEARING OFFICER: -- for the permanent rate  
17 increase.

18 MR. ZINI: Yeah, that's true.

19 MR. LONG: I would like to address this if I  
20 could.

21 HEARING OFFICER: Mr. Long.

22 MR. LONG: I almost think that Mr. Bowden is  
23 maybe confusing a little bit his work that he did for  
24 Wolf Creek, which is probably a municipality at the  
25 time, versus a regulated utility. In a regulated

1 utility, the expenses -- or the connection fees are  
2 used to cover the expenses of the connection and  
3 whoever expended the money for that connection is  
4 entitled to receive the connection fees.

5 Mr. Bowden, if he's the one that made the  
6 connection fees or put the infrastructure in to do  
7 the connection, the money really could go in his  
8 pocket. He's choosing to use this to upgrade the  
9 system if that makes --

10 HEARING OFFICER: Mr. Long, so he could record  
11 it as revenue and use it for operating expense or  
12 does it have to be recorded as plant in service or  
13 something?

14 MR. LONG: It wouldn't be recorded as revenue.  
15 It would be plant in service and it would also be a  
16 contribution in aid of construction, but it's  
17 basically a recovery of costs similar to the way the  
18 hookup fee and stuff that he described earlier.

19 HEARING OFFICER: Okay. Thank you.

20 MR. LONG: And municipality I understand is  
21 quite a bit different, but this is generally how it's  
22 done in a regulated utility.

23 HEARING OFFICER: Thank you for that  
24 clarification. Any other questions based on the  
25 information that?

1 MR. ZINI: One more.

2 HEARING OFFICER: Mr. Zini.

3 MR. ZINI: To Mr. Long. Is there some rules or  
4 statutes you can quote that would support that  
5 position that you just took?

6 MR. LONG: I'd have to look into that, but I  
7 could get back with you.

8 MR. ZINI: Could you? That would be fine.  
9 Thank you.

10 HEARING OFFICER: Is there any evidentiary  
11 matters that we want to address before we go to  
12 statements of counsel as we conclude the hearing.

13 MR. C. SMITH: We supplemented our filing, and I  
14 think we covered this somewhat, but supplemented our  
15 filing in regard to being able to use some of those  
16 capital improvement funds to cover some of the  
17 interest costs that we have. Do you need any other  
18 information on that or have you got enough to address  
19 that?

20 HEARING OFFICER: Off the record.

21 **(off the record)**

22 HEARING OFFICER: Back on the record.

23 Ms. Schmid, you mentioned that you or your  
24 witness had a statement you wanted to make. Why  
25 don't we do that now, and then I have identified my

1 questions, so then we'll take up my question.

2 MS. SCHMID: Could Mr. Long please make a  
3 statement concerning the supplemental motion or,  
4 however, it is properly termed, the use of the  
5 capital reserve?

6 HEARING OFFICER: Sure. Mr. Long.

7 MR. LONG: In reviewing the expenditures sought  
8 to be covered through the capital reserve account,  
9 they are all expenditures that would have been  
10 covered anyway for the original purpose of the  
11 capital reserve account. The Division recommends  
12 that Mountain Sewer's use of the capital reserve  
13 funds to pay the line of credit for transactions be  
14 approved since the transactions clearly fall under  
15 the umbrella of the proper use of capital reserve  
16 funds.

17 They do, however, want to remind Mountain  
18 Sewer that they need to follow the criteria and  
19 restrictions that are put in place, and I believe  
20 that's in their tariff, No. 2 No. 19, that requires  
21 them to have an accounting of the money, and it  
22 addresses transparency and the correct use of it and  
23 putting it into escrow account and various items that  
24 are included in the capital reserve account.

25 HEARING OFFICER: Thank you. So if we could

1 look at G8 for a moment and line 51, interest  
2 expense, and if I understand the note associated with  
3 this line, this relates to both rate case expense and  
4 interest expense? Am I right about that? My  
5 ultimate question is how does this relate to the  
6 supplemental application? Mr. Long, feel free to  
7 address this if you would like to.

8 MR. LONG: Okay. I'm trying to find the  
9 supplemental --

10 MR. M. SMITH: Mr. Clark, I may shed some light  
11 on that if I could.

12 HEARING OFFICER: Mr. Smith.

13 MR. M. SMITH: This has been obviously a  
14 process. We have lots of tables, and I'm not sure  
15 Mr. Bowden has all the nuances on all of those. Ryan  
16 prepared this, and he and I were conferring. It was  
17 at one time expected the rest of the improvements  
18 would be made which would have taken the loan from  
19 125 up to 225,000. So this was taken into  
20 consideration, amortization of a loan in the actual  
21 rate case, and it was going to be amortized over a  
22 five-year period.

23 And he also then tried to capitalize the  
24 expense for attorney fees which were estimated couple  
25 two or three months ago, so that's where that figure

1 was, but since Bank of Utah who holds the note won't  
2 give a long-term loan, they won't do that -- after  
3 they reviewed -- so in other words, this is a work in  
4 progress. After they had reviewed the financials and  
5 gone through their committees, they said we won't  
6 give a loan to Mountain Sewer.

7 So now all Mountain Sewer has is a  
8 short-term loan of 125, not a five-year amortized  
9 loan for 225. So, you know, there will be in the  
10 final rate case -- we'll have as to update this  
11 obviously. So there's really not a close connection  
12 between that figure and the interim rate that we're  
13 now seeking.

14 HEARING OFFICER: Thank you. I was having  
15 difficulty reconciling the level of this amount with  
16 the line of credit and the carrying costs on that  
17 line, and so I appreciate -- so these numbers really  
18 aren't relevant to --

19 MR. M. SMITH: Today.

20 HEARING OFFICER: -- to the supplement  
21 application --

22 MR. M. SMITH: No.

23 HEARING OFFICER: -- and the interest expense  
24 that we discussed this morning on that line of credit  
25 in the order of \$710 a month or something like that.

1 MR. M. SMITH: Correct.

2 MR. LONG: If I could clarify, the Division  
3 would like to add that although the interest expense  
4 isn't the entire amount of the 25,000 in this case,  
5 it's still going to be considerable and the capital  
6 reserve account should still be allowed to be used to  
7 pay for those amounts.

8 HEARING OFFICER: And for that reason the  
9 Division supports the supplemental application  
10 request.

11 MR. LONG: Yes.

12 HEARING OFFICER: Thank you. So we come now to  
13 a closing statements, and Mr. Smith, would you like  
14 to begin please.

15 MR. C. SMITH: Yes.

16 HEARING OFFICER: I'll give you an opportunity  
17 to make a brief response after the others have made  
18 their statements as well.

19 MR. C. SMITH: I'd like to kind of briefly kind  
20 of recap a little bit of what we've done today. I  
21 think this has been very helpful I think for  
22 everybody to better understand the numbers. I think  
23 particularly the homeowners that are here, customers  
24 that are here, and ratepayers hopefully have a little  
25 better understanding of how we came up to this.



1           I think everybody owes a big thank you to  
2 Mr. Ray Bowden for stepping up and taking control of  
3 this company and kind of saving it from -- I think it  
4 was on the edge of having some really serious  
5 problems both financially and physically and  
6 operationally, and he stepped up and obviously he's a  
7 person that has some very unique expertise in this  
8 area that not very many people in this world have  
9 that would come in and be able to, first of all, have  
10 the financial ability but also just the expertise of  
11 how to manage and handle these kind of situations.

12           And I think this has really benefited  
13 everybody here. I think we could be having a very  
14 different proceeding today if he hadn't been here of  
15 why the company had gone broke and wasn't operating  
16 and those sorts of things.

17           That being said, for him to be able to  
18 continue this company and be able to keep it out of  
19 financial ruin, we need to have an increase in the  
20 rates and we need to have that now as an interim  
21 rate, not, you know, a year from now or two years  
22 from now.

23           We've expended all the money we would  
24 borrow. We've got all the -- he's worked for free  
25 for a considerable amount of time, and there just

1 isn't anything left as far as being able -- it's just  
2 impossible to take the 20-something thousand dollar  
3 rates from 1985 and be able to run this company in  
4 2012.

5           You know, there's been some questions about  
6 some things. For example, one of the things on the  
7 spreadsheet that Mr. Zini provided he questions the  
8 special assessment and the things it's going to do.  
9 That's not before us today, so that doesn't need to  
10 be considered as part of this. What we do need to  
11 and what's before the Commission today is the  
12 standard under Utah Code Annotated 54-7-12-4A, which  
13 is whether a prima facie showing has been made that  
14 an interim rate increase is justified.

15           I submit there's no question on that. We  
16 certainly provided the information, the numbers and  
17 the cost to do things based on our six or eight  
18 months -- about eight months of experience of running  
19 the system of what we need. The Commission has  
20 agreed with us on that.

21           I know this is -- like I said, I understand  
22 as a customer this is a large increase in the rates.  
23 There's no question about it, but it's also an  
24 increase that's about 20 years past due, and we're  
25 trying to take care of things that happened 20 years

1 ago. We need to because if we don't the system will  
2 not operate.

3 So we made that prima facie showing and  
4 would just ask that the Commission approve the  
5 interim rate increase and allow us to continue to  
6 operate this business in a way that serves both the  
7 public and the ratepayers. Thank you.

8 HEARING OFFICER: Ms. Schmid.

9 MR. C. SMITH: If I could -- and also we need to  
10 also be able to -- appreciate on that, but we also  
11 need to be able to make those interest payments as  
12 well in our supplemental request.

13 HEARING OFFICER: Thank you.

14 Ms. Schmid.

15 MS. SCHMID: Thank you. The Division believes  
16 that the prima facie showing that interim rate  
17 increase is justified has been made. As noted, an  
18 interim rate proceeding is not to be a full rate case  
19 but is a limited proceeding to determine if financial  
20 harm will result if no increase is granted. It has  
21 been demonstrated today and is evidenced by the  
22 testimony of the Division and in the comments made in  
23 its memorandum accepted as DPU Exhibit 1 that there  
24 will be financial harm to the company if the interim  
25 rate increase is not granted.

1                   Similarly the Division recommends that the  
2 company be allowed to use funds that would be in the  
3 capital reserve account for the expenses as outlined  
4 by Division witness Mr. Long. With that the Division  
5 concludes. Thank you.

6                   HEARING OFFICER: Thank you, Ms. Schmid.

7                   Mr. Zini.

8                   MR. ZINI: First of all, I want to thank you  
9 Judge for your patience with my stumbling and  
10 bumbling in here not having the legal training, and  
11 everybody else who I put to probably some ups and  
12 downs. It's been instructive for me, and I think  
13 we've achieved bringing to light some issues that  
14 hopefully will be discussed in the future such as the  
15 existing lot issue, collection for existing lots that  
16 to our view does not seem to be addressed in the new  
17 tariffs. It appears there's supposed to be a change  
18 to the standby fee tariff that they've written. Did  
19 I understand that correctly? Change of wording?

20                   HEARING OFFICER: Yes.

21                   MS. SCHMID: Yes.

22                   MR. C. SMITH: Yes.

23                   MR. ZINI: The other things we've learned is  
24 understanding on the role some of these documents  
25 made that float around and get interchanged sometimes

1 because that's been a real surprise for us. We  
2 thought those documents were legitimate and could be  
3 used for our purposes after they came out. So  
4 thanks, again, Judge, for your patience.

5 HEARING OFFICER: Well, thank you, Mr. Zini. I  
6 think we're all admirers of your courage but also  
7 your ability to represent your points of view here  
8 today. We thank you for your participation, really.

9 Ms. Rinaldi, did you have anything in  
10 closing?

11 MS. RINALDI: I think we stated our objections  
12 on the record. That's fine.

13 HEARING OFFICER: Thank you.

14 Mr. Smith, anything based on the statements  
15 that have been made?

16 MR. C. SMITH: No, other than to thank you and  
17 the other participants for your patience today.

18 HEARING OFFICER: I propose now to recess for an  
19 indeterminate period. I will be consulting with the  
20 Commissioners, and I'll come back and report the  
21 results of that and the direction that I received  
22 from them, and I expect that it won't be before 2:30.  
23 So if you could all plan to be here by 2:30, I'll be  
24 here again to bring us back on the record as soon  
25 thereafter as I can be. We'll be in recess.

1 MR. C. SMITH: Thank you.

2 MS. SCHMID: Thank you.

3 (off the record)

4 HEARING OFFICER: On the record, please. I've  
5 conferred with Commissioners and have been authorized  
6 to issue a ruling orally today which I will  
7 memorialize in a written order that will be issued in  
8 the next few days or weeks.

9 The application for interim rate increase  
10 is granted and the supplemental application is also  
11 granted. So the rates noted in the application are  
12 approved on an interim basis subject to an order of  
13 refund that is dependent on the decision on final  
14 rates that will be issued later in the year after we  
15 have concluded the evidentiary process and hearings  
16 that are outlined in the Commission's order dated  
17 May 14, 2012.

18 I want to emphasize that there are a number  
19 of issues in this case which were not addressed at  
20 all today that will be addressed. Among those are  
21 the audit findings of the Division which are not yet  
22 available and which will not be available for several  
23 months, but after that extensive audit -- and parties  
24 have an opportunity to examine it and file their own  
25 testimony -- we will then have hearings on the

1 application for final rates.

2 And in connection with those hearings the  
3 Commission expects to examine not only the supporting  
4 documentation for the expenses and revenues that were  
5 identified on the record today as projections but  
6 also the details regarding the set of transactions  
7 that resulted in the change in ownership and the  
8 various benefits and burdens that were conferred  
9 under those transactions.

10 In summary there remains much to be  
11 considered in this case, and I just am emphasizing  
12 for all present that as the statute indicates, we've  
13 only examined -- we've properly only examined a  
14 subset of the issues today and only in a prima facie  
15 way. But the finding of the Commission is that given  
16 that reduced standard of proof that is presented in  
17 the statute, the applicants have satisfied that  
18 standard today, and the interim rates requested will  
19 go into effect. Any questions on my statement?

20 MR. C. SMITH: No, none from the Applicant.

21 HEARING OFFICER: Other parties?

22 MS. SCHMID: No.

23 HEARING OFFICER: I want to thank you all for  
24 your participation and helpfulness to the Commission  
25 and we are adjourned.

1           (Whereupon the taking of this hearing was  
2 concluded at 2:51 p.m.)

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C E R T I F I C A T E

STATE OF UTAH                    )  
  )  
COUNTY OF UTAH                 )

THIS IS TO CERTIFY that the foregoing hearing was taken before me, Letitia L. Meredith, Registered Professional Reporter and Notary Public in and for the State of Utah and State of California.

That the hearing was reported by me in Stenotype, and thereafter transcribed by computer under my supervision, and that a full, true, and correct transcription is set forth in the foregoing pages.

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.

WITNESS MY HAND and official seal at Spanish Fork, Utah, this \_\_\_ day of \_\_\_\_\_ 2012.

\_\_\_\_\_  
Letitia L. Meredith, CSR/RPR