

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Formal
Complaint of James and Dawn
Martell; Robert Kimball;
Frank and Pat Cumberland;
Larry and Sharon Zini; David
and Marsha Smith, et al, vs.
Mountain Sewer Corporation.

Docket No. 11-097-01

In the Matter of Ronald J.
Catanzaro's Notice of Intent
to Sell Mountain Sewer
Corporation and Lakeview
Water Corporation.

Docket No. 11-097-02

In the Matter of the
Application of Mountain Sewer
Corporation for a General
Rate.

Docket No. 11-097-03

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HEARING  
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TAKEN AT: Heber M. Wells Building
160 East 300 South
Salt Lake City, Utah

DATE: Tuesday, October 16, 2012

TIME: 9:00 a.m.

REPORTED BY: Michelle Mallonee, RPR

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APPEARANCES

DAVID CLARK
Hearing Officer

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EXHIBITS

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EXHIBIT NO.

ADMITTED INTO EVIDENCE

12

1 Direct Testimony of Ray Bowden on

18

13

Behalf of Mountain Sewer Corporation

14

1-A Updated Check Index With Invoices

12

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12

16

the Year 2011

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1-C Bank Statements and Check Copies for

13

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1-E Invoices 000001-000061

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Hearing

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October 16, 2012

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PROCEEDINGS

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THE HEARING OFFICER: We'll be on the record.

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Good morning, everyone. My name is David Clark. I'm the

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designated presiding officer for the hearings this morning in

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three dockets that are related, Docket Numbers 11-097-01,

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11-097-02, and 11-097-03. And this is the scheduled date for

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hearings in these dockets, duly noticed through a Scheduling

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Order and Notice of Hearings that was posted some time ago,

11

actually in May of 2012. And let's begin by taking appearances

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of counsel.

13

Let's begin with the applicant.

14

MR. CRAIG SMITH: Thank you, Mr. Clark. My

15

name is Craig Smith. I'm here on behalf of the applicant,

16

Mountain Sewer. Along with me is Mel Smith and Rick Rathbun,

17

who are also representing Mountain Sewer.

18

THE HEARING OFFICER: Thank you.

19

MS. SCHMID: Patricia E. Schmid with the Attorney

20

General's Office on behalf of the Division of Public Utilities.

21

THE HEARING OFFICER: Thank you.

22

Any other appearances?

23

MS. RINALDI: Leslie Rinaldi for Celtic Bank,

24

intervenor.

25

THE HEARING OFFICER: Thank you. All right.

1 Well, our purpose today is to hear evidence that
2 relates to an application for general rate increase, as well as
3 evidence that relates to complaints filed in Docket No.
4 11-097-01, and the matter of the transfer of Mountain Sewer
5 ownership that is Docket No. 11-097-02. The general rate
6 increase docket is 11-097-03.

7 So, Mr. Smith, how would you like to proceed?

8 MR. CRAIG SMITH: At this time, rather than
9 presenting any opening statements, we'd like to call Mr. Ray
10 Bowden as a witness.

11 THE HEARING OFFICER: Thank you. You can
12 testify from there, Mr. Bowden.

13 Would you raise your right hand, please. Do you
14 solemnly swear that the testimony you are about to give shall be
15 the truth, the whole truth, and nothing but the truth?

16 THE WITNESS: I do.

17 THE HEARING OFFICER: Thank you.

18 RAY BOWDEN, having been first duly sworn, was
19 examined and testified as follows:

20 DIRECT EXAMINATION

21 BY-MR.CRAIG SMITH:

22 Q. Mr. Bowden, can you just state your name and
23 address for the record, please.

24 A. My name is Ray Bowden. I live at 5393 East 3850
25 North in Eden, Utah.

1 THE REPORTER: I'm sorry. Could I get him to
2 spell his name?

3 THE WITNESS: Yes. Ray, R-A-Y, and Bowden,
4 B-O-W-D-E-N.

5 BY MR. CRAIG SMITH:

6 Q. Mr. Bowden, would you take just a few minutes and
7 explain kind of your background in waste water management--I
8 know you've had some experience with that--and also how you
9 became involved with Mountain Sewer Company?

10 A. I've had--well, for the last 30 years, I've been
11 involved with--I had my own sewer treatment facility in Utah.
12 And it was about 20 years ago I ran and operated that. I came--
13 I come--became involved with this project by a loan that I made
14 to Mr. Ron Catanzaro, of which the loan was unable to be
15 repaid. And at that point, I took over some of the real estate and
16 the sewer and the water company.

17 Q. Okay. And about what time--when was that that
18 you became--took over those companies?

19 A. I think it was in August of last year.

20 Q. Okay. And how is Mountain Sewer Corporation,
21 how is it actually owned?

22 A. Mountain Sewer is owned by Valley Utility. And
23 Valley Utility is owned by KBC Leasing.

24 Q. Okay. And who is the owner of KBC Leasing?

25 A. My wife.

1 Q. And her name is Peggy Bowden, is that--

2 A. Peggy Bowden.

3 Q. And what's your position with Mountain Sewer
4 Company?

5 A. I'm the general manager. I oversee the day-to-day
6 operations of the sewer company, payables, receivables, any
7 maintenance and repair that needs to be done to that facility.
8 And for the last--ever since I took over, it's just been a process
9 of revamping the system and trying to bring it up to standards to
10 where it will fall into good compliance with the State.

11 Q. Okay. And that's been the position you've held
12 ever since your ownership changed last year?

13 A. Yes.

14 Q. And just take just a couple minutes and talk about
15 some of the--the condition that you found the sewer system to
16 be in when you took over as the general manager and some of
17 the upgrade and repairs that you have undertaken.

18 A. Well, when I first took over, there was a massive
19 amount of things that needed to be repaired, replaced, and
20 brought up to standards. I worked--I spent a lot of time with
21 Mitch Winegar. He is one of the engineers that worked on that
22 project for several years prior to me being involved with it. And
23 there was some--there was a flooding situation that occurred
24 when a plow truck uncovered one of the manholes. And a lot of
25 the storm water from the Old Stone Basin Road went into the

1 manhole and went down into the lift stations and tore out some
2 of the pumps and--back prior to me owning that. There was
3 some serious problems in that there was some of the pumps
4 that was destroyed. There was a lot of rocks and debris that
5 was filtrated through the system. So when I come in, one of the
6 first things I wanted to do was camera all the systems, see what
7 was wrong, see what we needed to repair.

8 We replaced about 260 lineal feet of pressurized
9 sewer line, cameraed the whole system. We had Mitch work
10 with me on repairing the pumps and replacing the pumps that
11 were damaged. There was check valves that was--not had
12 worked for several years. And we replaced the check valves
13 and elbows and new seats in the lift station. We went and did a
14 lot of work to the sewer lagoon systems. We installed a
15 turnaround system to where, prior to me having that, the Mack
16 trucks, when they had to go pump the lift station, would have to
17 go up in the subdivision and dump in a manhole that was around
18 homes, which the homeowners despised. In one of their
19 complaints, they wanted to have an area to where we could
20 actually go down to lagoons and dump. I built--and that's all
21 done, with the exception of the roto mill being placed in that
22 turnaround to have the trucks go down to the sewer lagoons.

23 Every week there's something else that we're
24 finding, and we're working on it. But we took it from a system
25 that was just marginal at best to--there's still some things that

1 we need to get accomplished and get handled. And hopefully,
2 with the rate adjustment and a little bit of the money that we'll
3 be able to get, we can make those final adjustments to the
4 system to bring it up to a first-class system.

5 Q. Thank you. Mr. Bowden, do you recall filing
6 prefiled testimony in this proceeding?

7 A. I do.

8 Q. Have you had a chance to, in the last few days,
9 review that prefiled testimony?

10 A. I did yesterday.

11 Q. Any changes or corrections you'd like to make to
12 that prefiled testimony at this time?

13 A. No, there's none.

14 Q. Okay. And now that you're under oath, would you
15 be willing to affirm that testimony is--prefiled testimony is your
16 testimony in this proceeding?

17 A. It is.

18 MR. CRAIG SMITH: Okay. Also--and Rick, if you
19 could pass those--I'm going to go through it just quickly to the
20 exhibits. But can you give the extra copies to others?

21 BY MR. CRAIG SMITH:

22 Q. Also as part of the prefiled testimony, Mr. Bowden,
23 we had Exhibits A through K. And I believe you have a copy of
24 those exhibits in front of you. And I'd just like to quickly identify
25 each one and ask that they be admitted.

1 First of all, could you take a minute and tell me
2 what exhibit--I'll give you a second here to pass these out.

3 MR. CRAIG SMITH: Why don't you give one there.
4 And let's give one to the hearing officer.

5 MR. RATHBUN: May I approach?

6 MR. CRAIG SMITH: Mr. Clark, these have been
7 submitted prior, but just for convenience, you've got a set there.
8 And I'm just going to have Mr. Bowden just quickly identify
9 which each type is and then I'll ask that they be admitted.

10 BY MR. CRAIG SMITH:

11 Q. So could you tell us what Exhibit A is, Mr. Bowden.

12 A. It's the updated check index with invoices.

13 Q. So that's the check index for Mountain Sewer
14 Company?

15 A. Correct.

16 MR. CRAIG SMITH: I'd move for admission of
17 Exhibit A.

18 MS. SCHMID: No objection.

19 THE HEARING OFFICER: It will be received.
20 Exhibit-A received into evidence

21 MR. CRAIG SMITH: Thank you.

22 BY MR. CRAIG SMITH:

23 Q. Could I also ask you to identify Exhibit B.

24 A. It's bank statements and check copies.

25 Q. Would that be the bank statements and check

1 copies from the year 2011 after you took over management of
2 the company?

3 A. Yes.

4 MR. CRAIG SMITH: I'd move for admission of
5 Exhibit B.

6 THE HEARING OFFICER: Received.

7 Exhibit-B received into evidence

8 BY MR. CRAIG SMITH:

9 Q. How about identifying Exhibit C for me, Mr.
10 Bowden.

11 A. It's the same thing, bank statements and check
12 copies for 2012.

13 MR. CRAIG SMITH: Okay. I'd move for admission
14 of Exhibit C.

15 THE HEARING OFFICER: Received.

16 Exhibit-C received into evidence

17 BY MR. CRAIG SMITH:

18 Q. Exhibit D. Can you identify what Exhibit D is?

19 A. These are the checks for 2012.

20 Q. So those are copies of the actual checks. Is that
21 right?

22 A. Correct.

23 MR. CRAIG SMITH: I move for admission of Exhibit
24 D.

25 THE HEARING OFFICER: Received.

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Exhibit-D received into evidence

BY MR. CRAIG SMITH:

Q. Please identify Exhibit E for me, please.

A. These are invoices--this invoice is for Mountain Sewer.

Q. These invoices from various vendors and workmen and other people that you hired to make improvements or maintenance on this system?

A. Correct.

MR. CRAIG SMITH: I'd move for admission of Exhibit E.

THE HEARING OFFICER: Received.

Exhibit-E received into evidence

BY MR. CRAIG SMITH:

Q. Please identify Exhibit F for me.

A. These are additional invoices.

Q. They are also ones that are incurred by Mountain Sewer Company. Is that correct?

A. Correct.

MR. CRAIG SMITH: I'd move for admission of Exhibit F.

THE HEARING OFFICER: Received.

Exhibit-F received into evidence

BY MR. CRAIG SMITH:

Q. Please identify Exhibit G for me.

1 A. These are bank statements--or they're just invoices.
2 Q. Another set of invoices?
3 A. Correct.
4 Q. I'd move for admission of Exhibit G.
5 THE HEARING OFFICER: Received.
6 Exhibit-G received into evidence
7 BY MR. CRAIG SMITH:
8 Q. Please identify Exhibit H.
9 A. That's additional invoices.
10 MR. CRAIG SMITH: I'd move for admission of
11 Exhibit H.
12 THE HEARING OFFICER: Received.
13 Exhibit-H received into evidence
14 BY MR. CRAIG SMITH:
15 Q. Exhibit I?
16 A. Additional invoices.
17 MR. CRAIG SMITH: I'd move for admission of
18 Exhibit I.
19 THE HEARING OFFICER: Received.
20 Exhibit-I received into evidence
21 BY MR. CRAIG SMITH:
22 Q. Exhibit J?
23 A. Checks and invoices.
24 MR. CRAIG SMITH: I'd move for admission of
25 Exhibit J.

1 THE HEARING OFFICER: Received.

2 Exhibit-J received into evidence

3 BY MR. CRAIG SMITH:

4 Q. And Exhibit K.

5 THE WITNESS: It's updated Mountain Sewer
6 exhibits, customer information, rate schedules, et cetera.

7 MR. CRAIG SMITH: I'd move for admission of
8 Exhibit K.

9 THE HEARING OFFICER: Received.

10 Exhibit-K received into evidence

11 BY MR. CRAIG SMITH:

12 Q. One last question, Mr. Bowden, before I finish, is:
13 Could you take a minute and explain why the rate increase that
14 Mountain Sewer is asking for is important to you.

15 A. Well, it's important to me because, I mean, there's
16 no way to run this company unless I can have enough money at
17 the end of the month to pay the utility bills and bring this system
18 up to a, not a Cadillac system, but a system that will at least
19 meet the state specifications that we need to follow. The
20 aeration system that's not working now that needs to be done,
21 the day-to-day operation of the system, there's no way for me to
22 run that company without having the conditional information at
23 that we provided folks over here to review. And we're not trying
24 to make any additional money, we're just trying to pay the bills.
25 But in prior months, I've not had enough money to pay the bills

1 to keep it in operation.

2 MR. CRAIG SMITH: Okay. Mr. Clark, that's all the
3 questions I have for Mr. Bowden. I don't know if you have any
4 questions or anybody else has any questions. But I tender him
5 for that purpose.

6 MS. SCHMID: Could we have just one moment?

7 THE HEARING OFFICER: Sure.

8 MS. SCHMID: Thank you.

9 We're good.

10 THE HEARING OFFICER: Thank you. I just have a
11 question about the testimony, prefiled testimony, of Lynn Wood
12 and Mitch Winegar.

13 MR. CRAIG SMITH: Okay.

14 THE HEARING OFFICER: Does Mr. Bowden's--
15 does the foundation you laid, did you mean that to apply to
16 these--

17 MR. CRAIG SMITH: Well, Mr. Winegar is here, and
18 I was going to just have him just confirm his testimony.

19 THE HEARING OFFICER: Oh, fine.

20 MR. CRAIG SMITH: Now, Lynn Wood is supposed
21 to be here, but I don't see him here. So I don't know if anybody
22 has any knowledge about where his whereabouts--the last I
23 knew, he was supposed to be here. But somehow--I don't know
24 if he's out wandering the halls, or.

25 MR. MELVEN SMITH: I talked to him two days ago.

1 He was planning on coming.

2 MR. CRAIG SMITH: Rick, do you want to go out
3 and see if you can track down Mr.--but I--yeah. I would just
4 briefly call Mr. Winegar at this time just to have him affirm his
5 testimony.

6 THE HEARING OFFICER: That's fine. And I don't
7 have any further questions for Mr. Bowden. So unless there's
8 an objection, I would receive in evidence the document entitled,
9 "Direct Testimony of Ray Bowden on Behalf of Mountain Sewer
10 Corporation," dated July 26, 2012. And we'll mark that Exhibit
11 1.

12 MR. CRAIG SMITH: Thank you.

13 Exhibit-1 received into evidence

14 MR. CRAIG SMITH: Okay. At this time, I would
15 like to call Mr. Mitch Winegar to the stand.

16 THE HEARING OFFICER: Mr. Winegar, it would be
17 helpful if we could get you in front of a microphone, so.

18 THE WITNESS: You want me to just come up
19 here?

20 THE HEARING OFFICER: Yeah, that's fine. Thank
21 you.

22 Would you raise your right hand, please. Do you
23 solemnly swear that the testimony you are about to give shall be
24 the truth, the whole truth, and nothing but the truth?

25 THE WITNESS: Yes.

1 THE HEARING OFFICER: Thank you. Please be
2 seated.

3 Counsel.

4 MITCH WINEGAR, having been first duly sworn,
5 was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY-MR.CRAIG SMITH:

8 Q. Mr. Winegar, could you give us your full name and
9 address, please, and spell your name for the reporter.

10 A. Mitch Winegar, M-I-T-C-H, Winegar,
11 W-I-N-E-G-A-R. Address? 14411 Fox Creek,
12 Herriman, Utah.

13 Q. And could you tell us what your professional
14 endeavors are.

15 A. In this case, I've worked with Mountain Sewer
16 Company and the water company for a number of years, long
17 prior to Mr. Bowden becoming involved with Dr. Catanzaro. I
18 work for Utah Pump and Motor Supply Company as well as two
19 or three other companies involved in water and waste water
20 management. Sell pumps, service pumps, and all types of
21 equipment that are relevant to the sewer company and have
22 maintained and worked on the pumps, the blowers, and many
23 other aspects of the Mountain Sewer Company for over 20
24 years.

25 Q. Okay. And so you have--you have a lot of hands-on

1 experience with the sewer company, I take it?

2 A. Yes.

3 Q. And you're one of the--you work as a consultant or-

4 -

5 A. Yes.

6 Q. --contract labor when--

7 A. Contract labor, consultant, whatever is necessary.

8 Q. Okay. Could you just take a minute and talk about
9 the condition of the sewer company prior to Mr. Bowden taking
10 control as the general manager?

11 A. Well, we were struggling to keep things going. It
12 was crisis management. Whatever needed to be fixed, we had
13 to keep fixed. Dr. Catanzaro, in my opinion, struggled to make
14 ends meet. He struggled to pay us. However, he gave us a lot
15 of promises that if we would continue to maintain the system--
16 you can't just walk away from a sewer company, especially one
17 where you have lift pumps. The sewage is constantly flowing
18 and constantly has to be pumped. And he simply couldn't say,
19 "I'm going to shut things off until I get more money." But he did
20 have a lot of problems, which I can't speak to very much.

21 I know from our part we did what we could to
22 manage the problems and keep the sewage going and so forth
23 and to maintain. But we made lots of recommendations for
24 upgrades, which we were told numerous times just couldn't be
25 afforded. And Dr. Catanzaro was looking forward to an infusion

1 of money that apparently never came. And we've been working
2 with Mr. Bowden ever since he took over the system.

3 Q. Do you understand what the phrase "deferred
4 maintenance" means?

5 A. Yes.

6 Q. Would that be applicable here?

7 A. In some cases, yes.

8 Q. Okay. And then since Mr. Bowden took over as
9 general manager, could you just take a few minutes and talk
10 about some of the improvements, upgrades, repairs, things like
11 that that's been done with Mountain Sewer?

12 A. Yes. The most serious problem that we thought
13 Mountain Sewer had was that it had continual problems with the
14 force main, which is the line into which the sewage is pumped
15 that delivers it to the treatment ponds. That would plug on a
16 regular basis, as would the pumps.

17 We had suggested to Dr. Catanzaro that that line
18 be TV'd, that it be excavated. Something had to be done. But
19 he never had the funds to hire anybody to do that. That type of
20 work is beyond our scope. We had suggested some local
21 excavators work on that. That's one of the first things Mr.
22 Bowden did was he had a company come in and take a look at
23 that line, TV the line. He found a lot of problems with it. As he
24 stated, he replaced several hundred feet of that line,
25 straightened it out, got rid of bad fittings and some damage that

1 had occurred when contractors had dug through it, and things
2 like that. That made things a lot better because the clogging
3 issues diminished considerably after that. He's had some work
4 done on the pumps related to the flooding that he mentioned
5 that happened prior to his acquiring the company. When that
6 flood happened, a lot of debris--rocks, gravel, sticks, weeds--
7 had gone through the pumps, damaged the seals, the bearings,
8 things like that. And so he's taken care of a lot of those issues.
9 There are still other issues that need to be taken care of, such
10 as a screening process to eliminate further clogging. We're still
11 experiencing clogging on a periodic basis, but not as badly as
12 before.

13 Q. So there are some additional improvements that
14 still need to be made?

15 A. Yes.

16 Q. And one of them you mentioned was installing a
17 screen?

18 A. A screening system, if you will, that takes a lot of
19 debris that comes in, prevents it from going through the pumps,
20 and is able to be extracted and disposed of. And it doesn't have
21 to be pumped up into the line and potentially clog the line or the
22 pumps.

23 Q. Any other improvements that still need to be made
24 to the system?

25 A. There are several that are listed in that

1 pre-testimony that I gave.

2 MR. MELVEN SMITH: I did get ahold of Mr. Wood,
3 and he is still in his office for some reason. We could get him
4 down here. It would probably take him about 30 to 40 minutes.
5 Or I don't know if you have capability here to do it
6 telephonically. What would you rather it be, and we'll proceed.

7 THE HEARING OFFICER: I just need a basis on
8 which to receive his testimony. Perhaps Mr. Bowden could
9 provide that if he's familiar with it. Or if not, if there isn't an
10 objection from the counsel present, we could stipulate to its
11 admission--or you could, I think.

12 MS. SCHMID: We would be willing to do that.

13 MR. MELVEN SMITH: Okay.

14 MR. CRAIG SMITH: Let's just do that. That would
15 be fine. Thank you. I appreciate that.

16 MR. MELVEN SMITH: Sorry to interrupt.

17 MR. CRAIG SMITH: No, that's fine.

18 BY MR. CRAIG SMITH:

19 Q. You mentioned your prefiled testimony. You did file
20 prefiled testimony in this matter. Is that true, Mr. Winegar?

21 A. Yes.

22 Q. And have you had a chance to recently review that
23 prefiled testimony?

24 A. I have.

25 Q. And are you prepared to affirm that prefiled

1 testimony today, or is there something you'd like to change or
2 correct?

3 A. Well, I would simply state that a lot of this
4 information was gathered prior to the date of the testimony.
5 The equipment up there has to run every day. And so normal
6 wear and tear and deterioration to matters that--for instance,
7 bearings that needed to be replaced six months ago are in much
8 dire need of replacement now. So if anything, these things have
9 become more crucial in the interim. Other than that, yes, I'll
10 affirm everything that's in there.

11 Mr. Bowden has taken care of some of these things
12 already, has worked on some of these things. The alarm system
13 has received some maintenance.

14 Q. So some of these things that you mentioned have
15 been taken care of since then, but your prefiled testimony is
16 accurate--

17 A. Yes.

18 Q. --that you provided?

19 A. Yes.

20 Q. Okay.

21 MR. CRAIG SMITH: I don't believe I have any
22 further questions for Mr. Winegar, unless--and happy if
23 somebody else does.

24 THE HEARING OFFICER: Cross-examination?

25 MS. SCHMID: No questions.

1 THE HEARING OFFICER: Mr. Winegar, you are
2 excused. Thank you very much for your testimony.

3 THE WITNESS: You bet.

4 MR. CRAIG SMITH: Then assuming we have--my
5 other witness, missing witness, today, obviously, is Mr. Lynn
6 Wood. He's the certified public accountant that's handled the
7 books I think both before and after Mr. Bowden took over
8 running the system. And if we have a stipulation to admit his
9 testimony, I think that's all I have.

10 THE HEARING OFFICER: Thank you.

11 And Ms. Schmid, you agree with the stipulation that
12 Mr. Smith is offering?

13 MS. SCHMID: Yes, I do.

14 THE HEARING OFFICER: I'll receive Mr. Winegar's
15 prepared testimony as Exhibit 2 and Mr. Wood's as Exhibit 3.

16 Exhibits-2thru3 received into evidence

17 MR. CRAIG SMITH: And at some point--maybe this
18 is best after we do the rest of--the Division makes its
19 presentation. But obviously, you did ask that we have some
20 input on the attorneys fees issue. I'm happy to do that
21 whenever, Mr. Clark, you feel that's appropriate.

22 THE HEARING OFFICER: Thank you. I'm going to
23 have you do that in just a moment.

24 I just wanted to note that the Exhibits A through K,
25 the financial records, I'm going to treat those as associated with

1 Exhibit 1, Mr. Bowden's testimony. So they'll be exhibits to the
2 exhibit.

3 MR. CRAIG SMITH: Thank you.

4 THE HEARING OFFICER: Exhibits A through K to
5 Exhibit 1 is how I'm going to address those.

6 And yes, Mr. Smith, if you'd now address the
7 following. And just for the record, the Commission's in receipt
8 of a letter from Marsha Smith, dated September 10, 2012, that
9 primarily addresses the issue of attorneys fees in this matter.
10 And she represents that she is on the negotiating committee
11 representing the customers of Mountain Sewer, and in particular
12 the 32 customers of the Summit at Ski Lake Gated Community
13 Association, Inc.

14 Mrs. Smith is not present today, but we have this
15 letter from her that's a part of the record in this proceeding.
16 And so I ask Mr. Smith if he has any comment on the content of
17 the letter.

18 MR. CRAIG SMITH: I do, and I'll just try to be--
19 briefly address this. And what I'd like to, I guess, first talk
20 about is the--a little bit of the history of this matter. And when I
21 say "this matter," there's actually three matters. And again,
22 that's part of the reason why--obviously, the more matters you
23 have, the more the attorneys fees are going to be. And the
24 three matters are: There were--I believe we've addressed this--
25 one is the rate proceeding, which has been, obviously, the

1 biggest concern and the biggest matter. But also, this began
2 not as a rate proceeding, but there were two other matters.
3 One, a number of complaints about the level of service--that
4 was received by the Commission--from the users of Mountain
5 Sewer as to the level of service they were receiving; and two,
6 there was--the third matter is the transfer of the ownership of
7 the company from Dr. Ron Catanzaro to the current owners of
8 Mountain Sewer, which is principally Mr. Bowden's wife, Peggy,
9 and he's the general manager. So we've had--and this has gone
10 on, not just for a few months. I think we began probably in early
11 2011, as I recall, on these matters. And we've had a number of
12 hearings, a number of meetings.

13 I'll let Mr. Mel Smith, who has actually--a lot of his
14 time has been spent with meeting with the various--he kind of--I
15 kind of handled the things here at the Public Service
16 Commission. He kind of handled--we kind of divided
17 responsibilities. And he kind of took the lead on working
18 directly with the customers and complainants.

19 What I found when I walked into this situation was
20 a very contentious situation with many, many dissatisfied
21 customers and a long ways that needed to go to "right the ship,"
22 so to speak. That wasn't surprising. I'd worked with--prior to
23 working with Mountain Sewer, I had worked with the water
24 company that was also owned by Dr. Catanzaro. I was aware
25 that he was under some extreme financial pressures because of

1 the--some of the drop in real estate values, which have been
2 very dramatic around the country, but particularly dramatic in
3 the Ogden valley, where this company and where his real estate
4 holdings were located. And he was having a very difficult time
5 doing that.

6 We've had a lot of hearings, a lot of meetings. This
7 has been not an easy--even though it started with a bang and
8 appears to be ending with a whimper today. But there's been a
9 lot of work and a lot of preparation into--one of the things we
10 put a tremendous amount of time into, more so than we would
11 typically do on a case, was there were not very good financial
12 records upon which we could base a request for a rate increase
13 or rate case here at the Commission. And attorneys at my
14 office and others, including one--we used a law clerk very
15 extensively, who is also a Certified Public Accountant, Adam
16 Long, who is now back in law school finishing his third year of
17 law school. But he worked nearly full time on, you know, trying
18 to create or recreate or find or gather the financial records,
19 which were very sparse, and to try to put together enough of a
20 financial picture so that we could come in here and be able to
21 show kind of what the company needed and what--you know,
22 and have an accurate sort of thing. You know, it's one thing to
23 come in and say, "Well, we need more money." But it's another
24 thing to come in and say, "Here's all the expenses. Here's been
25 our expenses, here's been our income. Here's where our

1 shortfalls are." And those records have not been well kept, if
2 kept at all. And so a tremendous amount of time and effort went
3 into organizing, recreating those documents and those sorts of
4 things.

5 And so, you know, those are some of the
6 challenges, besides the number of complaints. As you know, at
7 first the complainants were quite vigorous, demanding
8 discovery, things like that. Now they've at least satisfied
9 themselves, I guess, enough that they don't even need to show
10 up to the hearing. But we still had to respond to discovery
11 requests and those sorts of things. And like every other
12 attorney, everything I do takes time. And that's what I charge
13 for. And that's a little bit of background.

14 I'm happy, if the Commission would
15 like--somewhere here in my mass of papers I brought a copy of
16 all my billings. I'd be happy to submit those for scrutiny by you,
17 Mr. Clark, or the Commission if you feel that's necessary. I've
18 got nothing to hide on that. I'd be happy to submit that.

19 With that, I'd turn a few minutes over to Mel Smith
20 because he's been heavily involved on kind of the other end of
21 this matter.

22 MR. MELVEN SMITH: Sure. Thank you.

23 The history that I have with Mountain Sewer goes
24 back further than when Ray Bowden had acquired his interest
25 through his wife, at least. And I have a series of billings right

1 here that have not been paid by Mountain Sewer when I was
2 representing Ron Catanzaro. And I haven't submitted those,
3 haven't given those to the Division. So they're not part of the
4 computation that's before you. I have omitted those and will
5 work those out with Ray because, you know, those probably
6 were more historical. But they come to about between 20 to
7 \$30,000.

8 The issues began way before when Ray Bowden's
9 wife became involved. And the complainants first started with
10 Weber County. And so I spent quite a bit of time in Weber
11 County in trying to address some of the issues at the county
12 level, because the County was the body politic. Meeting with
13 the Commissioners there, we had several hearings. It came up
14 before the Commission, and I had to prepare, you know, some
15 reports. So this goes way back.

16 And there's also two other matters that we're
17 handling on behalf of Mountain Sewer that has to do with the
18 flooding. There's a present lawsuit with Philadelphia Insurance,
19 a lawsuit. We're incurring fees there, which still remain unpaid.
20 So the only thing that is before you are those billings.

21 If you look at--I've submitted, both to the Division
22 and as part of the record, but the first billing that we're asking
23 for reimbursement for is dated August 8, 2012. And so that's
24 where we're looking at as part of this rate case. The others are
25 still out there. We'll be paid through some other means that we'll

1 have to work out. I spent a lot of time, and I've been at all the
2 hearings. I know it looks like maybe there's a lot of duplication.
3 There really hasn't.

4 As Mr. Smith indicated, I have been involved in
5 several meetings up in the valley with the homeowners. One of
6 the reasons why we don't have a lot of opposition today is Ray's
7 been very good--and I've been involved in that--in handling all
8 the issues and disputes with the homeowners and their
9 concerns. We've had a series of meetings with them up in the
10 valley, showing them what we're doing, what their proposals
11 were.

12 I also was involved in the reconstruction of the
13 financials. One of the issues--one of the main issues with Mr.
14 Zini is he was concerned what happened to all the connection
15 fees. And since we didn't have those records, we went through
16 and audited each lot within the district, pulling the vesting deeds
17 and then getting the building permits to reconstruct the
18 maximum amount that the sewer company could have obtained,
19 and then showing how that money was used in infrastructure
20 and improvements. So quite a bit of time. But all of that was
21 done to comply with some of the data requests that the
22 intervenors had sent.

23 So those types of things. And then reconstructing
24 the financials with the income from the inception of Mountain
25 Sewer back to 1984 to the current, we were involved in putting a

1 lot of that together. And that complaint, with the documents that
2 are requested in the data request. So it's been an active file.

3 As Mr. Smith indicated, there's three different
4 matters here. It's not just for the rate case. And the lawsuit
5 took a fair amount of time. I call it the "lawsuit," but the
6 deficiencies, the cause of action that had to do with the first
7 cause of action that we're here on and meeting up in the valley
8 and making sure that those repairs were being done in the right
9 fashion.

10 So anyway, that's kind of a summary. And again, I
11 have a copy right here if you need to look at that and if you
12 have any specific questions. But in general, that's the
13 summary.

14 THE HEARING OFFICER: Okay. For either of you,
15 can you put what you've told me in the context of the dollar
16 figures that are mentioned in Ms. Smith's letter in paragraph--or
17 it's the first reason that she lists. It's at the bottom of the first
18 page of the letter. And she refers to legal fees estimated for
19 the case of 50,000. And then there's the figure, 112,000. And
20 then there's some billing totals from each of your firms.

21 And I just--are these numbers that you are
22 acquainted with? Do they relate to the explanations you've
23 provided me? Let me give you a moment to digest them, if you
24 need that. Let's be off the record.

25 (A discussion was held off the record.)

1 THE HEARING OFFICER: On the record.

2 MR. MELVEN SMITH: On that first one, it says
3 \$50,000. I'd have to go back and research it. But my
4 recollection was, is when we first started, it was our goal in
5 meeting up in the valley and we'd indicated with all of the
6 intervenors that--and we had laid out what needed to be done.
7 And I actually addressed that. I said, "You know what? We
8 could really do this very economically if we can have you"--we
9 actually had a--we kind of had a little field trip and took them
10 around and showed them the sites and said, "If you can look at
11 that and agree that these are deficiencies that need to be
12 corrected and we could stipulate as to what the rate increase--
13 we'll give you complete visibility." We gave them check
14 registers, those kinds of things.

15 And so very early on, it was the intention to keep
16 the fees to a bear minimum as much as we could, but then we
17 couldn't get the cooperation. And you've been in the hearings
18 you've known what has happened. That first figure of 50,000, I
19 recall that that went in, it was by--what is his name? Bryan--

20 MR. CRAIG SMITH: Bryan Bryner.

21 MR. MELVEN SMITH: Yeah. And he put in an
22 estimate, but it was only from the Smith firm. It didn't include
23 anything from me. And when looked at it, I said, "Did you
24 include anything from me?"

25 And he said, "You know what? I don't believe so."

1 So that probably is that first figure that went out.
2 But it didn't include anything from my firm. And so after that,
3 we amended that and made sure we included both firms. To say
4 that where it says in a matter of two months it went up to 112, it
5 was probably more like about double that. It was probably more
6 like 90,000 at that time, not 50. And so that would account for
7 that.

8 THE HEARING OFFICER: Okay.

9 MR. CRAIG SMITH: Your Honor, and I'd like to
10 also, for the second thing, I'd like to point out: Other than
11 hearings here at the Commission, Mr. Smith and I have not
12 attended any of the same, because I have attended none of the
13 meetings with the homeowners association since he's been the
14 one handling that part of the case. I have not even been up to
15 Mountain Sewer in four or five years. I've been handling, like I
16 said, the things here. And he's been handling those. And I
17 know they've had very many, lengthy meetings. And again,
18 that's probably the largest reason why we don't have a room full
19 of intervenors here is because of the efforts they took to
20 educate the customers as to what was going on and what the
21 money was needed for and what it was being used for, which I
22 think was, you know, in my view, time very well spent. But I had
23 no role in that.

24 THE HEARING OFFICER: Ms. Schmid, anything
25 that the Division would like to contribute on this subject?

1 MS. SCHMID: Yes. Mr. Mark Long, the Division's
2 witness in these dockets, carefully examined the attorneys fees
3 that were submitted and ended up disallowing some of them and
4 proposing that the attorneys fees be recovered over, I believe,
5 five years?

6 MR. LONG: Correct.

7 MS. SCHMID: He can either address that now in
8 more detail, or he can address that as part of his presentation
9 on the combined three dockets, whichever you would prefer.

10 THE HEARING OFFICER: Okay. And that would
11 include the letter that the Division prepared as well?

12 MS. SCHMID: Yes.

13 THE HEARING OFFICER: Okay. Let's take that up
14 when we have Mr. Long on the stand. Thank you.

15 Anything further, Mr. Smith?

16 MR. CRAIG SMITH: No, I have nothing further for
17 the applicant.

18 THE HEARING OFFICER: All right.

19 Ms. Schmid?

20 MS. SCHMID: Thank you. I believe that Mr. Mark
21 Long has been sworn in all three dockets; however, out of an
22 abundance of caution, if he could be sworn in all three dockets.

23 THE HEARING OFFICER: Thank you.

24 Would you raise your right hand, please, Mr. Long.
25 Do you solemnly swear that the testimony you are about to give

1 shall be the truth, the whole truth, and nothing but the truth?

2 THE WITNESS: Yes.

3 THE HEARING OFFICER: Thank you.

4 MS. SCHMID: Thank you.

5 MARK LONG, having been first duly sworn, was
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 BY-MS.SCHMID:

9 Q. Mr. Long, could you please state your full name,
10 business address, employer, and position for the record.

11 A. Yes. My full name is Mark Alan Long, A-L-A-N for a
12 middle name. I am a utility analyst for the Utah Division of
13 Public Utilities. My work address is 160 East 300 South, Salt
14 Lake City, 84114.

15 Q. Thank you. In conjunction with your employment
16 with the Division, have you participated on behalf of the Division
17 in the three dockets we are here to discuss today?

18 A. Yes, I have.

19 Q. Did you prepare and cause to be filed the Division
20 memo dated August 23 that was Exhibit 1 to your testimony,
21 which consisted of three pages?

22 Of note, Exhibit 1 has its own exhibits, 1.1 through
23 1.6, 2.0, 3.1 through 3.11, 7.8, and 4.0.

24 Did you prepare and cause those to be filed?

25 A. Yes, although I'm not sure about 7.8.

1 THE HEARING OFFICER: Be off the record.

2 (A discussion was held off the record.)

3 THE HEARING OFFICER: On the record.

4 BY MS. SCHMID:

5 Q. Mr. Long, would that be Exhibit 3.8 rather than 7.8?

6 A. That's correct.

7 Q. Thank you. So do you have any changes to what
8 was filed on August 23 in addition to changing Exhibit 7.8 to
9 3.8?

10 A. Yes, I do.

11 Q. Could you please discuss those? And I will note
12 that substitute pages have been distributed.

13 A. Yes. On Exhibit 3.2, under the "Income Statement
14 Analysis," on Column C, Line 7, it shows the division adjustment
15 of 12,786. I'm not sure what happened to the formula, but that
16 really should be 1038.

17 Q. Mr. Long, does that change flow through to any
18 other exhibits?

19 A. No, it doesn't. That was just there merely for
20 information.

21 Q. So do you adopt as your testimony the direct
22 testimony that you filed August 23 with the Division's
23 recommendation and accompanying exhibits and the corrected
24 Exhibit 3.2?

25 A. Yes, I do.

1 Q. Do you have a summary to give?

2 THE HEARING OFFICER: Just before we go to the
3 summary, could you help me with--I was looking for the number
4 that you were referring to. Could you help me identify that on
5 3.2? Which line changed?

6 THE WITNESS: It's on Line 7, Column C.

7 THE HEARING OFFICER: Oh, I see. Okay. Thank
8 you. The one in yellow that says "Corrected Amount."

9 THE WITNESS: Yes.

10 THE HEARING OFFICER: I don't know how I
11 overlooked that, but thank you.

12 THE WITNESS: It was too obvious.

13 THE HEARING OFFICER: Thank you.

14 MS. SCHMID: And actually at this point, I'd like to
15 move for admission of the direct testimony with exhibits and
16 corrections as noted today.

17 THE HEARING OFFICER: Any objection?

18 MR. CRAIG SMITH: No objection.

19 BY MS. SCHMID:

20 Q. Mr. Long--

21 THE HEARING OFFICER: I'm going to receive that
22 entire package as Exhibit 4. And then it will have the internal
23 exhibit numbers that we've been referring to.

24 Exhibit-4 received into evidence

25 BY MS. SCHMID:

1 Q. Mr. Long, do you have a summary?

2 A. Yes, I do.

3 Q. Please proceed.

4 A. Just so the Court knows, I had a summary. I've
5 been hearing some of the other testimony. I've gone in and
6 tried to condense that even further.

7 As the Court knows, there's three dockets before
8 the Commission today addressing customer complaints, which is
9 docketed No. 11-097-01; transfer of ownership, which is
10 11-097-02; and application for rate increase, interim rates, and
11 special assessment, which is Docket 11-097-03.

12 Just for some quick background for the record,
13 Mountain Sewer Corporation is a privately owned,
14 Commission-regulated public utility that provides sanitary sewer
15 service to residential and other customers near Huntsville, Utah.
16 Utah Public Service Commission issued Mountain Sewer's first
17 CPCN in June of 1985. The rates were originally approved at
18 \$22 per month, and it remained the same until the Commission
19 granted the application for the interim rate increase on May 21,
20 2012.

21 In October of '91, the Commission granted
22 Mountain Sewer's request for an expanded service area. The
23 data and calculations the Division used in this analysis are
24 based on Mountain Sewer's December 31, 2012, projected
25 connection and standby fees of 130 and 64, respectively.

1 Additional information is available in the Division's
2 34-page recommendation and the 20 supporting exhibits that
3 Ms. Schmid recently noted.

4 Mountain Sewer first came to the Division's
5 attention on or about February 17, 2011, after concerned sewer
6 customers filed an informal complaint with the Division's
7 customer service section. On April 18, a formal complaint was
8 filed regarding operational issues as well as allegations of
9 financial irregularities.

10 The Division viewed numerous pictures as well as
11 videos provided by the complainants. The Complaint was
12 signed, Docket 11-097-01. Division personnel, along with Dan
13 Griffin of the Utah Department of Environmental Quality,
14 inspected the sewer system. Division personnel noted several
15 possible areas of concern, but Mr. Griffin found no evidence
16 that any sewage had entered Pineview Reservoir.

17 Many repairs have been made since the Complaint
18 was filed, and the Division is unaware of any recent additional
19 complaints regarding system operations. An independent
20 engineer hired by the Division verified that the necessary
21 repairs were made and that they were prudent and necessary. I
22 also inspected the sewer company after a majority of the repairs
23 were made and could see what appeared to be vast
24 improvements. The Division recommends that this portion of the
25 Complaint be dismissed.

1 Through the Division's analysis of the financial
2 records, the Division concluded that Mountain Sewer was
3 subsidized by Dr. Catanzaro, the former owner, conservatively in
4 excess of a million dollars, leaving no funds for Mr. Catanzaro's
5 personal use or to subsidize any of his other companies. The
6 Division also recommends that this portion of the Complaint be
7 dismissed.

8 On August 18, 2011, in the middle of investigating
9 the Complaint, Mountain Sewer's ownership was transferred
10 from Dr. Ron Catanzaro to Valley Utility, and this matter was
11 assigned Docket 11-097-02.

12 Mr. Ray Bowden is the president and manager of
13 the sewer company. The customers in the original complaint,
14 many of whom are now intervenors, contested this transfer of
15 ownership. As part of its investigation, the Division issued data
16 requests, reviewed loan documents and records from Weber
17 County, and concluded that none of the financial transactions,
18 legal fees--or legal fees were passed on to Mountain Sewer, and
19 the transfer of ownership had no effect whatsoever on the rates
20 or the rate payers of Mountain Sewer. In fact, the new
21 ownership brought an influx of funds and also a knowledge base
22 that was instrumental in correcting some of the issues.

23 On April 6, 2012, Mountain Sewer filed a request
24 for a general rate increase, interim rates, and special
25 assessment. Prior to this, Mountain Sewer had not sought an

1 increase in rates and fees. Although the Division's investigation
2 was hampered by the lack of records prior to Valley Utility's
3 ownership, through the following investigative techniques, the
4 Division obtained more than enough information needed to make
5 its recommendation to the Public Service Commission. Some of
6 the Division's actions included submitting multiple data requests
7 to Mountain Sewer; participating in several meetings, both with
8 Mountain Sewer personnel and its engineers; as well as
9 Mountain Sewer's attorneys and the intervenors reviewing each
10 and every communication, including emails and phone calls from
11 intervenors to ensure that all allegations and any evidence was
12 reviewed. I, personally, received over 780 emails and sent 593
13 emails for this case. And that's not counting the communication
14 between the Attorney General's office as well as other members
15 of the Division.

16 I also reviewed source documents from Mountain
17 Sewer's vendors verifying every material transaction, reviewing
18 and following up as needed for each check written in its check
19 register; evaluating all financial records that, by the way, were
20 kept impeccably since the transfer of ownership; reviewing
21 information from past and current accountants and the
22 bookkeeper of Mountain Sewer; and reviewing the
23 recommendation from the independent engineer hired by the
24 Division.

25 Really quickly regarding the interim rates. Mountain

1 Sewer requested interim rates of 57.06 for connected customers
2 and 24.40 for standby customers, and provided the necessary
3 evidence to support their request.

4 The interim rates were recommended by the
5 Division and granted by the Commission on May 21, 2012.
6 Because of the many unforeseen expenses that we've
7 addressed incurred by Mountain Sewer, the final
8 recommendation rates were actually higher than those ordered
9 for the interim rates.

10 The Division recommends that there is a true-up to
11 be set at \$27.19 for connected customers and 85 cents for
12 standby customers for each month from May 14 to the date that
13 the new rates are approved. Now that I read this, it probably
14 should be from May 21 to the date the new rates were approved
15 when they were initially approved by the Commission.

16 Mountain Sewer also requested a special
17 assessment to pay for past net operating losses, emergency
18 repairs, and replacement of assets immediately following the
19 change of ownership and pending urgently-needed repair and
20 replacement of assets. The total amount requested was
21 \$171,791.83.

22 The Division recommends that the entire net
23 operating losses and past-due fees for services totaling \$68,720
24 be denied because they are losses from past or already-incurred
25 costs from normal operations and would constitute

1 impermissible retroactive rate making.

2 The Division recommends the emergency repairs
3 and replacements immediately following the transfer of
4 ownership for \$63,361.05 be removed from the special
5 assessment. But since they were necessary to make the sewer
6 company safe, reliable, and to provide adequate levels of
7 service, that they be included in the rate case and paid for
8 through rates.

9 Further, the Division recommends that the--

10 THE HEARING OFFICER: Pardon me, Mr. Long.
11 Included in rate base?

12 THE WITNESS: Yes. And they are included in the
13 recommendation as well.

14 Further, the Division recommends that the pending,
15 urgently-needed repairs and replacement of assets remain in the
16 special assessment because they are not typical or recurring
17 expenses. And due to the nature and urgency of the work, they
18 need to be completed as soon as possible. Total cost of these
19 repairs are \$39,710.08. The net effect of the above
20 adjustments brings a special assessment amount recommended
21 from the request of \$171,793.83 to \$39,710.08. This also brings
22 the requested amount for each connection from \$1204.94 to
23 \$204.69.

24 In regards to the general rate case, the Division is
25 recommending the following fees and rates. They're

1 recommending a monthly fee for standby customers of \$25.25,
2 total monthly fees for connected customers at \$84.25. We just
3 talked about the one-time special assessment of \$2--\$204.69. A
4 connection fee of \$5000 for those connections that are--that
5 have to be connected and the street torn up, so the connections
6 that are under the existing street, and \$3000 for those
7 connections that are installed before the street is put in. A
8 hook-up fee of \$300, turn-on fee of \$100, turn-off fee of \$100,
9 and a late fee of 18 percent per year.

10 The Division would also like to add because of the
11 substantial legal fees and to provide some relief for the rate
12 payers, the Division is recommending that the legal fees be paid
13 for over the next five years. If these legal fees are not
14 included in the rates today, the rates would be \$68 per
15 connection and \$24 per standby. At the end of five years,
16 Mountain Sewer should have another rate case.

17 The Division typically prefers to recommend that an
18 increase of this scale be phased in over a period of time.
19 Unfortunately, with relatively so few customers and pending
20 needs, Mountain Sewer does not have the luxury of time. In a
21 small utility company such as this, there are few customers
22 among whom to spread the costs; thus, creating higher than
23 desirable rates. While the Division is sensitive to
24 recommending such a large increase, the increase is necessary
25 to pay for the costs of operations and to establish a capital

1 reserve through its revenues.

2 The Division believes that its recommended rates,
3 fees, and charges set forth are just and reasonable and
4 consistent with the public interest; and therefore, the Division
5 recommends that the Commission approve these new rates and
6 charges.

7 BY MS. SCHMID:

8 Q. I have one question. I'm seeking clarification on
9 something.

10 Is it the Division's intention that the emergency
11 repairs and replacements of assets, which immediately followed
12 the transfer of ownership in the amount of \$63,361.05, be
13 included in the rate case and paid for through rates?

14 A. Well, more specifically, it should be included in the
15 rate base and paid for through rates.

16 Q. Okay. Thank you.

17 MS. SCHMID: If we may have a recess for just a
18 moment or two, we will obtain copies of the Division's responses
19 to the two letters filed by customers and then enter those into
20 the record.

21 THE HEARING OFFICER: Just about time for a
22 normal recess in any event. So let's recess until ten after.

23 MS. SCHMID: Thank you.

24 (A break was taken from 10:04 a.m. to 10:25 a.m.)

25 THE HEARING OFFICER: We'll be on the record.

1 Ms. Schmid.

2 MS. SCHMID: Thank you. In addition to DPU
3 Exhibit 4, the DPU would like to enter into evidence, which we
4 would ask to be marked DPU Exhibit 5, which is the letter dated
5 September 7, 2012. I'm sorry, just one moment.

6 Could we have just one more moment?

7 THE HEARING OFFICER: Off the record.

8 (A discussion was held off the record.)

9 THE HEARING OFFICER: On the record.

10 BY MS. SCHMID:

11 Q. In addition to Exhibit 4, which was entered into
12 evidence previously, the Division would like to move into
13 evidence a letter dated August 28, 2012, from Mr. Hayes to the
14 Division. And copies have been distributed for that.

15 The Division would like to move into evidence as
16 Exhibit 6, the Division's response to Mr. Hayes' letter. And the
17 Division's response is dated September 7, 2012.

18 And then also Exhibit 7, which would be the
19 Division's--and you have the letter from Ms. Smith in the record.
20 So it would be the Division's response to Marsha Smith, dated
21 September 12 with the attachments to that letter. Those
22 address legal fees and other matters that have been raised in
23 this case.

24 THE HEARING OFFICER: And that's Exhibit 7?

25 MS. SCHMID: Uh-huh.

1 THE HEARING OFFICER: DPU Exhibit 7.

2 And I think for clarity of the record, I'd like to mark
3 Marsha Smith's letter as Exhibit 8. Can we receive that into
4 evidence without a foundation? Is there any objection to doing
5 that—

6 MS. SCHMID: No objection.

7 THE HEARING OFFICER: --so we have them here
8 together?

9 MR. CRAIG SMITH: No objection.

10 Exhibits-5thru8 received into evidence

11 MS. SCHMID: And also before I make Mr. Long
12 available for cross-examination and for questions from the
13 Commission, I would like to recognize on the record his
14 professionalism, his diligence, and his expertise that he
15 exhibited throughout this matter. This has been a very
16 complicated case and he has done a exemplary job.

17 THE WITNESS: Thank you.

18 MS. SCHMID: Mr. Long is now available for
19 cross-examination and questions.

20 THE WITNESS: After all that, I have to be now?

21 THE HEARING OFFICER: Well, we're anxious to
22 hear what you have to say, Mr. Long, after that introduction.

23 I do have a questions. But Mr. Smith first. Do you
24 have any?

25 MR. CRAIG SMITH: I have no questions.

1 THE HEARING OFFICER: Thank you. Let's begin
2 with the attorneys fees issues that the Exhibits 5 through 8
3 address. And can you help me relate the attachments to Exhibit
4 7, which are various attorney billings? Help me relate those to
5 Exhibit 3.9 in your testimony. And then give me a sense of what
6 Exhibit 3.9--just walk me through the totals and the adjustments
7 and--

8 THE WITNESS: Okay.

9 THE HEARING OFFICER: --so I'll understand how
10 these two sets of materials connect with each other, if at all.

11 THE WITNESS: When we got the letter from
12 Marsha Smith, one of the things that she wanted--or that she
13 thought was a little bit suspect, perhaps, was there wasn't
14 enough detail in the attorney billings. And, as I explained to her
15 in the letter, I had actually deleted several of the columns in the
16 information that I received from the two different attorneys, just
17 for ease of putting it into the schedule and not making it any
18 longer than it was.

19 THE HEARING OFFICER: So she had been
20 reacting to your Exhibit 3.9 in the letter. Is that right?

21 THE WITNESS: That's correct. That's correct.

22 THE HEARING OFFICER: Thank you.

23 THE WITNESS: And so I just sent her the ones
24 with greater detail. That appeared to satisfy her. I didn't hear
25 anything more from her.

1 THE HEARING OFFICER: And so the column
2 "Adjustments"--that's titled "Adjustments"--these are
3 adjustments you're assigning to the attorneys fees?

4 THE WITNESS: Yes. These are Division
5 adjustments. There's footnotes on the very last page
6 describing the reasons that they were adjusted out. And we
7 went through those and, looking at the different criteria, we
8 adjusted about, as I recall, about \$14,311 out of those that we
9 felt didn't belong in this rate case.

10 THE HEARING OFFICER: Thank you.

11 THE WITNESS: Yes.

12 THE HEARING OFFICER: To a different subject.
13 I'd like you to address the table in your Exhibit 4, pages 33--I'm
14 sorry, 32 and 33, and relate that information to the table that's
15 at page 4 of the application. In other words, I'm looking for a
16 comparison between what you represent as the Mountain Sewer
17 request in your table and what is present in the application
18 itself, since the numbers don't exactly tie. I think you bundled
19 them together different ways. And so would you help me with
20 that as well?

21 THE WITNESS: Sure. I'm looking at page 4 of the
22 initial rate case request. You see the "Fixed System Fees" of
23 12.14 and 12.26? Those equate to the monthly system
24 expenses of the 10.25 and the \$15. And add those two together
25 and their columns, that's what the standby fee of \$24.40 is, and

1 that's what the standby fee of 25.25 is under the Division's
2 recommendation. I have other numbers and--on page 32--
3 requested by Mountain Sewer. And those are the numbers
4 requested in their prefiled testimony, I believe. So those are
5 more updated numbers than the original requested numbers, if
6 you follow.

7 THE HEARING OFFICER: I believe I do.

8 Is it your understanding that these were presented
9 as requested rates or as indicative of the actual costs that the
10 company's experiencing? And if you can help me clarify this.

11 THE WITNESS: Yes. I believe these were
12 calculated based on the costs that they knew at the time. You
13 know, a lot of the legal fees changed, as I explained. Other
14 expenses came up. Some things were disallowed, some things
15 were taken out of the special assessment and added into the
16 rate base. And that's reflective of all the changes here.

17 And I believe on their original rate case request,
18 the financial data that--where they got their rates from is in
19 Exhibit G. And those should tie forward to this. I have it here.
20 Their Exhibit G is titled, "Accounting and Financial Information."

21 THE HEARING OFFICER: Right.

22 THE WITNESS: And part of the issue may be--I
23 know that the original attorney, Bryan Bryner, tried to pattern
24 that exactly after the previous rate case that he worked on. And
25 some of the definitions may or may not have applied

1 specifically.

2 THE HEARING OFFICER: Let's be off the record a
3 moment.

4 (A discussion was held off the record.)

5 THE HEARING OFFICER: We'll go on the record.

6 So Mr. Long, as I understand your presentation at
7 pages 32 and 33, what you have represented here is the
8 applicant's current request, rate request, and that request
9 evolved over the rate case process. In other words, the rate--
10 the requested rates changed after the initial application.

11 THE WITNESS: That's correct. And this
12 represents the requested amount by Mountain Sewer on their
13 prefiled testimony, which was the most recent request that we
14 had on record for them.

15 THE HEARING OFFICER: The July testimony, I
16 believe.

17 THE WITNESS: I believe it was.

18 THE HEARING OFFICER: For the record, Exhibits
19 1, 2, and 3 were received today.

20 THE WITNESS: Yes.

21 THE HEARING OFFICER: Okay. Thank you for
22 that help.

23 THE WITNESS: Sure.

24 THE HEARING OFFICER: Those are all my
25 questions.

1 Mr. Long, anything further that you would like to
2 say in response to the questions I've asked you or in regard to
3 any other item or element of this case?

4 THE WITNESS: I can't really think of anything.

5 THE HEARING OFFICER: Anything more from
6 counsel before we adjourn?

7 MR. CRAIG SMITH: Nothing more from the
8 applicant.

9 MS. SCHMID: Nor for the Division.

10 THE HEARING OFFICER: Okay. And, Mr. Long,
11 we do appreciate your efforts to provide a very thorough
12 examination--

13 THE WITNESS: Thank you.

14 THE HEARING OFFICER: --of the application and
15 to address the other two dockets associated with it in a very
16 helpful way.

17 THE WITNESS: Thank you.

18 THE HEARING OFFICER: If there's nothing further,
19 then we'll be adjourned.

20 MR. CRAIG SMITH: Thank you.

21 MS. SCHMID: Thank you.

22 THE HEARING OFFICER: The Commission will
23 issue a written order in due course.

24 MR. CRAIG SMITH: And that will address all three
25 of the--

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THE HEARING OFFICER: Correct.
MR. CRAIG SMITH: Okay.
THE HEARING OFFICER: Now we'll be adjourned.
(The hearing adjourned at 10:42 a.m.)

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CERTIFICATE

State of Utah)

ss.

County of Salt Lake)

I, Michelle Mallonee, a Registered Professional Reporter and Notary Public in and for the State of Utah, do hereby certify:

That the proceedings of said matter was reported by me in stenotype and thereafter transcribed into typewritten form;

That the same constitutes a true and correct transcription of said proceedings so taken and transcribed;

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

Michelle Mallonee, RPR, CSR