

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the
Application of WaterPro, Inc. Docket No. 12-2443-01
for a Culinary Water Rate Case

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HEARING PROCEEDINGS  
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TAKEN AT: Utah Public Service Commission
Hearing Room 403
160 East 300 South
Salt Lake City, Utah

DATE: Wednesday, December 17, 2014

TIME: 3:31 p.m.

REPORTER: Nancy A. Fullmer, RMR

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APPEARANCES

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1 PROCEEDINGS

2 THE HEARING OFFICER: Good afternoon,
3 everyone. My name is Melanie Reif and I'm the
4 Administrative Law Judge for the Utah Public
5 Service Commission. Today is the date
6 December 17, 2014. And this is the appointed time
7 for the hearing in Docket 12-2443-01 entitled In
8 the Matter of the Application of WaterPro, Inc.
9 for a Culinary Water Rate Case.

10 As noted in the notice that was issued in
11 this matter on December 2, 2014, the purpose for
12 this hearing is to review the somewhat stipulation
13 that was filed on November 25, 2014. Let's start
14 today by taking appearances starting with
15 WaterPro.

16 MR. JENSEN: Darrin Jensen-Peterson,
17 general manager, CEO of WaterPro.

18 THE HEARING OFFICER: Mr. Jensen, could
19 you spell your name for the reporter, please.

20 MR. JENSEN: D-A-R-R-I-N, Jensen,
21 J-E-N-S-E-N, hyphen, Peterson, P-E-T-E-R-S-O-N.

22 THE HEARING OFFICER: And would you like
23 me to call you Mr. Jensen or Mr. Peterson?

24 MR. JENSEN: Either. We'll go by Jensen.

25 THE HEARING OFFICER: Okay. And, for the

1 record, you are appearing pro se today, correct?

2 MR. JENSEN: Yes.

3 THE HEARING OFFICER: Okay. Thank you.

4 MS. SCHMID: For the Division, Patricia
5 E. Schmid with the Attorney General's Office. And
6 with me as the Division's witness, Mr. Mark Long.

7 THE HEARING OFFICER: Thank you very
8 much. And welcome again.

9 Mr. Jensen, typically, I would start with
10 the Company to give background and establish the
11 basis for the stipulation. I understand that you
12 also intend to serve as the Company's witness in
13 this case, so would--help me decide which way to
14 go here. Do you want me to put you under oath now
15 and just go from there or do you wish to give an
16 opening statement and then testimony?

17 MR. JENSEN: I'm happy with being put
18 under oath and just moving straight into kind of
19 the facts.

20 THE HEARING OFFICER: Okay. We'll take
21 your testimony from the table so if you would
22 kindly raise your right hand, and do you swear
23 that the testimony you're about to give will be
24 the truth?

25 MR. JENSEN: Yes.

1 DARRIN JENSEN-PETERSON,
2 having been first duly sworn, was
3 examined and testified as follows:

4 THE HEARING OFFICER: Thank you very
5 much, sir. You may proceed.

6 EXAMINATION

7 BY-MR. JENSEN: Perfect. Back in June 2013,
8 we were asked to send an updated tariff with the
9 changes that went into effect from our rate
10 hearing from February 2013. At the time it was
11 discovered by the Commission that there were a few
12 things that did not line up with the current
13 tariff that had been previously filed. The two
14 main concerns were the following: Incorrect rates
15 being charged to our residents that reside in
16 Little Valley or considered our Little Valley on
17 South Mountain zone and our engineering fees.
18 If I may address both here to you today.

19 Our incorrect rates or the incorrect
20 rates for Little Valley on South Mountain, it was
21 discovered that the rates that were submitted to
22 the Commission for the approval in 2013 regarding
23 the zone Little Valley on South Mountain were
24 indeed incorrect. The error came from our
25 engineers submitting a proposed rate that we

1 talked about several years ago. And when it was
2 revised for the current rate for our master plan,
3 those rates for the Little Valley on South
4 Mountain were not updated and the incorrect rates
5 were sent to the Commission and were not caught by
6 our office.

7 When--once it was brought to our
8 attention in January of 2014, WaterPro changed the
9 rate to the rate that was approved by the
10 Commission. We provided in detail what customers
11 were charged this base rate and submitted to the
12 Commission. At the time we proposed crediting
13 back those customers which were in effect. We
14 were approximately 116 customers crediting back a
15 total of 14,750 going back to 2009. And that's as
16 far as our records would go back. Our system only
17 holds up to five years.

18 Since then we have sent a letter to each
19 of the residents in the zone affecting Little
20 Valley on South Mountain explaining what had
21 happened and considering--and regarding this
22 hearing. We have also in the process of crediting
23 each of the homes that this affects, too, that
24 will show up on their next bill. We have a
25 current tariff available at our front office and

1 it will be available on our website regarding what
2 our--the rate that we currently are charging right
3 now.

4 Our second issue was regarding the
5 engineering fees. Back when we first became
6 regulated in our engineering fees and on the
7 tariff dated 2005, after looking at this, we
8 noticed there was a typo back in 2005 showing that
9 we were charging the developers \$3.00 plus \$0.30
10 for every foot of line over 1200. This should
11 have read 300 plus \$0.30 every foot for over 1200.

12 Our engineering--engineering fees over
13 the years have gone up and where this is a
14 passthrough fee to the developers that the
15 engineers charge for, in essence, plan review and
16 through the process of the size of each of the
17 subdivisions and the lines--the water lines that
18 are being put in, we have not made any
19 changes--we've made changes to our inhouse tariff,
20 but have not come in and asked for an increase
21 from the Commission thinking that it was an
22 oversight on our part not realizing that that was
23 something that we had to do. We haven't
24 overcharged any developers. We've only just
25 charged the developers what our engineers are

1 charging us through the subdivisions. And those
2 are the two issues at hand we have today.

3 THE HEARING OFFICER: Anything further,
4 sir?

5 MR. JENSEN: No.

6 THE HEARING OFFICER: Okay. Mr. Jensen,
7 I will have a few questions for you, but before I
8 do that, Ms. Schmid, do you wish to ask Mr. Jensen
9 any questions?

10 MS. SCHMID: I have just a couple for
11 clarifying purposes.

12 THE HEARING OFFICER: Thank you.

13 EXAMINATION

14 BY-MS.SCHMID

15 Q. Mr. Jensen, by whom are you employed and
16 in what capacity?

17 A. By who am I employed?

18 Q. Uh-huh.

19 A. I'm employed by Draper Irrigation, which
20 is the parent company of WaterPro. I'm their
21 general manager, CEO.

22 Q. Thank you. In your opening statement,
23 you mentioned that tariff errors were found by the
24 Commission. But isn't it true that the tariff
25 errors were found by the Division?

1 A. Yes.

2 Q. Thank you.

3 THE HEARING OFFICER: Thank you,
4 Mr. Jensen and Ms. Schmid. I appreciate that.

5 EXAMINATION

6 BY-THE HEARING OFFICER:

7 Q. Mr. Jensen, you did sign the stipulation
8 that was submitted to the Commission, correct?

9 A. Yes.

10 Q. And you did so in your capacity as CEO
11 and general manager for WaterPro?

12 A. Yes.

13 Q. So I assume you're familiar with the
14 provisions of the stipulation.

15 A. Uh-huh.

16 Q. Okay. Looking, if you would, please,
17 at--let me back up just one second. I want to
18 first address your--the issue of the refund that
19 you're proposing. Is it correct that based on the
20 South Mountain area that you are proposing a
21 refund of approximately \$14,744.50?

22 A. Uh-huh.

23 Q. And how many customers does that affect?

24 A. Approximately, 116.

25 Q. Okay. And based on that number of

1 customers, what are you--what are you averaging as
2 the amount of refund per customer?

3 A. It's based on water usage. For example,
4 I mean, there's not--for example, here's one
5 that's \$200.36.

6 Q. What is the high and the low? Can you
7 give me a range?

8 A. I sure can. The highest was 697.83 and
9 the lowest \$42.60.

10 Q. And those are all customers in the South
11 Mountain area?

12 A. In the Little Valley on South Mountain,
13 yes.

14 Q. Okay. I heard your testimony that your
15 records only go back five years.

16 A. Correct.

17 Q. Why is that?

18 A. Well, that's our computer system that we
19 have. That was something that's been in place 17
20 plus years. We have now since changed, so it will
21 actually go back for nine years.

22 Q. And when did you make that change?

23 A. That change was made probably when we
24 met, I'm saying November when I met with the
25 Division--

1 Q. Okay.

2 A. --what we talked about as far as we could
3 only go back to 2009. It was recommended that
4 there needs to be a longer period that accounts
5 can be reviewed. And so that has now been changed
6 to go back nine years. And nine years is the max
7 our system will allow us.

8 Q. Okay. So for the 116 customers that you
9 are--that you concluded have overpaid--

10 A. Yes.

11 Q. --how many of those customers have moved
12 from the area?

13 A. Several, for the most part. We have some
14 that have moved every year in the last five years.
15 And we have some--and I would say on an average,
16 we've seen--there's probably 50 percent that have
17 been there the whole five years that we could go
18 back. The other 50 percent have moved--moved on
19 multiple times. The home has changed over
20 multiple times. For example, the one for the
21 697.83, that is the third time somebody's lived in
22 there in that home in the last five years.

23 Q. And these are residential properties?

24 A. They are all residential.

25 Q. So is it correct that there are 116

1 customers or is it that there are, in your
2 estimation, 116 refunds due?

3 A. 116 refunds due.

4 Q. Okay. If you were to account for the
5 number of customers, how many customers would that
6 affect?

7 A. Like over the--are you saying--

8 Q. For the time in which you are assessing a
9 request to make a refund. You've indicated that
10 some of those properties have turned over. Have
11 you a number indicating the precise number of
12 customers that would be affected?

13 A. I could count it up really quick.

14 Q. Please.

15 THE HEARING OFFICER: We'll be off the
16 record while he does that.

17 (Discussion off the record.)

18 THE HEARING OFFICER: We're back on the
19 record.

20 MR. JENSEN: 138.

21 THE HEARING OFFICER: Okay. Thank you,
22 Mr. Jensen.

23 BY THE HEARING OFFICER:

24 Q. So of those 138 customers that you have
25 calculated as total number of customers affected,

1 how many of those customers are you unable to
2 identify as far as reviewing your current system,
3 which you've indicated only goes back to five
4 years, correct? Actually, let me back up just a
5 moment.

6 In the stipulation it suggests that the
7 past owners are relatively small. So regarding
8 that statement, does that refer to the 138
9 customers total or is that a different number that
10 you're referring to?

11 A. No. That would be--that would be
12 everyone that was affected over the past five
13 years.

14 Q. Okay. Which is 138?

15 A. Uh-huh.

16 Q. Okay. And that you--it also proposes
17 that you refund the current owners given the
18 practicality and difficulty of locating those past
19 owners.

20 A. That's correct. The credit would
21 actually stay with the property just like the
22 water stays with the property. For example, say
23 we issue a credit of the 697.83. And I'm just
24 picking the high one that we have today. And if
25 that resident moves out in January of 2015, they

1 can't cash in to collect that 697.83. What bills
2 they have been used will then be taken off there
3 and that credit would then stay with that
4 property.

5 Q. Okay. Let's look more closely at that
6 example if we could, please. You've already
7 indicated that that property has turned over three
8 times since--I believe it was 2009; is that
9 correct?

10 A. Actually, a total of four times. This is
11 the fourth resident--excuse me. It's three times,
12 yes.

13 Q. Okay. Can you please give me the time
14 frame that we're talking about? So you had
15 customer number one from what period of time and
16 then--

17 A. We'll call them customer two, three, and
18 four, because this is actually the fourth
19 generation. So number two was there--it looks
20 like they moved out in 2010. So if they were to
21 receive a credit, a total would be \$6.80. In
22 number three, they moved out in 2011 and would be
23 issued a credit of \$30.83. And this last customer
24 has been there since 2011. And that's where the
25 bulk of the credit comes from.

1 Q. Have you done a similar analysis with all
2 of the customers who are being proposed?

3 A. I have. For example, here's one where
4 there's a total credit of \$6.80 given. The
5 customer before them would have had a \$0.20
6 credit.

7 Q. Okay. And is that an example that we
8 could discuss previously or is that an example
9 you're just pulling from there?

10 A. It's just--

11 Q. A random example?

12 A. Yeah.

13 Q. Okay. What efforts have you made to
14 locate past owners?

15 A. You know, we have forwarding addresses.
16 If they move out and we are given a forwarding
17 address, we have. But what we have found when
18 issuing credits, meaning that if a customer moves
19 out of our area, there are times where they have
20 paid, in essence, a final bill and there may be a
21 credit coming back to them because the estimate of
22 their final bill was a little higher than what the
23 read ends up actually being when they finally
24 moved out of the home, and so we will cut checks
25 and send them the credit.

1 It is--and even with forwarding
2 addresses, we are showing that it's about
3 75 percent of those credits that we issue are
4 never cashed. So either they're never getting
5 them or they just don't do anything with them.
6 Out of that 75 percent, probably about 25 percent
7 come back to our office as undeliverable. So we
8 have just found that trying to track down
9 customers that resided in our area once they move,
10 not that it's impossible, but we find it very
11 difficult.

12 Q. Okay. So back to the total 138 customers
13 that are potentially affected by this request, how
14 many of those customers are no longer within your
15 service area?

16 A. Well, I would say approximately 25.

17 Q. Is there any other reason that you would
18 like to present as to why you would not be issuing
19 those 25 customers a refund?

20 A. I mean, my instinct would be the
21 difficulty of actually trying to track down that
22 customer.

23 Q. Have you actually reviewed your records
24 for each of those 25 customers?

25 A. Yes.

1 Q. Have you determined that you--

2 A. We have four forwarding addresses out of
3 the 25.

4 Q. Have you made any other attempts to
5 locate a current address or current contact
6 information?

7 A. No.

8 Q. Have you ever done that before when
9 you've had say a check returned?

10 A. I believe we have, yes.

11 Q. And what method do you utilize when you
12 do that?

13 A. They try to just go on white pages to see
14 if they can try to locate the customer by name.

15 Q. And what does that usually result in?

16 A. I would say probably one in ten.

17 Q. Okay. Have you tried that with these
18 small number of customers, approximately 25, that
19 you say are no longer within your system?

20 A. We have not.

21 Q. Is there any reason why you could not?

22 A. No. There's no reason we could not. We
23 looked at it being such a small dollar amount of
24 the going back credits when we really looked, the
25 last--the big portion of the amounts that are

1 being credited back are really what's happened in
2 the last few years. So we looked at those dollar
3 amounts and where the water and meter is tied to
4 the home, we felt that it was best to keep the
5 money tied--in essence, the bills, the money, the
6 credits tied to the home.

7 Q. I assume that you're a ratepayer
8 somewhere.

9 A. Yeah. I get that. I know where you're
10 going.

11 Q. And so if you had paid in, does it make
12 sense to you that if somebody would come along
13 later that they would receive a refund that you,
14 in essence, paid?

15 A. Uh-huh.

16 Q. Do you think that is fair?

17 A. Do I think it's fair what we were doing?
18 Are you asking that?

19 Q. Well, I'm asking you as a ratepayer, you
20 know, as a private ratepayer, apart from what
21 WaterPro is suggesting, supposing that you had
22 been one of these customers, wouldn't you
23 anticipate that the water company would make some
24 effort to find you and refund the money that
25 you're owed?

1 A. Most likely, yes.

2 Q. Okay. Other than white pages, are there
3 any other methods that you have to locate a
4 person?

5 A. I wouldn't know of one. Doesn't mean
6 that I can't research it to find--that's what
7 we've used in the past.

8 Q. I assume you would possibly utilize a
9 Google search?

10 A. We could.

11 Q. Okay. Sir, are you familiar with the
12 concept of retroactive rate making?

13 A. Huh-uh.

14 Q. Okay. I would like to better understand
15 a couple of things with respect to the dates. So
16 you're aware that in February of 2013, the
17 Commission issued an order granting WaterPro a
18 four percent increase; is that correct?

19 A. Correct.

20 Q. Okay. So that was in 2013. But it's my
21 understanding from the stipulation--and this is
22 referring to the last bit of paragraph at the top
23 of page 4--that you're seeking to provide a refund
24 for overcharges beginning in January 2009.

25 A. Correct.

1 Q. And that you wish for that overcharge to
2 be calculated to December 13, 2014. But I did
3 notice that elsewhere there was a reference to
4 2013. Do you know what the correct date is with
5 respect to the latter date? Is it 2000--is it
6 December 31st, 2013?

7 A. Yes.

8 Q. Okay. All right. I'll make that
9 correction on my copy. And thank you. That helps
10 with my understanding.

11 So if--I'm a little bit confused and
12 hopefully you'll understand this. So we had a
13 rate case in 2013. And on page 3 at the very
14 bottom of the stipulation, it refers to--in the
15 far right-hand column under South Mountain Zone,
16 the correct rates that should be charged.

17 A. Uh-huh.

18 Q. Those rates, to my understanding based on
19 the order that was entered in 2013, reflect rates
20 as of 2013. They don't reflect rates back to
21 2009. Are you following me?

22 A. Uh-huh.

23 Q. So the total--the approximate total
24 that's on page 5 of \$14,744.50, how--how do you
25 arrive at that number given that there's nothing

1 here that leads me to believe that the 2009--or
2 the pre 2013 rates were calculated as opposed to
3 just the 2013 rates? In forming your conclusion
4 that approximately \$14,744.50 is due to customers
5 as a result of an overcharge.

6 A. Well, we knew what--we know we went back
7 to the 2005 tariff that was filed.

8 Q. Okay. Okay. So for the overcharges that
9 occurred prior to the Commission's order of
10 February 22, 2013, you did a calculation based on
11 the tariff that would have applied at the time?

12 A. That is correct.

13 Q. Okay. So the rates on page 3 at the
14 bottom that says correct rates that should be
15 charged, those are for customers as of
16 February 22, 2013?

17 A. Yes, that is correct.

18 Q. Okay. And going forward? Not
19 necessarily providing a justification for the
20 entire overcharge?

21 A. Correct.

22 Q. Okay.

23 A. If you look on page 3 where it talks
24 about the incorrect rates being charged--

25 Q. Can you--which paragraph?

1 A. On stipulation page 3 at the bottom where
2 we're talking about--you had referred to this on
3 the stipulation page 3, the very bottom, where
4 it's incorrect rates being charged and correct
5 rates that should be charged. Isn't this what
6 we're talking about?

7 Q. Well, we are. We are.

8 A. Okay.

9 Q. And that's what I'm trying to get at
10 because the correct rates that are reflected here
11 that should be charged in that far right-hand
12 column--

13 A. Yes, uh-huh.

14 Q. --those are the rates that were
15 authorized by the Commission in 2013.

16 A. That is correct. That's the rates that
17 went to the Commission from our engineers. That
18 was not the rates that came to us from our
19 engineers. So which--

20 Q. These are the--I'm referring to the base
21 rate and then you've got tiered amounts.

22 A. Yes.

23 Q. Okay.

24 A. So that 18.72, 138, and so on, those are
25 the rates that came to the Commission in our

1 filing for our rate case hearing, which--

2 Q. Well, the ones on the far right are those
3 that were actually authorized.

4 A. I agree.

5 Q. Okay.

6 A. What I was saying is, unfortunately, when
7 things went to you and things that went to us as
8 far as--

9 Q. In 2013?

10 A. In 2013, yes.

11 Q. Okay.

12 A. --were two--they were incorrect. I
13 should have--I'll take full responsibility.

14 Q. Okay. I think you might be
15 misinterpreting my question.

16 A. Okay.

17 Q. I'm not at all concerned with--that there
18 was a mistake. I understand that you believe
19 there was a mistake. What I'm trying to better
20 understand is--

21 A. How the credits came about?

22 Q. Yeah. So you got 2013 forward.

23 A. Yes.

24 Q. And we have a tariff for that period of
25 time--

1 A. Correct.

2 Q. --based on the order that was entered in
3 2013. What I'm wanting to make sure is that for
4 those individuals who were allegedly being
5 overcharged prior to that, that the proper
6 calculation was made using the proper tariff,
7 which would have been a pre 2013?

8 A. 2005 tariff.

9 Q. Okay. And you've assured me that that--

10 A. 100 percent, yes.

11 Q. Okay. Okay. Thank you for clarifying
12 that. It's not clear to me from the stipulation
13 in that.

14 A. I understand.

15 Q. And that's very helpful.

16 Mr. Jensen, given what we've discussed
17 about the past donors and the relatively small
18 number of individuals who are involved and your
19 acknowledgment that there are means for you to
20 possibly track them down, would you like to
21 propose anything different than what you have
22 currently proposed as part of paragraph 16
23 in--right now what you're proposing is that the
24 current owners receive 100 percent of the refunds
25 that are believed to be owed.

1 MS. SCHMID: If I may, could I ask a
2 question that may provide some clarification? I'm
3 sorry to interrupt, but I--I think that the
4 question may help frame the issue of the public
5 interest and commensurate expenses and rewards.
6 And I can do that at--but I would like to have a
7 chance to do that at some point.

8 THE HEARING OFFICER: Okay. Let's hold
9 that for just one second.

10 BY THE HEARING OFFICER:

11 Q. Mr. Jensen, do you recall the question
12 that I asked you?

13 A. Uh-huh.

14 Q. Do you have a response to that? Then
15 we'll go to Ms. Schmid's question.

16 A. Are you asking me if I want to change--do
17 I want to offer a second opinion?

18 Q. Well, at this point, your stipulation is
19 pending with the language that is listed in
20 paragraph 16.

21 A. Correct.

22 Q. However, you have acknowledged that there
23 are a very few number of customers that you do
24 have potential means for locating these
25 individuals. And is there a reason why, in

1 essence, you shouldn't give that a try before
2 assuming that you can find them?

3 A. There's no reason why. We just found
4 that this would be the best, when we sat down and
5 that's how we came up with the stipulation 16.
6 Because the meter and the water is tied to each
7 property.

8 Q. Okay. Have you actually calculated of
9 those 25 customers that have moved away, what the
10 total is that those customers are due?

11 A. I don't have that total with me, no.

12 Q. Do you have any estimation as to what it
13 might be?

14 A. Again, I am happy to--I'm happy to work
15 on that right now if you would like me to. It
16 would take me a few minutes.

17 THE HEARING OFFICER: Okay. Let's go off
18 the record and give you a break to do that.
19 (Recess taken.)

20 THE HEARING OFFICER: Okay. Back on the
21 record.

22 BY THE HEARING OFFICER:

23 Q. Mr. Jensen?

24 A. Okay. After my findings in going through
25 one by one, which gave me a little more--we are

1 actually talking about a total of 54 customers
2 versus the original 25. There's 167 residents
3 that were totally affected. Current residents,
4 113. That number still stands. So the 138 that I
5 had indicated prior was incorrect. So out of
6 those 54 customers, we are looking at \$483.02,
7 customers that have since moved. Out of that
8 483.02, I've got 13 of those were residents, in
9 essence, either a second or third generation. And
10 41 of those residents would have been a first
11 generation, which date-wise could go back to 2009
12 and older. Does that make sense?

13 Q. Okay. So, just to clarify, the 138
14 customers affected, you're now amending that to
15 167?

16 A. Yes, please.

17 Q. And the customers that you--of the 167
18 residents who are potentially affected by the
19 refund, you believe approximately 54 of those are
20 no longer in your area?

21 A. They are no longer in our area, that is
22 correct.

23 Q. Okay. Mr. Jensen, I think that's very
24 helpful. I appreciate that additional
25 information. Thank you for calculating that for

1 me. Is it handy--and if it's not, please let me
2 know--the range, the high and the low for those
3 54?

4 A. Uh-huh. I've got--from looking at my
5 records, \$0.20 would be the low and the high,
6 \$43.66. Yeah, 43.66 would be the high.

7 Q. Okay. And that is the range for just the
8 54 who are no longer in the area?

9 A. That is correct.

10 Q. Okay. Thank you very much, sir. On page
11 18 of the stipulation, sir, it refers to the
12 Company's tariff that would be filed on
13 December 1st.

14 A. Yes.

15 Q. Is there a reason why the Company did not
16 file its tariff on September 1st?

17 A. It was an oversight on our part.

18 Q. Okay. And I understand that's since been
19 filed. I believe it was filed yesterday?

20 A. It was.

21 Q. Okay. And so the date--there was a
22 motion to amend the settlement stipulation with
23 respect to this paragraph to reflect the
24 December 16th date. I assume you're familiar with
25 that.

1 A. Uh-huh.

2 Q. It appears to contain your signature.

3 A. Uh-huh.

4 Q. Okay. Other than the changes that we've
5 gone over, the date corrections on page 4 and the
6 date correction on page 6, under paragraph 18, are
7 there any other corrections that you're aware of
8 that should be made to the stipulation?

9 A. Not that I'm aware of.

10 MS. SCHMID: Oh--

11 MR. JENSEN: Well, except for the one
12 that Trisha--

13 MS. SCHMID: --will make.

14 MR. JENSEN: --brought to my attention.

15 THE HEARING OFFICER: Okay. And before
16 we took a break a little earlier, I promised
17 Ms. Schmid we would come back to her question.
18 Ms. Schmid, do you wish to ask that question or do
19 you want to make it part of your presentation and
20 testimony?

21 MS. SCHMID: Because I think that
22 Mr. Jensen is a person most qualified to answer
23 that, I would like to ask him if I may.

24 THE HEARING OFFICER: You may.

25 MS. SCHMID: Mr. Jensen, what would you

1 estimate the hourly salary, so the salary
2 including benefits, the loaded wage, of an
3 administrative-type person who might be asked to
4 look for these people who have moved? In a per
5 hour basis, if you could just give us a rough
6 estimate.

7 MR. JENSEN: Well, the person that would
8 work on this currently makes \$16.16 an hour.

9 MS. SCHMID: Okay.

10 MR. JENSEN: Part-time. And the only
11 benefits would be your employment taxes.

12 MS. SCHMID: Thank you very much. That
13 was all I needed.

14 BY THE HEARING OFFICER:

15 Q. Mr. Jensen, just to follow up on
16 Ms. Schmid's question, what is the title of that
17 person who you identified as being the person who
18 would be following through with this?

19 A. She would be our receptionist that would
20 work on this.

21 Q. Okay. And how long has she been with
22 you?

23 A. Six years.

24 Q. Okay. And, again, her present hourly
25 rate is 16.16?

1 A. Yep.

2 Q. And do you have an estimation of how many
3 hours it would take to do the background search, I
4 assume starting with the information that you have
5 on file to confirm whether you have it or not?
6 And then going from there, what do you estimate
7 would be the time commitment for--

8 A. You know, I would say maybe 20 hours.
9 Maybe 16. She's going to spend a couple days on
10 this. I mean, if you were just going to do a
11 simple little, you know, white pages search, you
12 know, she could spend four plus hours going
13 through each of the residents. If we're doing
14 extensive and looking--Googling up every one of
15 those, you know, she could--you know, I would say
16 anywhere from eight to 16 hours personally.

17 Q. Would there be any other method you would
18 have other than your records, perhaps other family
19 members that live within the community, that might
20 be resourceful in locating these individuals?

21 A. I would say where these residents live,
22 no. If they were in our lower areas where it--at
23 one time everyone knows everyone. But in--up in
24 Little Valley South Mountain, they're, in essence,
25 what we call transient. They come in, live for a

1 while, and then they leave. It's not an area
2 where people live a long time.

3 Q. Do you keep phone numbers of your
4 customers on file?

5 A. We--we do keep a phone number if they
6 give it to them during the application process,
7 yes.

8 Q. Do you happen to know if you have any
9 phone numbers for these individuals?

10 A. I would not know offhand.

11 Q. Okay.

12 A. I mean, I would say, you know, there's a
13 good portion, but whether it's their home phone or
14 whatever number that they gave, but I would--you
15 know, that's something that's on our application.
16 And I would say out of the accounts that we have,
17 we probably have fifty percent that have phone
18 numbers tied to the accounts.

19 Q. So when you're trying to locate somebody
20 and you do have some information in your file,
21 would you typically start with trying that phone
22 number and seeing if it--

23 A. That's normally where we would start at
24 first, yes.

25 Q. Okay. But, in this case, you haven't

1 actually made a determination with respect to the
2 54 customers who are no longer in your area?

3 A. We have not.

4 Q. Okay. Okay. Mr. Jensen, I really
5 appreciate your testimony today. Is there
6 anything further that you wish to add?

7 A. There were two concerns. Maybe the
8 second one is not that large of a concern. That's
9 regarding our engineering fees.

10 Q. Okay. And just to make clear that
11 there's no misunderstanding regarding that issue,
12 would you mind outlining that for me? I know you
13 explained at the beginning that there was a typo
14 in the engineering fees and that wasn't caught
15 until after your 2013 tariff was filed.

16 A. That's correct.

17 Q. Does that also pertain to individuals who
18 are no longer in the area?

19 A. Well, it would, in essence--they're not
20 residents. It's where a developer would come in
21 develop a subdivision. And every subdivision or
22 neighborhood, however you would like to call them,
23 there is a plan review. And everything is
24 completely engineered that we send out to the
25 engineers to make sure that subdivision is going

1 to work properly. And there is a fee tied to that
2 for the engineers to review to make sure that fire
3 hydrants and fire flows, and a bunch of other
4 things, that subdivision's going to work based on
5 what we require within our area and fire
6 department and so forth.

7 So those fees that were charged by our
8 engineers, those are strictly just a passthrough
9 fee to the developers. We--in fact, our engineers
10 send us this is what the cost is going to be and
11 that's the cost that we bill our engineer--or bill
12 our--the developers on each subdivision. Because
13 no subdivision is the same.

14 Q. So do you anticipate that there are
15 refunds due?

16 A. I do not, no. There are no refunds due.
17 It's just what's on our tariff does not match what
18 we're charging. And what we're charging is the
19 current rates given by our engineers, which is a
20 complete passthrough. So, no, there's no credits
21 to be given. No one was overcharged. They would
22 be overcharged based on what shows up in our
23 tariff, but they're not being overcharged by any
24 means. Does that make sense?

25 Q. What does your tariff currently provide

1 with respect to engineering fees?

2 A. Well, our current tariff, which makes me
3 cry, it is \$3.00--I have it right here. It is
4 \$3.00 plus \$0.30 per foot over 1200 feet of water
5 lines.

6 Q. And you believe that that is a typo?

7 A. Well, the \$3.00 back in 2005 should have
8 been \$300.

9 Q. And somehow that didn't get corrected in
10 the 2013 rate case?

11 A. It was not even--no. It wasn't something
12 that was even--it was not caught until we sent an
13 updated tariff to--

14 Q. So you have, in essence, been out of
15 compliance with your tariff since 2009?

16 A. 2005.

17 Q. Excuse me, 2005?

18 A. When we first became regulated by the
19 Public Utility Commission, that's correct.

20 Q. Okay. And having--when did you first
21 become aware of this error?

22 A. When the Division notified us. And
23 that's when we looked at this.

24 Q. And exactly when was that? Was that
25 2013?

1 A. 2013.

2 Q. And is there a reason why you didn't file
3 a request to resolve this immediately?

4 A. That would probably be the lack of
5 understanding on our part with the Division on
6 exactly how that needed to be handled. It
7 was--it's been a long ongoing where we sent--when
8 it was requested once this error came up and was
9 brought to our attention, we worked with the
10 Division, sent them copies. I mean, going back
11 several, several years, as far back as we could
12 possibly get, engineering fees and so forth so the
13 Division would actually see that we're not
14 overcharging the developers. We are just charging
15 them what we're being charged for our engineering
16 fees.

17 And we sat--I sat down and met with the
18 Division a few months ago. And, again, we had
19 talked about this, again, just being the
20 passthrough. And that when our engineering fee
21 change, because they will change, as our engineer
22 costs go up, then we would just need to then at
23 that point file a--I can't remember the exact
24 name, but file, in essence, an updated tariff
25 showing that this fee is being, you know, a

1 passthrough and this is what's coming in to us.
2 But that hasn't been done.

3 Q. Okay. So when I address the Division,
4 we'll talk about--we'll address what they believe
5 is appropriate as far as addressing that.

6 A. Okay.

7 Q. But right now I want to address that
8 issue with you as the representative of the
9 Company. I'm looking at your tariff that was
10 filed yesterday. And you acknowledge that the
11 engineering fee is \$3.00 plus \$0.30 per foot over
12 1200 feet of water line for the Company and
13 company engineer. And I'm looking, that's
14 precisely what it says in your tariff that was
15 recently filed.

16 A. Correct. The first tariff that I sent in
17 had what we're actually currently charging, not
18 that \$3.00. And I was asked that it had to go
19 back and reflect what the 2005 tariff read. And
20 that's why it then changed back to. But I have a
21 copy of what was originally sent more than a week
22 ago.

23 Q. I don't have a copy of the original order
24 giving permission to the water company, so I'm
25 going to rely on your help a bit there. When you

1 were certified as a public utility by the Public
2 Service Commission, am I understanding you
3 correctly that that was in 2005?

4 A. It was.

5 Q. Okay. And the only rate case that has
6 come about since then is the one resulting in the
7 2013 order, correct?

8 A. Yeah. We had a--well, no, we had one.

9 Q. Mr. Jensen, it's okay. They can clarify
10 if they need to.

11 A. I'm going to say I don't know the date.

12 Q. Okay.

13 A. I didn't plan on discussing that today,
14 so I apologize.

15 Q. Okay. So when you were certified as a
16 public utility, you filed a tariff and that tariff
17 as far as the engineering fee is the same
18 engineering fee that's reflected on this recent
19 tariff that you filed just yesterday. Do you know
20 whether the Commission previously determined that
21 the engineering fee could be a different amount
22 than what you have here?

23 A. I wouldn't know what they were thinking
24 if that's what you're asking.

25 Q. So looking at this from the perspective

1 of the developer, who is the entity being charged,
2 the engineering fee based on what you've
3 explained, the developer has, under your tariff,
4 been overcharged, correct?

5 A. That would be correct, yes.

6 Q. Okay. And--but you believe that the
7 explanation for that is based on an error in
8 having submitted the tariff with the typo?

9 A. Correct.

10 Q. Knowing that, however, you filed the same
11 tariff yesterday with the same amount. So I'm--

12 A. Because I was told to by the Division.
13 Because that's not what I originally submitted.

14 Q. Okay. And do you know how you propose to
15 resolve the engineering fee if it, in fact--to see
16 the amount that you're wanting it to reflect?

17 A. I would wait for word from the Division
18 to tell me what's the best way to handle this.

19 Q. Okay. And you just haven't had that
20 conversation yet?

21 A. Not necessarily, no.

22 Q. Okay.

23 A. Not a formal.

24 Q. Mr. Jensen, is there anything further
25 that you wish to add to your testimony or request

1 that's pending before the Commission?

2 A. (Mr. Jensen shakes head.)

3 Q. One of the considerations that the
4 Commission reviews--and this is--this is noticed
5 in the notice for the hearing today. It's at the
6 very--it's the last sentence in the first
7 paragraph, which asks the parties--it says,
8 "Parties should come prepared to provide testimony
9 on whether approving settlement stipulation is
10 just and reasonable in result." Do you care to
11 provide testimony on that issue, sir?

12 A. Okay. Read that again. I don't know
13 where you're looking.

14 Q. Do you have a copy of the notice with
15 you?

16 A. I have the settlement stipulation. I
17 don't.

18 Q. Okay. I'll be happy to read it to you.
19 This is a copy of notice of hearing that was
20 issued to the parties on December 2nd noticing up
21 this hearing on the settlement stipulation. And
22 in the last sentence of the first paragraph, it
23 states, "Parties should come prepared to provide
24 testimony on whether approving the settlement
25 stipulation is just and reasonable in result."

1 And my question to you is would you like to
2 respond to that in so providing testimony on
3 whether the stipulation is just and reasonable in
4 result?

5 A. Yes, thank you. I would feel that it is.
6 It is something that we have spent a long time
7 coming to. I feel that within the stipulation
8 what we have decided to do with our culinary
9 ratepayers in the Little Valley on South Mountain
10 zone, we feel it is fair and just in getting the
11 credits tied to the property who is currently
12 residing there. That's what I had indicated to
13 you. Someone could move out, but that credit
14 would still stay there with that property.

15 And then based on the engineering fees,
16 there was an oversight a long time ago. It's
17 never been caught. We're trying to correct it and
18 move forward is what we're trying to do.
19 We're--as a company, we're just trying to make
20 everyone--we're trying to make people whole and
21 move forward with where we are today.

22 THE HEARING OFFICER: Thank you,
23 Mr. Jensen.

24 Ms. Schmid?

25 MS. SCHMID: I have a few questions if I

1 may for Mr. Jensen based on what he has presented.
2 Again, I believe they're--I believe they might
3 help make the record a little bit more complete.

4 THE HEARING OFFICER: Okay. Go ahead.

5 MS. SCHMID: But I will say there
6 is--they are from the position of trying to have
7 him put more explicitly his support for the
8 stipulation on the record. For example, in his
9 last statement he used just and fair, rather than
10 in the public interest. And I would like to see
11 if I could get those words, if you believe that's
12 proper. If not--

13 THE HEARING OFFICER: Ms. Schmid, just
14 one moment, please.

15 BY THE HEARING OFFICER:

16 Q. Mr. Jensen, just a come back to you
17 before we get to Ms. Schmid's question. I want to
18 make sure that I'm understanding this correctly.
19 Are you currently charging customers the correct
20 amount?

21 A. Which customers are we talking about?

22 Q. The customers in South Mountain.

23 A. They are currently being charged the
24 correct amount and have been for the year, yes.

25 Q. They have been since January 1 of 2014?

1 A. Yes.

2 Q. And I assume since the tariff hasn't been
3 resolved with respect to the engineering fees,
4 you--what is it that you've been charging with
5 respect to that since you've been--

6 A. We've been charging the current
7 engineering fees that have passed on from our
8 engineers, which--do you want that figure?

9 Q. I think you said it was \$300?

10 A. No. Current being charged right now is
11 650 for the first 500 feet, \$0.50 per foot for
12 everything over 500.

13 Q. And how do you justify that, sir?

14 A. Those rates come from our engineers, an
15 outside engineering firm.

16 Q. Okay. And, again, just to backtrack
17 because you were made aware of this, correct, at
18 the end of 2013?

19 A. Uh-huh.

20 Q. But yet your tariff still reflects the
21 \$3.00--

22 A. The tariff that you see--our inhouse
23 engineering fee does not reflect that.

24 Q. Okay. So if a developer were to come to
25 us and assert that they are entitled to a refund--

1 A. Then that would mean that we would have
2 to go in to the engineering firm to try to get
3 that refund or the company would--I mean, there
4 would be so many loss--we would take a major loss
5 as a company because we have made no profit on the
6 engineering fees.

7 Q. So is there a reason why you haven't
8 clarified the tariff in the last year?

9 A. Well, I honestly thought we had and
10 that's why when I sent the tariff--the updated
11 tariff in, it reflected our new fees. And I was
12 asked to change it back to the original per the
13 Division.

14 Q. Okay. And do you recall why you were
15 asked to do that?

16 A. Because that's what they are showing on
17 record and the current engineering fees have not
18 been approved.

19 Q. Okay. And was there a request for you to
20 file a rate case or some request to amend that
21 amount?

22 A. I remember having conversation the last
23 time we met with the Division that there was a
24 form--or there was something that had to be filed.
25 And that was something I wanted to work with the

1 Division to figure out exactly what we had to do
2 when we met just a couple months ago and talked
3 about this, but that has not been done. Our
4 thoughts were getting a portion and getting these
5 rates for Little Valley on South Mountain taken
6 care of. I thought all of this was being done at
7 once until about a week ago. And it was brought
8 to my attention that that's why the engineering
9 fees had to go back to what was currently on our
10 2005 tariff.

11 Q. Okay. So in the last year, how many
12 developers have come to you to do something that
13 would fall under the engineering fee portion of
14 your tariff?

15 A. I wouldn't have that figure. I could
16 guess between 12 and 24.

17 Q. And do you know if those developers were
18 made aware that there is an understanding that
19 there's a problem?

20 A. They know what our engineering fees are.
21 That would be listed out in a document that we
22 would give them. And they know that those fees
23 come from our engineers. But when they come in
24 for--when a developer comes into the area, they'll
25 come to us and say, you know, can you give us an

1 approximate of what our fees are going to be? We
2 would then show them that it's the 650 per the
3 first 500 and \$0.50, so that way they have some
4 type of an idea when they start looking at an area
5 what it's going to cost them just to do the
6 infrastructure for the water lines.

7 Q. Mr. Jensen, as a representative of the
8 Company, are you aware that your tariff represents
9 the contract that you have with your customers and
10 any other parties that are purported to be charged
11 under the tariff, for example, a developer?

12 A. I've learned that. And, again, if I may
13 say, there was no--I mean, for malice by any
14 means. I mean, this was just--in the last
15 probably--well, year, I have come to know even if
16 a word is changed on our tariff, that it has to,
17 in essence, be approved. And I did not understand
18 that from the very beginning. And so I've
19 probably been somewhat blind on exactly--and I'll
20 take--I'll be the first one to take full
21 responsibility.

22 The Commission--even though we've been
23 regulated for quite some time, I did not quite
24 understand. I wish there came a class when you
25 became regulated that was a Commission 101 that

1 you sat down for a week and you learned every
2 little detail. Yes, could I have read the book?
3 Should I have read the book? Yes. I probably
4 should have and tried to understand it more, but I
5 didn't.

6 As busy as we are in the office, we
7 became regulated and we felt we were complying the
8 very best that we knew how. And we felt that we
9 were doing everything that we possibly were doing
10 right. There had been times over the years our
11 hands have been slapped and we have tried to
12 correct and we have moved forward and figured
13 things out, and, again, learning as we have gone
14 through.

15 There's never been any malice or
16 misrepresentation by any means by the Company
17 ever. The errors that are before us today are
18 completely the mistakes or errors on our part and
19 we're just trying to make it the way it should be
20 and what the Commission or Division is requesting.

21 Q. I may want to come back to this again and
22 I--I just want to let you know that I may want to
23 do that. I am perplexed. And I understand your
24 explanation with respect to the engineering fee.
25 I am, however, perplexed that in the last year,

1 the engineering fee has been charged contrary to
2 the tariff, but knowing that the tariff is, in
3 your opinion, incorrect--

4 A. Uh-huh.

5 Q. --there's been no filing to correct that.

6 A. And that could have been a
7 miscommunication or misunderstanding I had with
8 the Division. I assumed that this really was
9 taking care of all of that. And that's why when I
10 first submitted our tariff, that's why it had the
11 corrected engineering fees. And that's when I was
12 instructed by the Division to go back to what our
13 old tariff read.

14 Q. Okay. Based on what you understand now,
15 do you have a plan in mind as far as when you
16 intend to file something with the Commission to
17 resolve the engineering fee?

18 A. As soon as I possibly can. That was my
19 question before we started this when, you know,
20 Trisha and Mark came in, I said, Okay. We need to
21 figure out what I need to do with this. I've got
22 to get these engineering fees corrected and get
23 this filed. But those are things that I need--I
24 need help. I mean, this is still--I'm still
25 learning as we go through.

1 Q. Were you informed in the meantime that
2 you're obligated to abide by your tariff?

3 A. No. Well, abide by my tariff on fees
4 that we're charging our customers, these
5 engineering fees, I don't know how to do
6 business--there's no way I could do the \$3.00.
7 Really, we would be at a standstill. There would
8 be no development going on in Draper, because I
9 can't do it for what's in my tariff.

10 Q. So doesn't that make it all the important
11 that you--

12 A. 100 percent. I didn't know where we go
13 from here. That's the question I had for the
14 Division. That's why I asked that question after
15 this came back to me stating, you know, this is
16 wrong, you need to go back to the \$3.00. So I
17 abide by what the Division asked me to do with the
18 understanding I am totally confused.

19 Q. Okay. So help me understand a little bit
20 on the time table. So in approximately late 2013,
21 you're made aware that there are inconsistencies
22 with the tariff and how it's being applied. And
23 at what point did you file the tariff reflecting
24 the \$300 engineering fee?

25 A. Well, that's never been changed because

1 even back in 2013, we were not currently still
2 charging \$3.00.

3 Q. I'm sorry, I thought I understood you to
4 say that you filed something in that--

5 A. No. When the Division asked us for an
6 updated tariff, and that happened in June of
7 2000--

8 MR. LONG: October of 2000.

9 MR. JENSEN: --October of 2013.

10 BY THE HEARING OFFICER:

11 Q. Okay.

12 A. So when we sent that in, that's when I
13 got a call from Mark Long saying, "Okay, there are
14 some things on here that do not add up." And
15 that's when there were some just miscellaneous
16 fees that we were not charging that got put on--in
17 our office we have learned and I've had this
18 discussion with the Division, like when they kept
19 referring as a tariff, in ours it's our rate
20 schedule. We no longer call it a rate schedule in
21 our office. It's now called a tariff so we can
22 speak on the same terms with the Division.

23 But I was having a tough time even when
24 they kept saying you need to send us an updated
25 tariff. I would send them things. They would

1 say, that's not it. I finally had to go, you have
2 to show me what my tariff is. And they were kind
3 enough to send me back a copy of their 2005 tariff
4 that they had. And that went, okay, well, that
5 makes complete sense, because what you're calling
6 a tariff, we're calling a rate schedule.

7 But when I sent that information to Mark
8 back in October, he sent me some items saying,
9 okay, this does not match up with our 2000, in
10 essence, 5 and the new rates of 2013. And that's
11 when we looked at it. And I go, okay, I can see
12 what's happened with the rates. And I can see
13 what's happened with, in essence, to the
14 engineering fees. Because those are really the
15 two big things here. Everything else--there were
16 some little things, but no one had ever been
17 charged anything. There were just some updates
18 that we were assuming that we were going to make
19 these changes, so completely inhouse stuff.

20 So we--so the two things, engineering
21 fees and the rates, we worked on--I worked with
22 Mark for months sending documentation on rates and
23 they received copies of every single customer that
24 had ever been affected. And they received, you
25 know, engineering fees for the last several years.

1 So all of these things could come up to what we
2 need it to be.

3 Then it was discussed--I finally said, "I
4 don't know if we're getting anywhere. I would
5 like to have a meeting." And so just recently we
6 sat down and had a meeting to make sure we could
7 be on the same page. And I sat with the Division
8 and Trish to kind of really get these items
9 resolved. And at that time we discussed that we
10 would be issuing credits to our customers and that
11 regarding the engineering fees, it was proven with
12 all the work we had sent to them, that they were
13 really just being a passthrough. The Company was
14 making no money. And we don't make any money on
15 engineering fees. There's no markup. It's
16 strictly what the engineers are charging us that
17 is passed through to the developers. So that's
18 where we left there.

19 I knew--when they asked for an updated
20 tariff, I knew that our rates had to be updated
21 and they were. My assumption leaving that meeting
22 that our engineering fees were also the ones that
23 had to be updated to what we're currently
24 charging. And so that was sent. And that's when
25 I heard back from the Division, okay, those

1 engineering fees need to reflect back to your
2 current tariff back to 2005, which is wrong
3 altogether, but that's what we sent.

4 What I have learned in the last little
5 while, in essence, a new tariff needs to be pretty
6 much filed to make sure we're on same page every
7 single year. And that has not happened. The most
8 current tariff they had was really the 2005
9 tariff. And we're going along doing our day to
10 day business thinking we're operating as we
11 should. Every once in a while, we--I feel like we
12 got a slap on the hand, realized we had made an
13 error, and we're trying to correct that.

14 THE HEARING OFFICER: Thank you,
15 Mr. Jensen. I want you to know how much I
16 appreciate it. It's very helpful to the
17 Commission to get your testimony and
18 clarification. It's--it's how we get a better
19 understanding of the issues and your explanation
20 is very, very helpful.

21 MR. JENSEN: I mean, if I can say also
22 one more last thing, the Division is great to work
23 with. Being a regulated entity and being,
24 although we--you know, we're a large water
25 utility, the largest water utility regulated by

1 the Public Utility Commission, it's still--even
2 though it's happened back in 2005, we're still
3 just learning. And sorry the learning curve has
4 taken so long. We've learned so much in the last
5 year on things that--things like this I would hope
6 would never happen again. But mistakes happen
7 people are human, but this was--the rates were a
8 large thing. This engineering thing to us--to us
9 it's not a large thing because no one was
10 affected. No one was overcharged. Were they
11 overcharged based on what our tariff reads? Yes.
12 No one made extra money off of this. The Company
13 didn't make extra money. It was a passthrough
14 fee.

15 And when I say if we were to go back and
16 try to do business with our 2005 tariff when it
17 comes to engineering fees, we couldn't operate.
18 And if we had to issue credits to every
19 development that has gone through in the last
20 14 years based on this, the Company would go
21 broke.

22 THE HEARING OFFICER: Thank you,
23 Mr. Jensen. I want to ask you a couple more
24 questions and then we'll circle back to Ms. Schmid
25 because I know she has some questions as well.

1 BY THE HEARING OFFICER:

2 Q. How long have you been with WaterPro?

3 A. 17 years.

4 Q. Do you recall being part--or were you a
5 part of the proceeding when WaterPro received its
6 authority to operate as a public utility by the
7 Commission?

8 A. Yes. I was the financial officer at the
9 time, but very naive.

10 Q. And, just for clarification, you are
11 representing yourself today as a pro se party--

12 A. Yes.

13 Q. --meaning that you're not an attorney; is
14 that correct?

15 A. I am not an temporary.

16 Q. Okay. Does WaterPro have legal counsel?

17 A. We do.

18 Q. Okay. You, however, have chosen not to
19 have legal counsel present today?

20 A. I did not think it was that large of a
21 deal. I have since questioned my decision on
22 that.

23 Q. You're always welcome to have legal
24 counsel, sir--

25 A. I will make sure that happens.

1 Q. --whenever you like.

2 A. Yes, I will.

3 THE HEARING OFFICER: Again, thank you,
4 Mr. Jensen. I may have some follow-up questions
5 after Ms. Schmid. We'll turn to Ms. Schmid at
6 this point.

7 MS. SCHMID: Thank you. I have just a
8 couple of things.

9 EXAMINATION

10 BY-MS.SCHMID:

11 Q. Earlier in this proceeding we corrected a
12 date from 2014 to 2013. And before the hearing
13 began, I discussed with you a second correction
14 that pertains to paragraph 17. And that second
15 correction was the deletion of a sentence, which
16 reads, "WaterPro will file these revised tariff
17 sheets with the Commission no later than
18 December 1, 2014." And at that time I explained
19 it was my editing error. Do you recall that?

20 A. Yes.

21 Q. Do you agree that that sentence can be
22 stricken from the stipulation?

23 A. I do.

24 Q. And I will also represent that Mr. Chris
25 Parker, Division Director, has approved that

1 change.

2 And, second, with that change and in
3 light of the things we have discussed today--or
4 let me ask you one more first.

5 Would it be possible if WaterPro chose to
6 tomorrow, or very soon, make a filing to change
7 the engineering fee to the 650 or whatever is
8 currently being charged?

9 A. I would do it tomorrow, yes.

10 Q. Also, is the engineering fee addressed in
11 our stipulation? I believe that it is addressed
12 in that paragraph 17 if you could take just a
13 brief look and refresh your memory. Does the
14 stipulation say that WaterPro will provide each of
15 its customers notice of the change and then file
16 with the Commission a request to approve the new
17 engineering fee?

18 A. Yes.

19 Q. And in that there's a 30-day window for
20 the customers to--to contemplate the change, but
21 perhaps that would need--or should be changed
22 again so they would be given notice
23 contemporaneously with the change. And along that
24 vein, did you provide the customers notice of the
25 stipulation hearing today?

1 A. I did.

2 Q. And how did you do that?

3 A. By mail.

4 Q. And do you have a copy of the letter that
5 you sent them that you would like to enter as an
6 exhibit in this proceeding?

7 A. I do.

8 Q. So that would perhaps be marked as
9 WaterPro Exhibit 1?

10 A. Perfect.

11 Q. And then you would request for it to be
12 admitted?

13 A. Yes.

14 THE HEARING OFFICER: Any objection?

15 MS. SCHMID: No objection.

16 THE HEARING OFFICER: So admitted. Thank
17 you. Sir, you can bring that up here and I'll
18 take a look at it. And then assuming you just
19 have one copy, I'll give it to the--

20 MR. JENSEN: I have several.

21 THE HEARING OFFICER: Oh, that's great.
22 Thank you. I'll take two then. One for me and
23 one for the reporter. And that will be made a
24 part of the record in this docket.

25 Exhibit-1 marked

1 BY MS. SCHMID:

2 Q. And do you believe that the settlement
3 stipulation as amended here today with the date
4 and with the stricken sentence is in the public
5 interest?

6 A. I do.

7 MS. SCHMID: Thank you. Those are all my
8 questions, except that may we have a short
9 five-minute recess?

10 THE HEARING OFFICER: Yes. We'll be off
11 the record.

12 MS. SCHMID: Thank you.
13 (Recess taken.)

14 THE HEARING OFFICER: We're back on the
15 record. Ms. Schmid, please go ahead with your
16 questions.

17 MS. SCHMID: Thank you. The Division
18 would like to call as its witness Mr. Mark Long.
19 Could he please be sworn?

20 THE HEARING OFFICER: Yes. Mr. Long, do
21 you swear that the testimony you're about to give
22 is the truth?

23 MR. LONG: Yes.

24 THE HEARING OFFICER: Thank you.

25 MARK LONG,

1 having been first duly sworn, was
2 examined and testified as follows:

3 EXAMINATION

4 BY-MS.SCHMID:

5 Q. Mr. Long, could you please state the name
6 of your employer and your title?

7 A. Yes. I'm the utility analyst with the
8 Division of Public Utilities.

9 Q. On behalf of the Division, have you
10 participated in this docket?

11 A. Yes, I have.

12 Q. And have you participated in the
13 settlement discussions that culminated in the
14 filing of the settlement stipulation and then the
15 amendment to the settlement stipulation?

16 A. Yes.

17 Q. Do you have a summary to give today?

18 A. Well, I do, but Mr. Jensen really gave a
19 good explanation of a lot of the things, so I'm
20 going to repeat a few things and emphasize some
21 things, if I may.

22 Q. Please proceed.

23 A. Regarding the rates that were overcharged
24 to Little Valley on South Mountain pressure zone,
25 I would like to just repeat that upon the

1 Division's notification in January 2014, WaterPro
2 did cease charging the incorrect rates for Little
3 Valley and started charging the approved rates.

4 And the Division would also like to
5 affirm the settlement stipulation and to remedy
6 this the Division recommends that the Commission
7 approve the stipulation as amended, committing
8 WaterPro to refund a total of approximately
9 14,744.50 that was collected from January 2009
10 through December 31, 2013 at a higher rate than
11 approved from this Little Valley on South Mountain
12 pressure zone.

13 The refund will be executed for a
14 one-time credit to each WaterPro account currently
15 associated with the particular South Mountain
16 physical address and will be reflected as part of
17 the standard account bill prepared by WaterPro and
18 sent to the current account holder. Each account
19 will be credited with the actual amount overpaid
20 at that particular South Mountain physical
21 address.

22 Given the practical difficulty of
23 locating past owners and the relatively small
24 amount of the refunds and the cost of tracing or
25 locating past customers, the Division believes it

1 is in the public interest to refund the money to
2 the current account holder for the property where
3 the overcharged service was provided. Especially,
4 in light of the \$483 that is owed by the 54
5 residents that no longer reside there. The
6 Division wishes to emphasize that it believes it's
7 in the public interest, especially considering the
8 high of \$43.66 and a low of \$0.20 to refund the
9 money to the present address and not spend
10 hundreds or even thousands of dollars trying to
11 locate these customers that have since moved from
12 the area.

13 In some of my past employment, I've had
14 to serve warrants and liens and try to locate
15 people. And I know that it is very time
16 consuming. I think Mr. Jensen was probably being
17 conservative in the time that he indicated it
18 would take to track some of these people down. I
19 know that I'm still current with some of the
20 technology in trying to trace people and it's
21 getting very difficult now days to just Google
22 someone. You almost have to have a page service
23 to be able to go and locate people.

24 I would hate to think that WaterPro would
25 have to hire someone to go and do that. And I

1 just can't imagine that it would be in the public
2 interest to spend very much money at all to try to
3 return the \$483 that was overcharged.

4 And in regards to the engineering fee,
5 the Division did instruct Mr. Jensen to change the
6 tariff back to the--to what was originally
7 approved. Although we did tell him that he should
8 only charge fees that are on the tariff, we have
9 been in settlement negotiations for quite some
10 time. And Mr. Jensen was instructed to, during
11 the settlement stipulation, that there would be a
12 remedy for him to update his tariff and the proper
13 way of doing it, which I believe is described in
14 paragraph 17 of the stipulation.

15 And I would just like to add that in
16 regards to the engineering fee, the \$300 is a
17 passthrough fee that WaterPro was charged by Epic
18 Engineering for commercial customers. And the fee
19 started at \$300 in 2005 and it has more than
20 doubled over the years.

21 The Division requested all the
22 documentation, including receipts and billing
23 invoices of all the engineering fees charged by
24 WaterPro from 2007 through 2013 so it can review
25 them and make a determination of all engineering

1 fees were passed through at WaterPro's costs or if
2 WaterPro was including them in markup to its
3 customers. WaterPro provided invoices for over 90
4 new commercial hookups and the Division verified
5 that 100 percent of the engineering fees for the
6 commercial hookups were passed on to its customers
7 of WaterPro costs.

8 Mr. Jensen would probably be able to
9 speak better about this than I could, but, you
10 know, as an industry standard, it's not reasonable
11 to think that a \$3.00 engineering fee would pay
12 for the work that these commercial customers had
13 done. The Division has analyzed this issue and
14 suggests that it be resolved by, number one,
15 allowing the past engineering fees since they were
16 passed through at cost be allowed to stand as is.

17 Going forward, the Division recommends
18 that if WaterPro wishes to change the engineering
19 fee set forth in its tariff, WaterPro should
20 provide each of its customers notice of the
21 proposed change and 30 days later file for
22 Commission approval. WaterPro's filings you can
23 see in both the cover letter explaining the need
24 for the change and the tariff sheet reflecting the
25 requested new fee, which it generally reflect only

1 the actual engineering cost WaterPro incurs.

2 And I just want to reemphasize that
3 WaterPro has done what we've requested of them in
4 terms of the engineering fee. And we have been in
5 settlement negotiations for quite some time with
6 WaterPro.

7 In conclusion, the Division recommends
8 the Commission approve the stipulation as amended
9 and all of its terms and conditions. The Division
10 believes that the resolutions reached in this
11 stipulation as amended are just and reasonable and
12 are in the public interest.

13 BY MS. SCHMID:

14 Q. And is it your testimony that the
15 corrections done--with the corrections done today
16 that the stipulation settlement as amended is just
17 and reasonable and in the public interest?

18 A. Yes. The Division believes that.

19 MS. SCHMID: Thank you. And I am not
20 sure. Would the Commission like me to move the
21 settlement stipulation and amendment into evidence
22 as Division exhibits or not? Sometimes the
23 practice varies.

24 THE HEARING OFFICER: How would I take--I
25 think in this situation, Ms. Schmid, it would be

1 appropriate for the Commission to take
2 administrative notice of both the settlement
3 stipulation that was filed on November 25, 2014,
4 the certificate of service, which was filed on
5 November 206, 2014, and the amended stipulation on
6 December 16, 2014.

7 MS. SCHMID: Thank you.

8 THE HEARING OFFICER: Would there be
9 anything further that you would want to--

10 MS. SCHMID: Perhaps the tariff
11 application that was filed yesterday by WaterPro.

12 THE HEARING OFFICER: It says updated
13 tariff.

14 MS. SCHMID: Yes.

15 THE HEARING OFFICER: Did you say tariff
16 application?

17 MS. SCHMID: Sorry, I did say tariff
18 application. I misspoke. The tariff applicable
19 to culinary water service that was filed
20 yesterday.

21 THE HEARING OFFICER: Yes. The
22 Commission also takes administrative notice of the
23 tariff applicable to culinary water service
24 WaterPro, Inc., dated December 16, 2014, which
25 also contains a cover letter referring to an

1 updated tariff.

2 MS. SCHMID: And, in addition, a map was
3 inadvertently omitted from the tariff filing. I
4 believe the Company will file the map with the
5 Commission and we do have copies of it here.

6 THE HEARING OFFICER: Is that a service
7 area map?

8 MS. SCHMID: It's a service area map. We
9 do have copies of that here today if you would
10 like to see it now.

11 THE HEARING OFFICER: It's up to you,
12 Ms. Schmid, if you want to submit it. It seems
13 like that would be the Company's obligation.

14 MR. JENSEN: I'm happy to submit it.

15 THE HEARING OFFICER: I mean, if you want
16 to submit it as an exhibit, but it seems like that
17 would be the Company's prerogative.

18 MS. SCHMID: Would the Company be willing
19 to do that?

20 MR. JENSEN: I'm happy to do that if you
21 would like.

22 MS. SCHMID: Then we're good.

23 MR. JENSEN: I can do it by paper today.

24 THE HEARING OFFICER: Well, sir, the
25 office is closed. So I think what Ms. Schmid was

1 saying and what I was getting at is if you wish to
2 make that an exhibit in the case, we can make that
3 an exhibit in the case. And to the extent that
4 you want to amend your tariff filing, you could do
5 that as soon as tomorrow morning.

6 MR. JENSEN: I can do that.

7 THE HEARING OFFICER: Okay.

8 Exhibit-2 marked

9 MS. SCHMID: So--

10 THE HEARING OFFICER: And, also, if I
11 might just extend one moment. I realize Mr. Long
12 is still subject to questioning, but along those
13 same lines, sir, to the extent that you wish to
14 address the engineering fee issue, it sounds to me
15 like the Division has given you the direction that
16 you would need to follow to do that. So--

17 MR. JENSEN: We'll do that tomorrow.

18 THE HEARING OFFICER: Okay. Thank you.
19 Ms. Schmid, are you finished with Mr. Long?

20 MS. SCHMID: Yes, I am.

21 THE HEARING OFFICER: Okay. Mr. Jensen,
22 you have the opportunity should you wish to ask
23 Mr. Long any questions.

24 MR. JENSEN: I don't have any questions.

25 THE HEARING OFFICER: Okay. Mr. Long,

1 thank you very much. And thank you, everyone, for
2 being so helpful and being willing to be here for
3 an extended amount of time to go through all of
4 this. It's quite helpful to get a clarification
5 and to better understand things.

6 EXAMINATION

7 BY-THE HEARING OFFICER:

8 Q. Mr. Long, I want to ask you just a couple
9 of questions, please. And I--again, I really do
10 appreciate your summary. It was very helpful.
11 And I know you were here during Mr. Jensen's
12 testimony. And I'm sure you remember that he did
13 testify that there hadn't been a check yet of the
14 system of whether any of those 54 customers,
15 whether he had any forwarding information. Is
16 that your understanding, as well?

17 A. Yes.

18 Q. And I understand your point. And,
19 ultimately, this will--this will be a decision
20 that the Commission will take under advisement
21 with respect to the issue of the refund. But just
22 to make sure that I understand your position on
23 behalf of the Division with respect to how
24 Mr. Jensen was clarifying the Company's position,
25 with respect to possibly looking at Company

1 information, do you feel that that is a reasonable
2 place to look first to rule out the possibility
3 that maybe one of those 54 customers might be
4 discoverable and receive the refund that they are
5 due as opposed to somebody who never paid that
6 amount? Or is it your position that you don't see
7 the value in doing that and would propose that the
8 refund be given to the current customer
9 regardless?

10 A. You know, I can appreciate the value of
11 doing that. My concern is, and the Division's
12 concern is, where does it stop? Do you do one
13 phone call and then that's enough or do you try to
14 Google it or get a page service to do it? I'm
15 just concerned that, you know, for \$483 that
16 there's some kind of limit on how much time and
17 money he would spend doing that.

18 Q. Well, I think what I was--what I was
19 imagining when I asked the question is, does it
20 make sense to rule out the possibility that
21 there's nothing in the Company's records first
22 before automatically giving the refund to the
23 current customer?

24 A. You know, I can appreciate that and that
25 would make sense in this case. If it's readily

1 available, then, sure, it would make sense to give
2 it back to the person.

3 Q. That would be the standard that you would
4 apply, that they would review their records, if
5 there was evidence that contact information was
6 readily available, they would pursue that, and if
7 there isn't, then the fallback position would be
8 that the current customer would receive the
9 refund?

10 A. I would agree with that. And I think
11 that would still be in the public interest if it's
12 readily available and it's in their records.

13 Q. Would you stop there? Would you say
14 that's--or is there another step that you think
15 would be likewise reasonable? And I'm not trying
16 to put words in your mouth. I just want to get a
17 clear indication so that when the Commission is
18 considering this, they can understand your
19 position on the issue.

20 A. Quite frankly, I would stop there because
21 how much of that \$483 is going to be resolved by
22 the records that the Company has and, you know,
23 how much time and energy do you want to spend
24 chasing less than \$483 down?

25 THE HEARING OFFICER: Okay. Thank you

1 for that clarification. One thing I was a little
2 bit unclear about and, Mr. Jensen, please feel
3 free if you want to clarify this, refunds have not
4 been issued yet; is that correct?

5 MR. LONG: That's correct.

6 THE HEARING OFFICER: Okay. And that's
7 your understanding, as well, Mr. Jensen?

8 MR. JENSEN: They're to be credited by
9 the end of this month.

10 THE HEARING OFFICER: Okay. And,
11 actually, that leads to my next question. So this
12 would not be a refund in the sense that people
13 would be issued a refund check? They would be
14 issued a credit on the account; is that your
15 understanding, Mr. Long?

16 MR. LONG: Yes. I guess with the
17 exception of the 54 people that have since moved
18 if the Commission decides to track them down.

19 THE HEARING OFFICER: Okay. Well, we
20 wouldn't be tracking them down. We would order
21 the Company to--

22 MR. LONG: Well, that's right.

23 THE HEARING OFFICER: --to make a, I
24 think as you mentioned, possibly some effort in
25 locating them.

1 MR. LONG: I'm sorry, that's what I
2 meant.

3 MR. JENSEN: Can I ask a question?

4 THE HEARING OFFICER: Yes, sir.

5 MR. JENSEN: So let's say we do try to
6 track down these 54 residents and we know there's
7 \$483.02. What if we're unable to track them down
8 or what if you're able to track five down, what
9 happens to the remainder and do we send a \$0.20
10 check?

11 THE HEARING OFFICER: Mr. Jensen, let me
12 just be clear that what I'm doing today is asking
13 questions and obtaining information so that I can
14 go back to the Commission and inform the
15 Commission. The Commission hasn't made a
16 determination. When a determination is made, an
17 order will be issued. And the order will specify
18 what the Commission has decided with respect to
19 the issue.

20 If there is a determination made that is
21 different than what is proposed in the
22 stipulation, that will be clarified and you will
23 be--you should be clear on that issue. And to the
24 extent you're not, you will have an opportunity
25 within 30 days of the order to request

1 reconsideration or clarification. And I just want
2 to make it clear that there's no ruling on the
3 issue. And by me asking questions, you shouldn't
4 infer that there's a particular position on the
5 issue. This is really a fact finding and
6 information gathering process at this hearing.

7 MR. JENSEN: Can I ask another question?

8 THE HEARING OFFICER: Absolutely.

9 MR. JENSEN: Is there a possibility that
10 we would know by the end of this month what your
11 ruling is?

12 THE HEARING OFFICER: I don't think that
13 that is likely.

14 MR. JENSEN: So the letter that we had
15 indicated to our customers, and I was under the
16 assumption it says this credit would post on their
17 January 1 bill.

18 THE HEARING OFFICER: I don't think that
19 that's likely, sir.

20 MR. JENSEN: Okay.

21 THE HEARING OFFICER: I cannot give you
22 an absolute. I--I think it's very unlikely.

23 MR. JENSEN: So we'll follow up with a
24 letter?

25 THE HEARING OFFICER: That's not to say

1 that you--you know, assuming if there is a credit
2 that--let's say you assume--let's say that you
3 determine that a customer is owed \$10 as a refund
4 for overpayment. This is a question of when they
5 receive it and assuming that that customer isn't
6 otherwise offset by some other consideration by
7 the Commission. Does that make sense or am I
8 complicating it?

9 MR. JENSEN: No.

10 THE HEARING OFFICER: Okay. I would
11 normally say that we would do everything possible
12 to get this out before then, but given the--

13 MR. JENSEN: We have some holidays coming
14 up. I get that.

15 THE HEARING OFFICER: And I a number of
16 other factors. I just have to be very forthright.

17 MR. JENSEN: That just tells me now do I
18 just, you know, send out an additional letter and
19 say we're still waiting. And I'll be honest with
20 you, being naive. I thought granted with this
21 settlement stipulation, when it's referring to our
22 customers, that, you know, it was pretty much set
23 and done. But I'm learning nothing is set and
24 done until it's set and done.

25 MS. SCHMID: And Commission approved.

1 THE HEARING OFFICER: Yes. Yes. Mostly
2 Commission approved.

3 MR. JENSEN: I get that. So that was,
4 again, our--we want this over. We want to get
5 this money back. We thought this would be very
6 simple. We've got this. We can move forward.
7 Let's get this letter out. Let's tell them what's
8 happening. I don't see anyone here complaining of
9 getting a refund, even though they don't know what
10 their refund is. But I'll be more than happy to
11 send notification out saying that we're still
12 waiting for a Commission approval on the refunds.
13 Or we just don't issue credits and then they call
14 and go, "You said we were going to get a credit on
15 our account." And I go, "That didn't quite
16 happen." Do you see what I'm saying?

17 THE HEARING OFFICER: I do. I see
18 exactly your point. And I haven't read your
19 letter in great detail. But to the extent that it
20 might be helpful to you, I don't think that it
21 would be incorrect to suggest to your customers
22 that the issue is pending before the Commission
23 and is awaiting an order on the stipulation, and
24 pending that the issue of a credit should one be
25 authorized is pending.

1 The other thing is that just for
2 clarification, if I receive this and I might be
3 led to believe I was getting a credit and I
4 suppose that not all people are getting a credit;
5 is that--

6 MR. JENSEN: This only went to people
7 affecting credit. That's why it's to the Little
8 Valley residents. It only went to people
9 affected.

10 THE HEARING OFFICER: Okay. All right.
11 That makes sense.

12 MR. JENSEN: That's why we didn't do a
13 mass mailer. That's why we couldn't put it on our
14 bills because meaning, when I said our bills, a
15 letter in our bills, something in our newsletter
16 because it goes out to 8,000 residents. And we
17 didn't want all 8,000 to misread it and think
18 they're going to get a credit and we've been
19 overcharging and could they have been affected.
20 So we just went to our residents that it's
21 affected.

22 THE HEARING OFFICER: Okay. Very good.
23 That--that's clear. Thank you so much.

24 MR. JENSEN: Thank you.

25 THE HEARING OFFICER: Mr. Long, I

1 actually have one more question for you, please.
2 And this goes back to an earlier question that I
3 asked Mr. Jensen. And I know that the Division is
4 well aware of what the term retroactive rate
5 making means. And I assume that you do, as well,
6 Mr. Long. And by your nod, I take that as a yes.

7 MR. LONG: Yes.

8 THE HEARING OFFICER: Okay. Just to make
9 sure that we are absolutely clear here, can you
10 help me understand why or why not this is--well,
11 it would be considered retroactive rate making.

12 MR. LONG: In regards to the engineering
13 fees or the--

14 THE HEARING OFFICER: Actually, if you
15 wouldn't mind addressing both, that would be
16 helpful.

17 MR. LONG: I guess my understanding is
18 that this was an error by WaterPro. We've entered
19 into the stipulation agreement to try to remedy
20 that the best we can in the public interest. I
21 don't know if you have any specific questions I
22 could answer or--

23 THE HEARING OFFICER: Ms. Schmid, do you
24 wish to respond to the question?

25 MS. SCHMID: I would, please.

1 THE HEARING OFFICER: Please go ahead.

2 MS. SCHMID: I believe that these issues
3 are presented to the Commission as part of the
4 settlement stipulation package to resolve a
5 dispute. And as part of that, the Commission
6 would not be setting a rate. The Commission would
7 be resolving a dispute over what to do, what to do
8 when, and how to do it, and then move forward.

9 So I would suggest that it not be looked
10 at as retroactive rate making, but as resolving a
11 dispute in the context of a settlement. And, as
12 you know, settlements are encouraged by the
13 Commission. And I believe that such a resolution
14 here would be just, reasonable, and in the public
15 interest for the reasons the witnesses have stated
16 today.

17 THE HEARING OFFICER: Thank you,
18 Ms. Schmid. Is there anything else for the
19 Commission? Any questions before we adjourn? I
20 take that as a no.

21 MR. JENSEN: I don't have any.

22 THE HEARING OFFICER: Thank you all very
23 much for being here and for your testimony.

24 Again, it was very helpful to the Commission.

25 We'll take the matter under advisement and issue

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an order as best we can. Thank you very much.
(Hearing concluded at 5:33 p.m.)

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CERTIFICATE

This is to certify that the foregoing proceedings were taken before me, NANCY A. FULLMER, a Registered Merit Reporter and Notary Public in and for the State of Utah;

That the proceeding was reported by me in stenotype and thereafter caused by me to be transcribed into typewriting, and that a full, true, and correct transcription of said testimony so taken and transcribed 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 result thereof.



Nancy A Fullmer

Nancy Fullmer, RMR