

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

The Formal Complaint of
Duncan, Gavril, Workman,
Bates, et al., Against Eagles
Landing Water Company, LLC

Docket No. 13-2477-02

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HEARING PROCEEDINGS  
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TAKEN AT: Public Service Commission
Hearing Room 451
160 East 300 South
Salt Lake City, Utah

DATE: Tuesday, January 21, 2014

TIME: 9:04 a.m.

REPORTED BY: Scott M. Knight, RPR

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APPEARANCES

ADMINISTRATIVE LAW JUDGE:

MELANIE A. REIF

FOR EAGLES LANDING WATER COMPANY, LLC:

J. CRAIG SMITH, ESQ.,

ADAM LONG, ESQ.,

SMITH HARTVIGSEN

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Hearing Proceedings

January 21, 2014

PROCEEDINGS

THE HEARING OFFICER: Good morning, everyone. I'm Melanie Reif, the administrative law judge with the Utah Public Service Commission. And I wish to welcome all of you and thank you all for coming this morning. I hope you can hear me okay. Are we good on that? Okay. Excellent.

This is the hearing that is scheduled in the matter of the Informal Complaint of Duncan, Gavril, Workman, Bates, and Others Against Eagles Landing Water Company, LLC. The docket number is 13-2477-02. And this morning is the scheduled hearing for this matter. And again, my name is Melanie Reif. I serve as the administrative law judge for the Commission, so I'll be hearing this matter this morning. And ultimately, the decision will come from the Commission.

And before we get started this morning, I'd like to take appearances, starting with those who are complainants in this matter. And make things easy, if you want to introduce yourself in the order in which you filed your testimony, that may be easiest, since we'll probably take you in that order for purposes of keeping everything as orderly as possible this morning. And if you need any help in that regard, I'm happy to give you some help there.

Yes, sir.

1 MR. DUNCAN: I believe we're the first ones.

2 THE HEARING OFFICER: Are you the Gavrilas?

3 MR. DUNCAN: No, we're the Duncans.

4 THE HEARING OFFICER: The testimony I was
5 referring to was the testimony that was filed on December 17,
6 2013. It's a very large stack of testimony. I believe the Gavrilas
7 are actually the first parties to file. And this--this doesn't have
8 any bearing on your case at all. I don't--I hope you're not at all
9 concerned about that. I'm just trying to keep it as organized as
10 possible.

11 So I know Mrs. Gavrila is at--at the front here at a
12 microphone. And in order to introduce yourself, it will probably
13 be very helpful, since this is a recorded hearing, and also the
14 recorder--the reporter will be able to hear a lot better if you can
15 speak at a microphone. So if you can come up to the
16 microphone when you introduce yourself, that will be very
17 helpful.

18 I'll start with you, Mrs. Gavrila.

19 MS. GAVRILA: Yes. My name is Mary Gavrila.

20 MR. GAVRILA: And I'm John Gavrila.

21 THE HEARING OFFICER: And for clarification, Mr.
22 and Mrs. Gavrila, are you representing yourself today?

23 MS. GAVRILA: Yes.

24 THE HEARING OFFICER: So you do not have an
25 attorney? In other words, you're pro se?

1 MS. GAVRILA: Correct.

2 THE HEARING OFFICER: Okay. Very good.

3 To help out, our next person is Elmo Richins, Mr.
4 Richins.

5 MR. RICHINS: Elmo Richins. I own the house on
6 lot 95 in Eagles Landing development.

7 THE HEARING OFFICER: Thank you. And will you
8 be represented by counsel today, sir?

9 MR. RICHINS: No.

10 THE HEARING OFFICER: The Workmans are next.

11 MS. WORKMAN: I'm Phyllis Workman.

12 THE HEARING OFFICER: Thank you, Mrs.
13 Workman.

14 MR. WORKMAN: I'm Ronald Workman.

15 THE HEARING OFFICER: And Mr. and Mrs.
16 Workman, will you be represented by counsel today?

17 MR. WORKMAN: No.

18 THE HEARING OFFICER: Okay. Thank you.
19 Next we have the Monsons.

20 MS. MONSON: I'm Pam Monson, and I own a lot--
21 we--my husband and I own a lot at Eagles Landing. My husband-
22 -

23 THE HEARING OFFICER: Mrs. Monson, I'm going
24 to interrupt you a second. I don't believe your microphone is on.

25 MS. MONSON: I don't think any of these--

1 MR. SMITH: There's a button you can push.

2 MS. MONSON: I'm on now. Okay, my name's
3 Pamela Monson, and my husband is Gary Monson. We own a lot
4 at Eagles Landing and--

5 THE HEARING OFFICER: Is Mr. Monson here with
6 you today?

7 MS. MONSON: He is sick today, so he couldn't
8 come.

9 THE HEARING OFFICER: And will you be
10 represented by counsel?

11 MS. MONSON: No.

12 THE HEARING OFFICER: Okay. Thank you.

13 Next, we have the Bates. And Mr. Bates, I
14 understand you're joining us by telephone. Welcome this
15 morning. Could you please identify yourself.

16 MR. BATES: Yeah, this is Dustin Bates, and we
17 owned the Lot 19694 in Eagles Landing subdivision.

18 THE HEARING OFFICER: Mr. Bates, is Mrs. Bates
19 also joining you this morning?

20 MR. BATES: No, she's not.

21 THE HEARING OFFICER: Okay. And are you
22 represented by counsel?

23 MR. BATES: No, ma'am.

24 THE HEARING OFFICER: Okay. And for
25 clarification, did I hear you say owned, as in past tense, or are

1 you currently an owner in Eagles Landing?

2 MR. BATES: We actually sold our house. It closed
3 on December 26th of 2013.

4 THE HEARING OFFICER: Okay. Thank you for that
5 clarification, sir. I will get back to you when it's time to take
6 testimony in the case. You're number five on the list, so if you
7 would--if you have the ability to put your phone on mute, as I
8 mentioned earlier, that will help with any interference or
9 feedback we might receive on this end.

10 MR. BATES: Okay.

11 THE HEARING OFFICER: Thank you, sir.
12 Next we have the Paulos--Paulos family.

13 MR. PAULOS: I'm Chris Paulos.

14 THE HEARING OFFICER: Welcome, Mr. Paulos.

15 MS. PAULOS: I'm Sheri Paulos.

16 THE HEARING OFFICER: Welcome. And Mr. and
17 Mrs. Paulos, will you be represented by counsel today?

18 MS. PAULOS: No.

19 MR. PAULOS: No.

20 THE HEARING OFFICER: Thank you. You may
21 have a seat.

22 Next we have the Youngs.

23 MS. WORKMAN: The Youngs are--are--Mrs. Young
24 is in town in the state, but she has a doctor's appointment. Mr.
25 Young had to go back to work to Tucson, and he did not indicate

1 to me one way or the other whether he would be joining us by
2 phone.

3 THE HEARING OFFICER: Okay. Do you know if
4 Mrs. Young will be here after her appointment this morning?

5 MS. WORKMAN: No, she will not.

6 THE HEARING OFFICER: Okay. Mr. Butterfield.

7 MS. BUTTERFIELD: I'm Jessica Butterfield.

8 THE HEARING OFFICER: Ms. Butterfield, are you a
9 party in this action?

10 MS. BUTTERFIELD: Yes. My husband built and
11 owns on lot 68, and I'm here for him.

12 THE HEARING OFFICER: Hold on just one second.
13 I just see testimony from Trevor Butterfield. Were you on the
14 complaint?

15 MS. BUTTERFIELD: I was, yes.

16 THE HEARING OFFICER: So let me double-check.
17 Yes, I see your name. So Jessica, you'll be testifying on behalf
18 of your family?

19 MS. BUTTERFIELD: Yes.

20 THE HEARING OFFICER: And are you represented
21 by counsel this morning?

22 MS. BUTTERFIELD: No.

23 THE HEARING OFFICER: Okay. Thank you. Have
24 a seat.

25 The Allens.

1 MR. ALLEN: Gene Allen.

2 THE HEARING OFFICER: Sir, I don't think your
3 microphone is on. You need to speak into it. I heard you,
4 though.

5 MS. SMITH ALLEN: Betty Allen.

6 THE HEARING OFFICER: Did the reporter hear
7 that?

8 THE REPORTER: No.

9 THE HEARING OFFICER: Could you please repeat
10 yourself?

11 MR. ALLEN: Gene and Betty.

12 THE HEARING OFFICER: And your last name?

13 MR. ALLEN: Allen.

14 THE HEARING OFFICER: Thank you. Mr. and Mrs.
15 Allen, will you be representing yourself today?

16 MR. ALLEN: No--I mean yes.

17 THE HEARING OFFICER: Thank you.

18 And the Duncans.

19 MS. DUNCAN: Raeleen Duncan.

20 MR. DUNCAN: Brent--Brent Duncan.

21 THE HEARING OFFICER: Thank you, Mr. and Mrs.
22 Duncan. And will you be represented by counsel today?

23 MR. DUNCAN: We will not be represented by
24 counsel.

25 THE HEARING OFFICER: Okay. Thank you very

1 much. Please have a seat.

2 And next we have the responding party.

3 MR. SMITH: Excuse me. Craig Smith and Adam
4 Long on behalf of Eagles Landing Water Company. Also here
5 with us is the general manager and owner of the company, Mr.
6 David Olsen.

7 THE HEARING OFFICER: Thank you, Mr. Smith.

8 And welcome again, everyone. I think this would be
9 a good time to explain what I came in earlier about before we
10 started the hearing. And this is a little out of--out of sequence,
11 but I just want to make sure that we have this covered now
12 because in preparation for the hearing, I was looking at the
13 record as it's been presented. And I was also looking at our
14 information that we have with the Commission to better
15 understand what the complaint was alleging with respect to the
16 tariff.

17 And I was able to obtain a copy of that tariff;
18 however, it was provided to us from the Division. And I want to
19 give each and every one of you a copy of that to make sure that
20 it is the tariff as you understand it and if so, ask for your
21 stipulated agreement so that we can move forward in this hearing
22 and that if it is your understanding of the stipulation as--as you
23 understand it, I will take judicial notice of that and will move
24 forward.

25 So give me one moment and we'll be off the record

1 and I'll be sure to get you all a copy.

2 (A discussion was held off the record.)

3 THE HEARING OFFICER: We're back on the
4 record. And thank you everyone for taking a few moments to
5 review the tariff and I hope all of your questions have been
6 answered with respect to the nature of the Commission's need to
7 clarify this issue.

8 Mr. Richins, as spokesperson for complainants in
9 this matter, is it your mutual understanding on behalf of all the
10 complainants in this matter that this, in fact--this document which
11 I have provided which is marked, "Schedule of Rates, Rules,
12 and, Regulations, Tariff No. 1"--at the bottom it says, "Issued
13 August 18, 2008, effective September 1, 2008"--is it your
14 understanding, on behalf of the entire complainant base, that this
15 is the tariff that you're complaining about?

16 MR. RICHINS: Yes.

17 THE HEARING OFFICER: Okay. Thank you. And
18 do you stipulate to that fact?

19 MR. RICHINS: Yes.

20 THE HEARING OFFICER: Thank you.

21 Mr. Smith?

22 MR. SMITH: Yes, we'll stipulate as well.

23 THE HEARING OFFICER: Okay. Thank you very
24 much. And to that end, the Commission takes notice--judicial
25 notice and administrative notice that this is the tariff that this

1 particular matter involves. And we'll move forward with the
2 testimony in this matter.

3 Let's be off the record for just a moment.

4 (A discussion was held off the record.)

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

7 Mr. Richins, for clarification in this matter for the
8 Commission's consideration, we have a complaint filed by
9 numerous members of the community involving Eagles Landing
10 Water Company. And for clarification, is it your understanding
11 that the complaint still exists as it was presented to the
12 Commission? In other words, have any of the matters been
13 resolved since this matter arose?

14 MR. RICHINS: The only thing that I am aware of
15 that has changed is, Mr. Olsen did send a check to the
16 Workmans for the reimbursement for the generator. And that's
17 the only thing I know of.

18 THE HEARING OFFICER: Okay. Thank you very
19 much, sir.

20 MR. RICHINS: Also there was the complaint that he
21 was charging \$55 a month instead of 35 for the first 10,000.
22 That--he has also changed that. We're now being billed \$35.

23 THE HEARING OFFICER: Okay. Thank you very
24 much. Anything else?

25 MR. RICHINS: Not that I'm aware of.

1 THE HEARING OFFICER: Okay. Very good.

2 All right. Mr. and Mrs. Gavril, thank you again for
3 being here. And I'm going to swear you in together, so if you'll
4 each raise your right hand. And do you swear that the testimony
5 that you're about to give is the truth?

6 MS. GAVRILA: Yes.

7 MR. GAVRILA: Yes.

8 THE HEARING OFFICER: Thank you very much.
9 Which one of you would like to go first? Mrs. Gavril? Okay,
10 Mrs. Gavril, please proceed.

11 MARY AND JOHN GAVRILA, being first duly sworn,
12 testified as follows:

13 MS. GAVRILA: I will just go ahead and read and
14 summarize through our complaint. Our home was built back in
15 2002 prior to the time that Mr. Olsen owned the development
16 company or the water company. The property owner at that time
17 received the water line and the meter set. We're not privy to the
18 arrangements that were made between the developer and the
19 homeowner at that time. When we bought the home in 2012,
20 water had been working there since 2004.

21 And at the time we purchased our property, there
22 were no liens against it, although we understood from the
23 contractor who put in the water lines that he had really never
24 been paid initially.

25 THE HEARING OFFICER: Does this pertain to your

1 complaint, Ms.--

2 MS. GAVRILA: No, it's just a background.

3 Let's see. So again, at the time that we purchased
4 our property, water had been in since 2004 and none of us are
5 aware of any agreements made between the first developer and
6 Mr. Olsen--or excuse me--Mr.--the first developer and the first
7 homeowner.

8 Recently, we discovered that there were water
9 meters within our subdivision that were either not in, not working.
10 Some were billed by gallon, some were billed by cubic foot, but
11 no one had read meters, to our knowledge, or had all of that
12 brought up to date until most recently. Mr. Olsen did, to my
13 knowledge, put in water meters to the--to the homeowners in
14 Phase 1. If they were not working then, I think they were
15 updated.

16 The \$55 a month, again, has been resolved to 35.
17 We did indicate that we would like to have a refund for the
18 overage that we have paid from 2012 to current. And we would
19 like that to be obtained in a cash amount as opposed to a credit
20 on our account. We have lost confidence in the ability to--to
21 have the water company credit us properly. We were concerned
22 about retaliation. I think all of us felt that way. The \$4,100 bill,
23 we feel, is invalid based on the fact that, again, we're the second
24 owner. The home was built before Mr. Olsen owned the
25 properties or the water company, so we do not feel that we

1 should have to pay that. We did not construct the home.

2 THE HEARING OFFICER: Anything else, Ms.
3 Gavrila?

4 MS. GAVRILA: I do have a question. We would like
5 to know--there was conversation in a letter from Mr. Olsen to the
6 Division that Mr. Dave Gardner was the one that was subsidizing
7 the water company. We would like to know who he is and what
8 part he plays.

9 THE HEARING OFFICER: Let's hold that. When
10 Mr. Olsen testifies, that may be something you want to ask him.

11 MS. GAVRILA: Perfect.

12 THE HEARING OFFICER: But that's not appropriate
13 at this point in the hearing.

14 MS. GAVRILA: All right. Sorry.

15 THE HEARING OFFICER: Mr. Gavrila, is there
16 anything you wish to add?

17 MR. GAVRILA: No, I think everything's been said
18 there.

19 THE HEARING OFFICER: Okay. Thank you.
20 Mr. Smith, cross?

21 MR. SMITH: Yes, Mr. Long will handle the cross
22 examination.

23 CROSS-EXAMINATION

24 BY-MR.LONG:

25 Q. Mr. or Mrs. Gavrila, should I address one or the

1 other of you?

2 MR. GAVRILA: Either one.

3 BY MR. LONG:

4 Q. When you moved into your home, how did you find
5 out about water service?

6 MS. GAVRILA: From the previous owner.

7 BY MR. LONG:

8 Q. (Addressing Ms. Gavril) And did you contact the
9 water company to have your water service turned on?

10 A. Yes.

11 Q. And was the water on when you moved into the
12 house?

13 A. Yes.

14 Q. And then since that time, you've been paying \$55
15 per month?

16 A. Yes.

17 Q. For how much water?

18 A. For 10,000 gallons--well, for unlimited use, I
19 suppose, yeah.

20 Q. Okay. And the 35 amount in the tariff is for how
21 much water?

22 A. For 10,000 gallons.

23 Q. And how big is your lot?

24 A. Well, I have an acre lot, but not all of it, of course,
25 is in grass.

1 Q. Do you have an estimate how much is grass?

2 MR. GAVRILA: Quarter acre.

3 MS. GAVRILA: Maybe a third acre. I can't say.

4 THE HEARING OFFICER: I'm going to interrupt this
5 line of questioning. I don't think there's been basis to ask that
6 question. Really, the tariff goes to the issue of--of usage and--I
7 mean, do you have anything to indicate that she's used more
8 than 10,000 gallons and that she hasn't paid for it?

9 MR. LONG: The point of this question is to
10 establish that just to water the amount of grass, they have would
11 clearly take more than 10,000 gallons a month.

12 THE HEARING OFFICER: Well, that's the
13 company's burden to show by having a meter in place and the
14 proper reading. And unless you can back up and establish that, I
15 don't--I don't see that that questioning is relevant for purposes of
16 this hearing.

17 MR. LONG: Okay. Very well.

18 THE HEARING OFFICER: Any further questioning?

19 MR. LONG: Yeah.

20 BY MR. LONG:

21 Q. (Addressing Ms. Gavril) Do you know what your
22 water meter currently reads?

23 A. I do not.

24 Q. Have you ever looked at it?

25 A. Yes.

1 Q. Would you believe me if I told you that in December
2 2013, your meter showed a total of just over two million gallons
3 used, that would be over the life of the meter?

4 A. Yes.

5 Q. And you said there had been water service to your
6 house for how long?

7 A. Since 2004.

8 Q. Okay. Have you had any issues with your water
9 service actually getting water to your house?

10 A. Not to my knowledge, no.

11 Q. When you started service with the company, did you
12 pay the hundred dollar turn on fee as stated in the tariff?

13 A. No, I did not. I was not billed that amount.

14 Q. Okay. But it is in the tariff?

15 A. Yes, it is.

16 MR. LONG: Okay. No further questions.

17 THE HEARING OFFICER: Thank you.

18 EXAMINATION

19 BY-THE HEARING OFFICER:

20 Q. Ms. Gavril, just a few follow-up questions for you.
21 So just to make sure that I'm fully tracking exactly where you're
22 coming from, the first part of your complaint is that you have
23 been charged what's called a one-time charge for each service
24 requiring new meter installation of about \$4,000; is that correct?

25 A. That's correct.

1 Q. Okay. And your objection to the that, if I'm
2 understanding you correctly, is you are the second owner and as
3 a second owner, you should not be responsible for that? Is that-
4 -is that correct?

5 A. That's correct.

6 MR. GAVRILA: Correct.

7 BY THE HEARING OFFICER:

8 Q. (Addressing Ms. Gavril) And Mr. Long had a follow-
9 up question for you about the \$100 turn-on fee. It sounds like
10 you had water service when you started receiving water service,
11 but were never charged the \$100 service where meter is already
12 in place?

13 MS. GAVRILA: Correct.

14 MR. GAVRILA: Correct.

15 MS. GAVRILA: We were unaware that there was
16 even a tariff at the time that we moved into the home, and so we
17 just contacted Mr. Olsen to let him know that we were the new
18 owners and to begin billing us--

19 THE HEARING OFFICER: Okay.

20 MS. GAVRILA: --and have paid according to those
21 billings.

22 BY THE HEARING OFFICER:

23 Q. (Addressing Ms. Gavril) Tell me--so you moved in
24 when?

25 A. In March of 2012.

1 Q. March of 2012.

2 Okay. Do you have any objection to the water
3 company charging you the \$100 turn-on fee?

4 A. No.

5 Q. Okay. And you did indicate that the fee of \$55 has
6 been resolved rather recently, I understand?

7 A. Yes.

8 Q. Okay. So--

9 MR. GAVRILA: Your Honor.

10 THE HEARING OFFICER: Yes, sir?

11 MR. GAVRILA: It has been resolved going forward--

12 THE HEARING OFFICER: Yes, sir.

13 MR. GAVRILA: --but it hasn't been resolved in the
14 past.

15 THE HEARING OFFICER: Yes, sir, I understand.

16 But there are some months that you did pay \$55? Okay.

17 MR. RICHINS: Can I ask a question, please, as far
18 as the \$100 turn-on fee?

19 THE HEARING OFFICER: Mr. Richins, this is their
20 opportunity to give their testimony. Why don't we wait until we
21 get to your--your opportunity, and perhaps we can address that
22 then, okay? It's not really a general question-answer type of
23 situation. We're trying to take it in the order.

24 MR. RICHINS: They brought it up, and I just was
25 curious what--if there's a difference between a turn-on fee and a

1 transfer fee.

2 THE HEARING OFFICER: I don't know that I can
3 answer that for you. I--I--I'm looking at the plain words of the
4 tariff, and I would just direct you to read what the tariff says.

5 BY THE HEARING OFFICER:

6 Q. Ms. Gavrila, a couple other questions for you. So
7 when you moved into the home, was your gas service on?

8 A. Yes.

9 MR. GAVRILA: Yes.

10 THE HEARING OFFICER: And did you transfer the
11 gas service into your name?

12 MS. GAVRILA: Yes.

13 MR. GAVRILA: Yes.

14 THE HEARING OFFICER: And do you remember--
15 would it be--was it Questar Gas? Is it Questar Gas--

16 MR. GAVRILA: Yes.

17 THE HEARING OFFICER: --that you get your gas
18 service through?

19 Did they charge you a fee to turn on or change the
20 name or anything like that--

21 MS. GAVRILA: They did not.

22 MR. GAVRILA: I do not recall.

23 THE REPORTER: If I could have one at a time.

24 THE HEARING OFFICER: Okay. I heard Ms.

25 Gavrila Say, They did not, and Mr.--or, I did not--I'm sorry. Which

1 one of you said, We didn't?

2 MS. GAVRILA: I said we didn't.

3 THE HEARING OFFICER: Okay. And Mr. Gavril, you said you did not recall?

4 MR. GAVRILA: I did not recall. Mary pays the bills, so I did not see the bill.

5 THE HEARING OFFICER: Okay.

6 MR. GAVRILA: So I couldn't say for sure.

7 THE HEARING OFFICER: And do you have electricity to your home?

8 MS. GAVRILA: Yes.

9 BY THE HEARING OFFICER:

10 Q. (Addressing Ms. Gavril) And is that provided by Rocky Mountain Power?

11 A. Yes.

12 Q. Was that on at the time you bought the home?

13 A. It was.

14 Q. And did you transfer that into your name as well?

15 A. Yes, we did.

16 Q. And was there a transfer fee involved in that?

17 A. Now that I don't recall.

18 Q. Okay. Or any kind of deposit?

19 A. No deposit, no.

20 Q. Okay. Okay. I think I have a good understanding of where you stand. And you haven't actually paid the \$4,000,

21

1 right?

2 A. No.

3 Q. And you have--you haven't been--have you been
4 billed for the \$100?

5 A. Yes.

6 Q. Have you paid the \$100?

7 A. No, I have not.

8 Q. But based on your testimony, I believe it's your
9 intention to do so or take it as a credit against the--the amount
10 that you're asserting you are owed in the way of a refund?

11 A. Yes. Yeah. Again, you know, talking to the--or
12 speaking to the fact that transfer fee versus turn-on fee, if--if it's
13 already there, should there indeed be a turn-on fee if it was
14 never turned off?

15 Q. Do you have a copy of the tariff that was provided
16 earlier--

17 A. Yes.

18 Q. --and which was stipulated to?

19 A. Right. Turn-on service where meter is already in
20 place, but the service wasn't off. It was already on when we
21 moved in. So should that be applicable, then, a \$100 turn-on fee
22 if the water was already on?

23 Q. Did you ever receive, once you notified the
24 company--well, let me back up. So you moved in--did you notify
25 the water company that you were the new owners and you

1 wished to make--

2 MR. GAVRILA: Yes.

3 THE HEARING OFFICER: --the water account in
4 your name?

5 MR. GAVRILA: Yes.

6 MS. GAVRILA: Yes.

7 THE HEARING OFFICER: Was there any discussion
8 at that point of a \$100 turn-on fee?

9 MS. GAVRILA: There was not.

10 MR. GAVRILA: None.

11 BY THE HEARING OFFICER:

12 Q. (Addressing Ms. Gavril) But you indicated earlier
13 you did not object to the \$100 turn-on fee.

14 A. If it was indeed a turn-on fee. I guess my question
15 now, if I may back up, is--is that applicable to a transfer where
16 the water is already on?

17 Q. Okay. Would you agree that it
18 wouldn't--I'm going to give you a hypothetical. Would you agree
19 that it doesn't really make sense to turn off the water and then
20 turn back on and charge you a \$100 fee, making the water
21 company do something twice--

22 A. Uh-huh (Affirmative).

23 Q. --to charge you a fee for something that might be in
24 the spirit of the tariff?

25 A. And if it's clarified that that is in the spirit of the

1 tariff, then I agree with you. It certainly doesn't state that.

2 Q. Something other than the spirit of the tariff might
3 not be that plainly written. Okay.

4 A. Certainly if you--you know, if it is in the spirit of the
5 tariff, then I am not objected to pay it.

6 Q. Okay.

7 MR. GAVRILA: Your Honor?

8 THE HEARING OFFICER: Yes, sir.

9 MR. GAVRILA: I would like to understand, too, that
10 if--if he was reading the meters, then he would have had to read
11 the meter at that point in time when we came in rather than
12 assuming the prior owner's water usage and applying it to us or
13 vice versa. So he would have to have a starting point for that to
14 happen, but he wasn't doing that.

15 THE HEARING OFFICER: Yes, sir, I understand
16 that. Or at least I understand that's what's alleged. And if, in
17 fact, they--if, in fact, the company was charging based on a
18 meter reading, that would make sense to me, but it doesn't seem
19 that that's--at least that's not what is being alleged to have
20 occurred.

21 So how does that--how does that relate to the \$100
22 turn-on fee, or are you just making a separate comment?

23 MR. GAVRILA: I was just making a comment in
24 regards to that.

25 THE HEARING OFFICER: Okay. Okay. Okay. So

1 if--just to summarize, on the \$100 fee, your position is, if it was
2 truly a turn-on fee, you would not have an objection to the \$100
3 fee, but inasmuch as your water was already on and you were
4 already receiving service, you do not see it that way, you see it
5 as a continuation of the service that had been being provided
6 previously and that--is that correct?

7 MS. GAVRILA: It is correct. I wouldn't find it to be
8 applicable in a transfer.

9 THE HEARING OFFICER: Had the water been
10 turned off previously, you would see it differently, however; is
11 that correct?

12 MS. GAVRILA: Yes.

13 THE HEARING OFFICER: Okay. Understood.
14 Thank you, Mr. and Mrs. Gavril.

15 Are there any follow-up questions?

16 MR. SMITH: No.

17 THE HEARING OFFICER: Okay. You are
18 dismissed. And thank you very much. You're welcome to stay.

19 And I'll call the next party, which is Mr. Richins. Mr.
20 Richins, you're already at the table, so thank you. You may
21 proceed.

22 MR. RICHINS: Thank you.

23 THE HEARING OFFICER: Or excuse me. I need to
24 swear you in, please. Will you please raise your right hand?
25 And do you swear that the testimony you are about to give is the

1 truth?

2 MR. RICHINS: I do.

3 THE HEARING OFFICER: Thank you.

4 MR. RICHINS: Is my mike working?

5 THE HEARING OFFICER: I can hear you. If you
6 want to help out a little bit, if you speak directly into it--it seems
7 like you're a little close, but it really does help to make it more
8 audible.

9 ELMO RICHINS, being first duly sworn, testified as
10 follows:

11 MR. RICHINS: Thank you. I'm choosing just to
12 read in my written testimony. My name is Elmo Richins. I own a
13 home at 4--4529 East Cougar Run, Birdseye, Utah. It's Lot 95 of
14 the Eagles Landing development. I purchased the home from
15 John and Sherry Reano on March 22, 2013. Reanos purchased
16 the home from Dave Olsen in 2011. I believe this was a short
17 sale and the house was built in 2007, from what I understand.

18 When I was in the process of purchasing the home, I
19 asked the Reanos how much the water bill was because they
20 have a large yard and I like to garden, and--and so I was
21 concerned with how much the water was. The Reanos told me
22 the water cost was \$55 per month no matter how much water we
23 used. This was acceptable to me, and after we transferred the
24 water billing into our name, we started receiving monthly billings
25 of \$55 and we paid the bills in full and never questioned the

1 tariff.

2 On November 24, 2013, we received our monthly
3 water bill of \$55 along with a bill for \$4,000 for a meter set fee
4 and a \$100 for a hookup fee. When I--so I called Mr. Olsen to
5 find out why I was being charged these fees, he told me that his
6 lawyer, Craig Smith, told him to bill all the homes at fees that he
7 didn't have any record of that haven't been paid.

8 The original owner of the house was Mr. Olsen, and
9 I told Mr. Olsen that I didn't think that I was responsible for the
10 fees because I wasn't the original owner, and the water meter
11 was set and turned on when I bought the home. And those fees
12 should have been taken care of by--when the house was built
13 and before the Reanos purchased the house.

14 Mr. Olsen then told me that the water company was
15 broke and needed the money, and if we didn't pay, he would be
16 forced to shut down the water company. And everyone up there
17 in Eagles Landing could buy their own water rights and drill their
18 own wells. This concerned me greatly because we have two
19 young children living with us in our house, and this is our only
20 source of water. And I called the Public Service Commission and
21 talked to Marilee Martinez to see if he could indeed shut off our
22 water.

23 She, at that time, advised me to file an informal
24 complaint because Mr. Olsen couldn't shut off the water as long
25 as there was an informal or formal complaint filed. So I filed an

1 informal complaint at that time.

2 A couple of days later, Ms. Martinez called me and
3 suggested I go ahead and file a formal complaint because there
4 were other informal complaints filed against the water company
5 that Mr. Olsen had--had not responded to.

6 She sent me the formal complaint form and asked
7 me to include the other informal complaints along with the
8 formal--my formal complaint so that all the complaints could be
9 heard at the same time.

10 It's my understanding that once a house is sold, all
11 the fees and bills owed by the previous owner are not
12 transferable to the new owner unless it is negotiated at the time
13 of closing. The title search never found any outstanding fees or
14 liens.

15 If the water company is owed money, then it is the
16 responsibility --its responsibility to collect the money from the
17 construction company who is responsible for the fees in the first
18 place. In this case, it would be Hearthstone Development,
19 owned by David Olsen, and not the new owner of the house.

20 I am concerned with the viability of the water
21 company. And I don't believe that the County will let us drill a
22 well because there is a water company utility available so we
23 really need to get things worked out with the water company--
24 with the water company, but Mr. Olsen is holding the
25 homeowners hostage and making threats, trying to collect money

1 and I think this is called extortion and I think it needs to stop.

2 MR. SMITH: And I'm going to object to this--this
3 testimony of name-calling here, calling, you know, such things as
4 extortion. I don't think--I don't think that's proper testimony.
5 And I'm going to object and ask to have that stricken.

6 MR. RICHINS: I believe that the meaning of
7 extortion is when you're making threats to collect money that's
8 not--you're not legally obligated to collect or can collect, so I
9 think it's a correct word.

10 THE HEARING OFFICER: Mr. Richins, when you--
11 when you say threat, do you mean that Mr. Olsen has requested
12 a fee be paid and--what is it about the fee that is a threat?

13 MR. RICHINS: Well, he threatened to shut down the
14 water company and force everyone to buy their own water shares
15 and drill their own wells. To me, that's a threat.

16 MR. SMITH: Well, no, that wasn't a threat. What
17 he was saying, if the water company doesn't have money to
18 operate, it can't operate. It's not like it has a pot of gold sitting
19 in its office where it can run itself. So all Mr. Olsen told these
20 folks is if the company runs out of money, it runs out of money
21 and, like any other business, it closes when it runs out of money.

22 THE HEARING OFFICER: Mr. Richins, I--do you
23 have anything further you want to add?

24 MR. RICHINS: No, ma'am.

25 THE HEARING OFFICER: I think it's stated

1 elsewhere in the complaint--it's actually stated in the--in the
2 original complaint that the owners were concerned that this was
3 going to happen and that it happened in retaliation for the
4 informal complaint. If that is your position, I--I will allow that to
5 stand. And we can examine that further when we--when Mr.
6 Olsen testifies, but I do see Mr. Craig's--Mr. Smith's objection.

7 And extortion may be a bit--a bit beyond what,
8 perhaps, is the best definition of what--what is intended by the
9 water company. And we can get into that a little bit more later,
10 but I think your point is taken that, in general, you're concerned
11 that these actions were taken and that there may be some
12 relationship to--to the complaint itself. And if--if that's acceptable
13 to you, I'll accept that. But I think we don't necessarily need to
14 call it extortion if that's--

15 MR. RICHINS: Okay.

16 THE HEARING OFFICER: --if that's amenable.

17 MR. RICHINS: That's fine. I do want to say that in
18 my definition of a turn-on fee is where the company has to
19 physically try--

20 MR. SMITH: I'm going to object to this testimony.
21 His definition of what things mean has no relevance to the
22 determinations by the Commission.

23 THE HEARING OFFICER: Okay. Mr. Long and Mr.
24 Smith, are you finished asking questions?

25 MR. SMITH: I haven't asked any questions of this

1 witness.

2 THE HEARING OFFICER: Are you finished, Mr.
3 Richins?

4 MR. RICHINS: I would just like to finish what I'm
5 saying. Is his objection overruled or . . .

6 THE HEARING OFFICER: We'll--we'll get to the
7 turn-on fee. Are you--I think you have a right to--to object to the
8 turn-on fee inasmuch as you're asked to pay for it. And to give
9 your--to give your interpretation is--is, in my view, not
10 problematic. So Mr. Smith, what is it about his interpretation
11 that is problematic to you?

12 MR. SMITH: I just don't think it's relevant, what his
13 interpretation of the tariff is. He didn't write the tariff. He's
14 probably not even read it until the last few days and what he
15 thinks it means really has no relevance.

16 THE HEARING OFFICER: Well, he's a complainant
17 in this case. And part of his complaint is about the \$100 turn-on
18 fee. And so--

19 MR. SMITH: Well, I think that's better than legal
20 argument. If he wants to make legal argument about what that
21 means, that's fine--

22 THE HEARING OFFICER: Yeah.

23 MR. SMITH: --but that's not testimony.

24 THE HEARING OFFICER: Mr. Richins, you're
25 welcome to make your argument inasmuch as it is a legal

1 argument, but Mr. Smith is right. It would not be testimony per
2 se as to what it means or doesn't mean. But I think you can give
3 your--you can give your opinion about the matter. And I think
4 that's just a difference in semantics, quite frankly. Clearly, you're
5 not here as an attorney. You're not represented by an attorney.
6 So why don't you continue with what you were saying
7 and--and we will take it as--as--as your opinion and not as a
8 legal representation.

9 MR. RICHINS: Thank you. Well, it is my opinion
10 that when you're asked to turn on service, where the meter is
11 already in place, that is a physical act that is done by the water
12 company that they have to actually drive up and actually
13 physically turn on the water. And where the water was already
14 turned on, it was never turned off, I don't believe that that fee is
15 applicable. I could see a transfer fee, but there's not one of
16 those in the tariff. And so--and we was never asked to pay one
17 when we switched our name from the Reanos into the water
18 company--

19 THE HEARING OFFICER: Okay.

20 MR. RICHINS: --for billing.

21 THE HEARING OFFICER: Thank you, Mr. Richins.
22 Do you have anything else?

23 MR. RICHINS: That's all I have.

24 THE HEARING OFFICER: And cross?

25 MR. SMITH: Yeah, we have a few questions.

1 CROSS-EXAMINATION

2 BY-MR.SMITH:

3 Q. Mr. Richins, again, remind me when you said you
4 bought your house.

5 A. It was in March of this year--or 2013.

6 Q. So that was less than a year ago?

7 A. Yes.

8 Q. And you said you believed that Mr. Olsen was a
9 former owner of that house?

10 A. That's what the tax records show.

11 Q. And is that what you're basing that on? Did you
12 check the title?

13 A. Yes.

14 Q. No, other than the tax records--

15 A. Oh.

16 Q. --did you check the title records?

17 A. Well, that's what's shown on the title records on the
18 county.

19 Q. So did you check those records yourself?

20 A. It's on the Internet, yes.

21 Q. And you looked up as to--and which records--I'm
22 sorry--I'm sorry. I'm confused as to which records you looked at.
23 Which records did you check?

24 A. The county has records of ownership and taxes on--
25 on the Internet.

1 Q. Okay. And when you bought your house, did you
2 contact the water company?

3 A. After we bought our house, we--we sent and let
4 them know that we were the new owners of the house.

5 Q. How about prior to buying the house?

6 A. No.

7 Q. Did you review the tariff prior to buying the house?

8 A. No.

9 Q. So you had no knowledge as to what fees might
10 have to be paid when you bought that house under the tariff?

11 A. No. And that's why I was okay with the \$55 a
12 month.

13 Q. And that was that was based on what the former
14 owner told you?

15 A. Yes.

16 Q. Not the water company?

17 A. Right, but the water company billed me the \$55 a
18 month.

19 Q. And were you aware there was a turn-on fee at that
20 time?

21 A. No.

22 Q. So when you make your determination as to what
23 you think is fair, that's something you'd made after you bought
24 your house?

25 A. I would have determined that before I bought the

1 house if--

2 Q. That's not my question. My question is, that's a
3 determination you've made since buying your house?

4 A. Sure, yes.

5 Q. And if you would have had to pay the \$100 fee as
6 part of buying the house, would that have stopped you from
7 buying your house?

8 A. No, I would have probably paid it--

9 Q. But now it's not fair?

10 A. --if it was billed at the time I transferred the--

11 Q. So your objection that it was billed--it's been billed
12 late?

13 A. It's been billed late and--yeah.

14 Q. Do you know if anybody ever paid the \$4,000
15 connection fee for your house?

16 A. I can't tell you that. I have no--no idea.

17 Q. And when you said you had--you had a title report,
18 did you review personally that title report?

19 A. Yes.

20 Q. And you didn't find any liens on the title report?

21 A. Right.

22 Q. Are you aware that the title report only--only reports
23 to you things that are--liens as of record at the county recorder's
24 office? Are you aware of that?

25 A. Okay.

1 Q. And you said you thought this was a short sale. Do
2 you--do you know if this house went through any kind of
3 foreclosure?

4 A. I have no idea.

5 MR. SMITH: I think that's all the questions I have.
6 Thank you.

7 THE HEARING OFFICER: Thank you, Mr. Smith.

8 EXAMINATION

9 BY-THE HEARING OFFICER:

10 Q. Mr. Richins, I'd like to ask you a few follow-up
11 questions, please. So back to what you were saying about you
12 believe that there was prior ownership.

13 A. Yes.

14 Q. I believe you're the third owner?

15 A. I'm the third owner.

16 Q. And at some point in time, Mr. Olsen as you
17 understand it, was an owner of the home?

18 A. Yes.

19 Q. Okay. Now, was it Mr. Olsen personally or was it
20 Mr. Olsen, the Hearthstone Development?

21 A. Both names are on the record.

22 Q. Okay. Both of them listed separately?

23 A. Kind of like in line with each other.

24 Q. Okay. And do you have a copy of that document
25 with you today?

1 A. I do not.

2 Q. Is it--has it been included in the record at any point?

3 A. No.

4 Q. And back to your comment about having asked the
5 homeowner about the \$55. Despite having been comfortable with
6 the \$55, there was still a tariff that you were not aware of; isn't
7 that correct?

8 A. Yes.

9 Q. Okay. And that's really what the heart of the issue
10 is for your complaint; isn't that the case, that even though you
11 weren't aware of that at the time of the complaint, that you
12 became aware of it after the fact and became aware that there
13 were certain aspects of the tariff that concerned you and so you
14 became a complainant in this matter?

15 A. My major complaint is the \$4,000--

16 Q. Okay.

17 A. --meter set. I'm not complaining about the \$55 and
18 I'm personally not looking for reimbursement for it because that's
19 something I agreed to. I--I understood it and that's . . .

20 Q. You agreed to it in a sense that you were told a
21 certain amount by a third party from whom you bought the home,
22 correct?

23 A. Correct.

24 Q. But there's a tariff that is on file and is governed by
25 the Commission to ensure that it is carried out. You can waive--

1 you can waive that part of your complaint if you wish, but the fact
2 that you bought the home willingly thinking that \$55 was a
3 reasonable fee, which it may be, but the tariff said something
4 else. Are you telling me today, as a representative of the
5 Commission, that you're not looking to be reimbursed for any--
6 any amount over and above \$35 for amounts you've paid and it's
7 totally up to you----it's within your purview to not pursue that.

8 A. Well, I think I'll let it stand as it is right now.

9 Q. So you'll not pursue the \$55, but your complaint is
10 only against the \$4,000?

11 A. And the \$100.

12 Q. And the \$100.

13 Let's talk about the \$4,000 for a minute. Do you--
14 and I may be revisiting a little bit what Mr. Smith has already
15 asked you. Do you have any information at all about whether
16 any of the prior owners were responsible or--let me rephrase
17 that--that they actually paid that fee at some point?

18 A. I would have no idea. I would assume that the fee
19 was paid prior to the meter being set.

20 Q. Okay.

21 A. That's--then I think when Mr. Olsen is giving
22 testimony, that's what we will establish.

23 Q. On the title report that you referenced, which you
24 don't have a copy of, do you know in what order Mr. Olsen is
25 listed and Hearthstone Development?

1 A. They're not listed on the title. I bought my house
2 from the Reanos.

3 Q. Okay. But you said that in the chain of title that--

4 A. If you get on the Internet--

5 Q. Uh-huh (Affirmative).

6 A. --and go under the county records--

7 Q. Okay.

8 A. --it's shown on the county records.

9 Q. Okay. So the Reanos were second and Mr. Olsen
10 was first?

11 A. That's--yes.

12 Q. Okay. And did--to your knowledge, did Hearthstone
13 Development build the house?

14 A. Well, they were the development company. I don't
15 know that they were the actual contractor that built the house.

16 Q. Okay. Do you know if the Reanos were the first
17 occupants in the house?

18 A. No, they weren't. There was renters before that.

19 Q. And do you know who they rented from?

20 A. What's their name?

21 UNIDENTIFIED SPEAKER: Burkman.

22 MR. RICHINS: Burkman's. Burkman's rented from
23 the Olsens, from Mr. Olsen.

24 MR. SMITH: I'm going to object. I think--I think this
25 is total--I mean, if there's somebody else that knows it, that's

1 fine and I don't have a big problem with it. But this person--just
2 taking names from other people that were there, if they know it,
3 that's fine, but it's really hearsay when he's talking about things
4 that happened when he wasn't there that he has no personal
5 knowledge of.

6 THE WITNESS: Mr. Burkman is in our branch--in
7 our ward--

8 THE HEARING OFFICER: Yes, sir.

9 MR. RICHINS: --and he told me that he rented from
10 Mr. Olsen.

11 MR. SMITH: Calls for hearsay.

12 THE HEARING OFFICER: I'm going to have to
13 interrupt for just one second. Ms. Gavril, I'm going to allow you
14 to continue to sit there, but I'm not going to allow you to feed him
15 information to him or anybody else that sits at the table, okay? I
16 need you to be quiet. And if there's something that we need to
17 discuss, let's--let's do it in an orderly fashion, but please don't
18 communicate with him and--and--it's very difficult to follow from
19 the reporter's standpoint. And it gives the appearance that Mr.
20 Richins is not testifying for himself, that he's being fed
21 information. So please don't bring that into question.

22 BY THE HEARING OFFICER:

23 Q. Mr. Richins, I'm going to go back to you. So how is
24 it that you know this information about the renters? Personally,
25 how do you know this?

1 A. Mr. Burkman is a member of our ward.

2 Q. Okay.

3 A. When we moved into the ward after we bought the
4 house, he came to me and said that he had previously rented
5 that house. He asked me where we lived--was living--

6 Q. Uh-huh (Affirmative).

7 A. --and I told him. And he said that he was a previous
8 renter of the house.

9 Q. And did he tell you that he was renting from a
10 particular person or entity?

11 A. No, he did not.

12 Q. Okay. So how is it that you would know that he was
13 renting from Mr. Olsen?

14 A. Just assumptions, because Mr. Olsen owned the
15 house.

16 Q. Okay. Okay. And about the \$4,000, help me
17 understand what your objection is to that.

18 A. It's unprecedented, as far, as I know, that anybody
19 can go to a second or third owner after closing and--and request
20 fees that should have been paid by the original owner.

21 Q. Okay. And the \$100 fee--was the water on when
22 you moved in?

23 A. It was.

24 Q. Okay. And did you notify the water company after
25 you moved in that you were the new owner?

1 A. Yes.

2 Q. And at that time, were you given any kind of price
3 list or tariff list or anything?

4 A. No.

5 Q. Okay.

6 A. All we received was the \$55 a month that we were
7 billed for.

8 Q. Okay. And that continued until how long until you
9 received the \$100 bill?

10 A. That was billed to us on November 24th.

11 Q. And that was after your--your informal complaint had
12 been filed with the Division; is that correct?

13 A. No, that was--that is why I filed the informal
14 complaint.

15 Q. Okay.

16 Mr. Richins, I show that the informal complaint was
17 filed in August of 2013 and the formal complaint, which was filed
18 with the Commission, was filed in November of 2013. So I just
19 want to make sure that I'm understanding your--your position
20 correctly. Was it not the \$55?

21 A. No, it wasn't the \$55.

22 Q. It was not. Okay. Okay. All right. Very good. All
23 right.

24 So just for clarification, you're contesting the \$4,000
25 and the \$100, and the \$50--\$55, you're waiving your claim to that

1 issue?

2 A. Yes.

3 Q. Okay.

4 A. And I have a copy of the invoice that Mr. Olsen
5 sent. It was October 24th, not November that these are dated.

6 Q. All right. Thank you for that clarification. Is there
7 anything else that you--you wish to share with the Commission at
8 this point?

9 MR. RICHINS: Not at this point.

10 THE HEARING OFFICER: All right. You may be
11 excused, Mr. Richins, and we'll move on to the next party.

12 How are we--let's go off the record for just one
13 moment.

14 (Recess taken, 10:11-10:16 a.m.)

15 THE HEARING OFFICER: We're back on the
16 record.

17 Mr. and Mrs. Workman, thank you for joining us at
18 the table. I'm going to swear you both in at the same time now.
19 So if you would please raise your right hand. And do you swear
20 that the testimony you are about to give is the truth?

21 MR. WORKMAN: Yes.

22 MS. WORKMAN: We do.

23 THE HEARING OFFICER: Thank you. Ms.
24 Workman, I'm going to back up just a second. I heard you say,
25 We do.

1 MS. WORKMAN: I'm sorry.

2 THE HEARING OFFICER: You cannot promise to
3 tell the truth on behalf of--or that your husband's going to tell the
4 truth, so I need a different response.

5 MS. WORKMAN: I do.

6 THE HEARING OFFICER: Thank you. Perfect.

7 Okay. Keeping with what we've been doing so far,
8 you're welcome to summarize your position and/or read your
9 testimony as you submitted it, whichever you're comfortable with,
10 or some other rendition thereof.

11 PHYLLIS AND RONALD WORKMAN, being first duly
12 sworn, testified as follows:

13 MS. WORKMAN: Okay. I'm going to summarize
14 what I had previously submitted. We purchased our house--or
15 actually our house was constructed in 2007. We purchased our
16 home in 2011. At that time, ten--ten homes existed, but five of
17 them were vacant or in foreclosure. But we bought our house
18 directly from Mr. Olsen.

19 Our house also was rented prior to us living in it. It
20 was rented and used as a show home or--and rented by a Mr.
21 Mark Olsen, brother of Mr. Dave Olsen. That was told to us by
22 Dave Olsen's brother, Rick Olsen. We do have evidence that the
23 home was being lived in and used as a sales house because
24 there was furniture left in the rooms and there was also materials
25 left in the garage, construction-type materials and signs and

1 things like that.

2 So we are not agreeing with any of the charges, the
3 4,000, the \$100, or the 55--\$55-a-month overcharges, and we
4 base that on our real estate purchase contract, also our warranty
5 deed, also our HUD-1, and all of those items, where applicable,
6 Mr. Olsen either initialed or signed. The title insurance found no
7 outstanding liens on the property at that time. It did find,
8 however, \$7,200 of back taxes that Mr. Olsen hadn't paid for.

9 And the second part of our complaint has to do with
10 the water overcharges. And we had submitted with our testimony
11 all of the water bills. I think, your Honor, you will probably see a
12 copy of my check for four months' worth of water charges. We
13 had called and tried to contact Mr. Olsen numerous times, been
14 given his telephone number by his brother Rick Olsen. Most--as
15 I recall, he did not return our calls until the fourth month.

16 And I went ahead and sent a \$220 check to cover
17 our water bills. And then, after the fact, we received those water
18 bills for the \$55. We were not privy to the information about a
19 tariff even existing. We were, however, passed on the
20 information through his brother about the agreement of the \$55 a
21 month. However, we knew nothing about a tariff. Didn't--didn't
22 know anything about that.

23 In July 2012, we received double water bills,
24 actually \$110-a-month bill, which sparked our informal complaint.
25 And that happened incidentally, right after the wild fires

1 happened in--in our area. And I'd like to state for the record also
2 we did not take it upon--on ourselves to rent the generator that's
3 in question. That was discussed with Mr. Olsen. That was
4 agreed upon by Mr. Olsen. And we even have pictures of the
5 fire, of the fire trucks filling their trucks, and of the--the
6 generator sitting outside the pump house, which Mr. Olsen
7 moved inside. And if you need to see those pictures, I have the
8 copies--

9 THE HEARING OFFICER: Mrs. Workman, I'm going
10 to interrupt you just for a second. When we began the hearing, it
11 was clarified that the issue of the generator was no longer at
12 issue, so I don't think it would be helpful to rehash that issue. I
13 know that it's part of the history of your ownership and your
14 concerns, but inasmuch as that issue has been indicated as
15 resolved, let's leave it at that. Unless there's--

16 MS. WORKMAN: I only brought it up because in Mr.
17 Olsen's testimony that he submitted in January a few weeks ago,
18 he's--he said we took it upon ourselves--

19 THE HEARING OFFICER: Okay.

20 MS. WORKMAN: --to do so.

21 THE HEARING OFFICER: Okay.

22 MS. WORKMAN: And that is incorrect. It was
23 discussed with him at length.

24 THE HEARING OFFICER: Okay.

25 MS. WORKMAN: And we got his okay before doing

1 it.

2 We do disagree with the the \$4,000 charge and the
3 \$100 charge based on the fact that the tariff itself does state
4 they're--they're onetime fees only, and it's our understanding a
5 onetime fee is that. And we were not able to get information
6 from the bank that Mr. Olsen financed five homes at the--at the
7 time we needed to submit our testimony back in December, but I
8 have that information now. And I made copies for everyone here,
9 all six copies. And the construction loan officer at M&T Bank
10 verifies that the \$4,000 was paid to Hearthstone Development.
11 And I have e-mails to back that up.

12 THE HEARING OFFICER: Please submit those.

13 MS. WORKMAN: Do you want all the copies?

14 THE HEARING OFFICER: I would like you to
15 provide a copy to Mr. Smith, a copy to the reporter, and a copy
16 to myself.

17 MS. WORKMAN: And this would--in the--in the e-
18 mails that transpired, there is a form that I drew up for the bank
19 officer. It's--it lists the lot numbers. It lists the parcel numbers.
20 It lists the present owners, their street address and the date of--
21 the purchase.

22 THE HEARING OFFICER: Mrs. Workman, can you
23 back up just a little bit--

24 MS. WORKMAN: Yes.

25 THE HEARING OFFICER: --and--I--I was following

1 you completely to the point where you indicated that you had
2 filed your testimony and that you--this was something that came
3 after you filed your testimony?

4 MS. WORKMAN: Yes.

5 THE HEARING OFFICER: Help me understand what
6 precluded you from filing this earlier and what it is, how you
7 obtained it, who it's from, what it says. Obviously, I've not seen
8 it before. Help me--help me understand what--what this
9 document--

10 MS. WORKMAN: As the e-mails will show, the first
11 e-mails began December 5th, prior to the date when we were
12 supposed to submit our testimony. We--they were not included
13 due to the fact that the holiday--Christmas holiday that came up
14 and the staff that Mr. Ware at the bank was working with to
15 gather this information.

16 THE HEARING OFFICER: Is this your bank who--

17 MS. WORKMAN: It's the bank--it is the bank which
18 Mr. Olsen financed five of the homes that we're speaking of.

19 THE HEARING OFFICER: One being yours--

20 MS. WORKMAN: One of ours being ours.

21 THE HEARING OFFICER: --that you bought?

22 MS. WORKMAN: Yes, and another being Mr.
23 Richins' and so on.

24 THE HEARING OFFICER: Okay. So
25 help--help--help guide me through all of this.

1 MS. WORKMAN: Okay.

2 THE HEARING OFFICER: And inasmuch as you
3 allege that this document says that there were fees paid
4 previously by property owners who are now being charged,
5 please point that out to me.

6 MS. WORKMAN: Okay. There--the fourth page
7 down is an item that says Eagles Landing development. And it--
8 it is--in the upper right-hand corner is a copy of a JPG. It's
9 0029.

10 THE HEARING OFFICER: Yes.

11 MS. WORKMAN: And those are the five lots that
12 we're speaking of. Those are the five lots that Mr. Aaron Ware
13 of M&T Bank verified that the funds were paid to Hearthstone
14 builders for the meter sets.

15 THE HEARING OFFICER: And which funds are you
16 referring to specifically? The \$4,000?

17 MS. WORKMAN: The \$4,000.

18 THE HEARING OFFICER: And the \$100 or just the
19 \$4,000?

20 MS. WORKMAN: He did not clarify that, I don't
21 believe, the 100.

22 THE HEARING OFFICER: Okay. Now, this JPG, is
23 this JPG something you produced or is this JPG something that--

24 MS. WORKMAN: It's--

25 THE HEARING OFFICER: --Mr. Ware produced?

1 MS. WORKMAN: This particular one that itemizes
2 the five lots is the ones that is--is what I drew up so Mr. Ware
3 could understand the specific lots that we were speaking of.

4 THE HEARING OFFICER: Okay. And where does
5 Mr. Ware actually confirm that these \$4,000 fees for those lots
6 identified on your JPG--

7 MS. WORKMAN: It would be at the very end of the
8 grouping--

9 THE HEARING OFFICER: Okay.

10 MS. WORKMAN: --of pages. December 30th, I
11 asked--he actually says--Mr. Ware says to me, "I've received
12 word from the loan committee and it looks like our construction
13 loans for the subdivision in question were set up to pay the
14 builder directly rather than . . . have individual checks cut to the
15 various subs and suppliers. Unfortunately, this means we don't
16 have record of where the builder disbursed the funds once he
17 had received them."

18 I asked him back, "Do [you have] records
19 indicat[ing] who the builder was?" And the very last page says,
20 "Hearthstone Development."

21 THE HEARING OFFICER: Do you have anything
22 more concrete that Mr. Ware provided other than this one e-mail
23 that states, "I've received word from loan committee and it looks
24 like our construction loans for the subdivision in question were
25 set up . . ."? I mean, does--at any point, does he absolutely

1 confirm that that's what happened? This doesn't sound as--

2 MS. WORKMAN: Probably more so in Mr. Olsen's
3 records.

4 THE HEARING OFFICER: And have you requested
5 those records as a part of this complaint?

6 MS. WORKMAN: From Mr. Olsen?

7 THE HEARING OFFICER: Yes.

8 MS. WORKMAN: No.

9 THE HEARING OFFICER: And you realize, as a
10 complainant, you have--had the opportunity to do that through
11 discovery?

12 MS. WORKMAN: No, I did not.

13 THE HEARING OFFICER: So is there anything
14 more than what you have here that Mr. Ware seems to think that
15 this is what--what happened? I mean, is there something that
16 he--he says, yes, absolutely? Did you have a conversation with
17 him on the telephone?

18 MS. WORKMAN: No, I did not. I thought this was
19 sufficient information based on the fact that Mr. Ware was the--
20 the--what is his title? He's the construction loan officer for--for
21 the monies that Mr. Olsen got to build the homes. I didn't ask for
22 anything more because I figured this was sufficient.

23 THE HEARING OFFICER: Okay. So based on this
24 information, it is your assertion that your home, the Richins'
25 home, the Bates' home, the Allens' home and the Paulos's home,

1 those fees have already been paid.

2 MS. WORKMAN: Yes.

3 At least by this bank. I had been told that there are
4 other fees paid by another bank at another home.

5 THE HEARING OFFICER: Okay. Is there anything
6 further?

7 MS. WORKMAN: No, other than the fact of the
8 materials that we had already presented with our testimony back
9 in December. Like I said, purchase agreements--we purchased
10 our home when we were still living in Arizona. And numerous
11 times purchase agreements went back and forth between my
12 husband and I and Mr. Olsen and haggling out what was going to
13 be the bottom line. And Mr. Olsen had every opportunity to
14 share with us the possibility of other charges, of other
15 information that should have--should have been shared with us at
16 the time we purchased our home. But now three years later, he's
17 coming back to try to get that--trying to get that money from us.

18 THE HEARING OFFICER: Okay. Mr. Workman, do
19 you wish to add anything?

20 MR. WORKMAN: No, nothing.

21 THE HEARING OFFICER: And Mrs. Workman, is
22 that-- is that the end of your testimony?

23 MS. WORKMAN: I think so.

24 THE HEARING OFFICER: Mr. Smith or Mr. Long,
25 do you wish to do cross?

1 MR. LONG: To begin with, we object to the written
2 prefiled testimony to the extent that it makes legal conclusions or
3 conclusions about facts that the Workmans have no knowledge
4 of. I'd be happy to go through that or let the Commission.

5 THE HEARING OFFICER: The prefiled testimony?
6 You mean the testimony that was just filed?

7 MR. LONG: Correct.

8 THE HEARING OFFICER: Which prefiled
9 testimony?

10 MR. LONG: The written--the written testimony filed
11 by the Workmans previously that--that Ms. Workman gave a
12 summary of.

13 THE HEARING OFFICER: Regarding Mr. Ware and
14 the bank? Is that what you are referring to?

15 MR. LONG: No. No, the prefiled testimony in the
16 docket on December 17th.

17 THE HEARING OFFICER: What is it about that
18 testimony that you're objecting to?

19 MR. LONG: The testimony makes a variety of what
20 we view as legal conclusions or conclusions about how
21 developers are required to operate that--that they have no basis
22 making. For example, they call any attempt to collect the one-
23 time fee and the \$100 turn-on fee--

24 THE HEARING OFFICER: Can you direct me to a
25 page, sir?

1 MR. LONG: Sorry. Page 2, second paragraph
2 down, last sentence.

3 THE HEARING OFFICER: Okay. I--I've read that
4 sentence.

5 MR. LONG: And that's an improper testimony.
6 That's making a legal conclusion about the legality of these fees
7 when, in fact, that's what we're here to determine.

8 THE HEARING OFFICER: Yes, that's why we're
9 here today.

10 MR. LONG: And there are a variety of other
11 examples in their testimony that make legal conclusions that we
12 feel are improper testimony.

13 THE HEARING OFFICER: Okay. Mr. Long, I'm
14 inclined to let the testimony stand. We know that the Workmans,
15 as well as the other parties in this complaint, are not represented
16 by counsel, and they do not have the sophistication and the
17 knowledge that counsel would provide them. And I--I don't think
18 that the Commission is going to read that in such a way that it's
19 going to be imperative in this case.

20 MR. LONG: That's fine.

21 THE HEARING OFFICER: Okay.

22 MR. LONG: I do have a few questions for the
23 Workmans.

24 THE HEARING OFFICER: Yes, please. Go ahead.
25 .

1 CROSS-EXAMINATION

2 BY-MR.LONG:

3 Q. Again, Mr. and/or Mrs. Workman, I'll address you
4 together. Before you purchased your house, did you check on
5 the availability of water service?

6 MR. WORKMAN: Yes, we did.

7 Q. (Addressing Mr. Workman) Did you contact Eagles
8 Landing Water Company prior to purchasing the house?

9 A. No.

10 Q. Did you know that Eagles Landing Water Company
11 provided water service to the house prior to purchasing it?

12 A. Yes.

13 Q. Okay. I--do you have your written testimony in front
14 of you?

15 MS. WORKMAN: Yes.

16 BY MR. LONG:

17 Q. I direct you to page 2, the third paragraph down. In
18 the second sentence, if I may read, it says, "Upon moving into
19 our residence in Eagles Landing, we were told to call Mr. Dave
20 Olsen to begin receiving water statements." But you--you had
21 already--already--already knew Eagles Landing Water Company
22 provided water service?

23 MR. WORKMAN: Yes, we did at the time, yes. We
24 didn't know that--we was told by Dave Olsen's brother the
25 procedure that everybody was going through at the time, which

1 was a fee of \$55 covered all the water use. And at the time, I
2 didn't even know the name of the water company was Eagles
3 Landing Water Company. I just knew that it was a well that
4 supplied water to all the houses.

5 BY MR. LONG:

6 Q. Okay. In--as exhibits to your prefiled testimony, you
7 submitted a variety of statements, including a real estate
8 purchase contract, a--a HUD-1 form, and title reports and such.
9 On any of those documents, are there--is there a signature of
10 Eagles Landing Water Company or Dave Olsen representing
11 Eagles Landing Water Company?

12 MS. WORKMAN: There's a signature of Dave Olsen
13 and his initials.

14 BY MR. LONG:

15 Q. Is there any mention of Eagles Landing Water
16 Company?

17 MS. WORKMAN: No, there is not.

18 BY MR. LONG:

19 Q. (Addressing Ms. Workman) Okay. I'm--and I'd like
20 you to direct--I'd like to direct you to the e-mails you just
21 submitted as an exhibit. Do any of the e-mails from Mr. Ware at
22 MT Bank mention Eagles Landing Water Company?

23 A. Well, we specifically refer to--in my first e-mail, I
24 refer to the statements that I included. It was--I was requested
25 to include for the bills for the meter set fees of a thousand--of

1 \$4,000 and the \$100 fee. And I'm sure Mr. Ware could read the
2 statement and see it said Eagles Landing.

3 Q. Sure, but that's in an e-mail you sent him or multiple
4 e-mails you sent him?

5 A. Yes.

6 Q. Not in any of his e-mails?

7 A. That's correct. I--I provided him the information so
8 his staff could research the documentation.

9 Q. And if I could, I direct you to a--the third-from-the-
10 last sheet of paper, for lack of a better reference, it's an e-mail
11 from Aaron Ware to Diane Workman dated Monday December 30,
12 2013?

13 A. Yes, sir.

14 Q. Could you read that e-mail for me, or the body of
15 that e-mail?

16 A. The one that I read just recently?

17 Q. Yeah, or--or I can read it.

18 A. "I've received word from the loan committee and it
19 looks like our construction loans for the subdivision in question
20 were set up to pay the builder directly rather than to have
21 individual checks cut to the [variety of] subs and suppliers.
22 Unfortunately, this means we [do not] have record of where the
23 builder disbursed the funds once
24 he . . . received them."

25 Q. Is there any mention of Eagles Landing Water

1 Company in that paragraph?

2 A. No, sir, there is not.

3 Q. Or--or a payment to Eagles Landing Water Company
4 to satisfy any sort of fees?

5 A. No, he only indicates that Hearthstone Builders--
6 Hearthstone Development was paid the water--

7 Q. And in his e-mail, you just read, he writes--and I'm
8 reading directly, ". . . this means we don't have record of where
9 the builder disbursed the funds once he had received them"; is
10 that correct?

11 A. That's correct.

12 Q. So I'm--can you explain to me how I--how this
13 should be read to show that the fees were paid to Eagles
14 Landing Water Company?

15 A. I would assume, since the owner of both
16 Hearthstone and Eagles Landing are the same person, that Mr.
17 Olsen was aware that he received that money and he should
18 have disbursed it to the water company.

19 Q. Does this e-mail say anything about the water
20 company or where this money should have gone?

21 A. No.

22 MR. LONG: No further questions.

23 MR. WORKMAN: I have a question. You asked
24 three or four times about reference to Eagles Landing Water
25 Company. What--I'm a little confused. What other water

1 company could it possibly be? Why would you ask that
2 question? I'm--I don't understand that, because there's not
3 another water company in the area that we could be getting
4 water from. So are we talking a technical thing here that wasn't
5 mentioned by using the name Eagles Landing Water Company?

6 THE HEARING OFFICER: Mr. Workman?

7 MR. WORKMAN: Yes.

8 THE HEARING OFFICER: We're going to proceed
9 with the hearing. And if we get to a point where Mr. Olsen is
10 giving testimony and you have questions, we'll take those
11 questions at that time, okay.

12 MR. WORKMAN: Okay.

13 THE HEARING OFFICER: And in the event that I
14 ask questions or further questions are asked of counsel that you
15 need clarification about at the time, please ask for it at the time.

16 MR. WORKMAN: Okay.

17 THE HEARING OFFICER: Okay?

18 So Mr. and Mrs. Workman--by the way, Mr. Long,
19 Mr. Smith, was--was that the end of your cross?

20 MR. LONG: Yes.

21 MR. SMITH: Yes.

22 THE HEARING OFFICER: Okay. Thank you. Mr.
23 and Mrs. Workman, thank you for your testimony today, and I do
24 have a few questions for you, please.

25 .

1 EXAMINATION

2 BY-THE HEARING OFFICER:

3 Q. Mrs. Workman, I believe it was stated early on in
4 your testimony that your objection to the \$4,000 and the \$100
5 fees were that they were, quote/unquote, onetime fees. Help me
6 understand what you mean by onetime fees, applying that
7 statement to both fees. And in particular, if you can draw my
8 attention to something in the tariff, because the tariff is what
9 governs here.

10 A. Well, the tariff itself does say a one-time charge--

11 Q. Okay.

12 A. --for each service requiring a new meter installation.

13 Q. Okay. And the fee that's next to that is how much?

14 A. Four thousand.

15 Q. And do you see similar language for the \$100 fee?

16 A. Yeah, "turn-on service where a meter is already in
17 place."

18 Q. Okay. But your statement during your testimony
19 was that you--you objected to those fees because they were one-
20 time fees. Help me understand how the \$100 is a one-time fee.

21 A. I do not expect to be billed for something three
22 years down the road that I should have been billed for in January
23 three years ago.

24 Q. Okay. So you acknowledge that you should have
25 been billed for it, you just hadn't been billed for it?

1 A. I should have been billed for it now that I'm aware
2 that the tariff exists.

3 Q. Okay.

4 A. I wasn't aware, one, that we owed the money, or
5 two, that the tariff existed when we purchased the home.

6 Q. Okay. Let's back up just a little bit further. So
7 remind me: You're the first purchaser of this property?

8 A. Well, Mr.--we purchased it from Mr. Olsen.

9 Q. Purchased it from Mr. Olsen. Okay. Did he live in
10 the home prior to you?

11 A. Mr. Olsen's brother did.

12 Q. His brother did. Okay. And do you know what the
13 relationship of that was? Was he caretaking, renting?

14 A. That is hearsay from his--his other brother.

15 Q. Okay. And that hearsay is?

16 A. He lived in the home. I don't know whether he took
17 care of it or what.

18 Q. Okay. He lived there. Okay.

19 A. And it was also used as a show home.

20 Q. Okay. Very good.

21 A. Sales office. I'm sorry.

22 Q. Okay. And when you moved in, was your water
23 already on?

24 A. Yes, it was.

25 Q. Okay. And when you notified the company that--I'm

1 assuming you notified the company, at some point when you
2 moved in, that you were the new owner?

3 A. Yes.

4 Q. Did they say anything to you about the \$100 fee at
5 that point?

6 A. Not at all.

7 Q. But now you're looking at the tariff, and if I'm
8 understanding you correctly, your--your testimony is that the
9 company--while it may not have, and it probably should have,
10 according to what I'm hearing you say--charged the \$100 fee at
11 that time, it did not do so, but it is now asking for the fee?

12 A. Correct.

13 Q. Okay. So what is it about your position, other than
14 that it's been--time has passed, that makes you insulated from
15 paying a fee that you acknowledge you should have paid at the
16 very beginning?

17 A. Well, as you referred to Rocky Mountain Power, I
18 can't remember whether we were charged a transfer fee or
19 anything, but had--had we been charged, if we were charged, I'm
20 sure it was within the first billing. It wouldn't have been done
21 last month.

22 Q. Okay. Now, just so you know--and I hope this
23 provides you some background--I was asking those questions
24 just to get some background about the other utilities that the
25 other customers were receiving or had requested to receive. It's

1 shouldn't be read into my question that if they didn't ask for the
2 fee at the time that the fee is necessarily waived.

3 And also, Questar and Rocky Mountain Power are
4 two very different entities. Of course, they provide a totally
5 different public utility. But they have a tariff as well, and their
6 tariff is entirely different than the tariff that you're looking at.

7 A. Yes, I understand, your Honor. And they have
8 many, many more customers that they have to relay--

9 Q. They certainly do.

10 A. --relay information to.

11 Q. They certainly do. So is there anything in the tariff
12 that you can point to that helps sustain your argument that, while
13 you agree that when you moved in and--and that you
14 acknowledge that the fee should have been charged and it
15 wasn't, that somehow they're barred from charging you now?

16 A. Well, I feel that this information was concealed from
17 us. It wasn't--it wasn't shared with us at the time we purchased
18 the home. We--we--like I said, we bartered back and forth on
19 several different items.

20 Q. Okay.

21 A. And Mr. Olsen had every opportunity to share that
22 information. I don't--I'm not privy to know that he owned the
23 water company.

24 Q. Okay.

25 A. He was.

1 Q. I'm going to take myself out of the role a little bit of
2 ALJ in the situation and--and help you hopefully understand that
3 real estate purchase agreements are not a one-sided deal.
4 They're not a one-sided deal that somebody comes in and buys a
5 property and somebody has to do all the work and give them all
6 the information. It's a back-and- forth.

7 There's something called due diligence in a real
8 estate purchase agreement. And that can be due diligence on
9 the part of the buyer and it can be due diligence on the part of
10 the seller. There's usually a lot of due diligence on the part of
11 the buyer. And due diligence, in this case, would--would
12 generally include looking into facts and information about the
13 property and who's supplying what.

14 It's not necessarily just assumed that a seller,
15 whether it be Mr. Olsen or whether you and I are in a contract
16 together, that I automatically have to just divulge all this
17 information. It's part of your contractual duty to ask for it.
18 There's usually a period of time in which that is required.

19 So I--I think there's a little bit of naivety here. And--
20 -and it may go both ways. But in your real estate purchase
21 agreement--and, really, this is outside the scope of what the
22 Commission needs to get into--but if you look at that, you'll likely
23 see a period in there where you have the opportunity to do
24 research, due diligence, or background. And I know that the
25 current--current contract is listed--is--is--is written that way.

1 So is there anything else other than you thinking
2 that it was Mr. Olsen's obligation to give you all this information?

3 A. I--I would have to stipulate that we have purchased
4 many homes. And one of the things that your choice in purchase
5 of buying a particular home is the information that is turned over
6 to you in your purchase agreement.

7 Also, when you have a title company that you pay
8 hundreds of dollars for to research information, I would--our
9 choice in this home also hinged on that fact, that the title
10 company only was able to turn up about \$7,000 worth of back
11 taxes that Mr. Olsen owed. Going by the--what Mr. Olsen's
12 lawyers seem to imply, that one, the left hand doesn't understand
13 what the right hand is doing.

14 I--since--I still have to say to you, your Honor, the
15 same person owned both companies. And Mr. Olsen knew what--
16 he knew this tariff existed; we did not. He should have provided
17 the information to us at that time.

18 Additionally, it says it's a one-time charge fee for
19 the 4,000 for service requiring a new installation.

20 Q. Okay.

21 A. It wasn't new to us.

22 Q. So let's back up here a little bit so I can maybe help
23 out--and I hope I don't aggravate you by doing so. And thank
24 you for being so kind and considerate in letting me know that
25 you've done this a lot in your life. And--

1 A. This is, however, the first home that we've ever
2 bought that was on a community well.

3 Q. Okay. And maybe--maybe that's a difference. I do
4 think you've made some good points, which is that there are
5 some issues here that are very concerning. But your real estate
6 purchase agreement itself is--is not necessarily a basis for the
7 company not providing the information.

8 The tariff is a public document, which you are
9 deemed on notice of. What that means is even though you didn't
10 know about it, it existed. And it really--I think either way, it says
11 what it says. And at the end he of the day, the Commission has
12 to decide: Is the \$4,000 legitimate? Is the \$100 legitimate?
13 And, you know, anything else.

14 But the real estate purchase agreement, for
15 example, I just was noticing some areas that you had
16 highlighted. I don't know if you have your testimony in front of
17 you, but on page 2, it's listed as page 2 of the real estate
18 purchase agreement--but there's a highlighted section of "Water
19 Service."

20 And the language of it says, "The purchase price for
21 the property shall include all water rights, water shares, if any,
22 that are the legal source of the seller's current culinary water
23 service or irrigation water service, if any, to the property. The
24 water rights, water shares will be conveyed or otherwise
25 transferred to the buyer at closing by applicable deed or legal

1 instrument. The following water rights, water shares, if
2 applicable, are specifically excluded from this sale."

3 So there's nothing listed there. Is it your assertion
4 that there should have been something listed there?

5 A. Yes.

6 Q. And what would that have been?

7 A. That we could have known about this 400--or 100
8 dollar fee and also the \$4,000 fee--

9 Q. Okay.

10 A. --that he's decided to try to get from all of us now.

11 Q. Okay. "The following right"--"water rights, water
12 shares, if applicable, are specifically excluded from the sale."
13 That has nothing to do with the \$4,000 or the \$100 charge.

14 The next section refers--on the page 3 of the REPC,
15 refers to "Special Assessment": "Any assessments for capital
16 improvements, as approved by the HOA pursuant to HOA
17 governing documents or as expressed by a municipality or
18 specific improvement district prior to settlement deadline shall be
19 paid for by"--and it says, "seller." So you've got it highlighted,
20 so I'm assuming you think there's a relevance to--help me
21 understand what you're--what you're relying on there.

22 A. I'm not sure I have the same document. Are you
23 looking at the real estate purchase contract?

24 Q. I am, yes.

25 A. And you are looking on page 3?

1 Q. It's--it looks like--it's page 3 based on what appears
2 to be a fax.

3 A. Okay.

4 Q. Page 3. It's paragraph 3.3, "Special Assessments."

5 A. Yes, I see it.

6 Q. Okay. Now, it's highlighted in your testimony, so I'm
7 assuming you wanted to draw the Commission's attention to it.
8 And I'm trying to understand--

9 A. I'm not certain of that now--

10 Q. Okay.

11 A. --because the copy I have is--is not highlighted. I
12 see where you're speaking of.

13 Q. Well, I can tell you what's highlighted and maybe
14 that will help you.

15 A. Okay.

16 Q. The term "Special Assessment" and the paragraph
17 number is highlighted. The box that's checked, "seller"--

18 A. Yes.

19 Q. --is highlighted. And I think that's all that's
20 highlighted. Is there something about that that directly relates to
21 your complaint?

22 A. I believe at the time the reason I was highlighting it
23 had to do with the fact that it did say what it says, special
24 assessments, and that it referred to Mr. Olsen rather than us.

25 Q. Okay.

1 A. Nothing further than that.

2 Q. Okay. And you thought maybe special assessments
3 were these fees?

4 A. Yes.

5 Q. Okay. Okay. Very good.

6 And then on the next page you have, I believe,
7 some initials circled--highlighted at the bottom. And seller's
8 initials, are those Mr. Olsen's initials, as far as you know? And
9 you have a date?

10 A. I have our copy. I didn't bring with me--

11 Q. Okay.

12 A. --the copy that I submitted.

13 Q. Okay. At the bottom of your copy, are those Mr.
14 Olsen's initials, as far as you know it?

15 A. Once again, I've got our copy as in we, the buyer. I
16 do not have the same copy that you do.

17 MR. RICHINS: Her copy doesn't have a signature or
18 initial.

19 THE HEARING OFFICER: Okay. Okay. Thank you.

20 MS. WORKMAN: We were sending them back and
21 forth between Tucson and here, and I brought this copy instead
22 of that one.

23 BY THE HEARING OFFICER:

24 Q. (Addressing Ms. Workman) All right. So let's go to
25 the next page. The next page, you have paragraph No. 9

1 highlighted, "addenda," that there are no addenda. You have
2 that highlighted.

3 A. Yes, for the same reason.

4 Q. To draw the attention that--

5 A. Yes.

6 Q. --you felt like if there was something to reveal, it
7 could have been revealed in an addenda?

8 A. Exactly.

9 Q. Okay. And that the properties being purchased in
10 as is--as is condition. You have that highlighted. And you also
11 have condition of property buyer acknowledgments, which is
12 paragraph 10.2. Buyer is purchasing property as is.

13 What--what do those, if any, have to do with--

14 A. As in reference to the meter there, the service on,
15 those things.

16 Q. And would those issues be--is there anything in this
17 contract that spells that out, or is that just based on your
18 understanding at the time?

19 A. Based on my understanding.

20 Q. Okay. You're also relying on your warranty deed.
21 What is it about the warranty deed that you believe supports your
22 claim?

23 A. Just the fact that Mr. Olsen's the one that signature
24 on it. You know, to me, these are so many legal documents that
25 pass before him that he initialed or signed and had the

1 opportunity to share information.

2 Q. Okay. And did you, at any time during this process,
3 during the REPC process, during the real estate purchase
4 contract or prior to signing--getting this warranty deed, ask for
5 any information about the water company or who--who served as
6 a water company or a copy of the--of the rates other than what
7 you may have been told by a real estate agent or anybody else?

8 A. No, we--I remember the two things that were first
9 and foremost in my mind was being in an area that had service
10 and we would not have to worry about fire--

11 Q. Okay.

12 A. --which--and the second one being water, and both
13 of them have raised their ugly head. Those were the only two
14 things that were brought up. And we found out where fire
15 departments were and how they were serviced, and we found out
16 from either the real estate person or Mr. Olsen's brother--I'm not
17 sure which--probably the real estate person--that it was a
18 community well, and as we--after we moved in, this agreement of
19 the \$55 a month. Nothing was shared with us about a tariff.

20 Q. Uh-huh (Affirmative).

21 A. And--

22 Q. Did you ever think to call the Division and inquire
23 whether this agreement was sanctified in any way by the State
24 as--

25 A. Actually--actually, I did not, because, like I said, we

1 had purchased other homes before, and they were either
2 municipal water companies or our own private well.

3 Q. Okay.

4 A. So this was a new thing to us--

5 Q. Okay.

6 A. --altogether.

7 Q. Okay. Okay. So let's turn to your commitment for
8 title insurance. By the way, did you actually purchase title
9 insurance?

10 A. Oh, yes.

11 Q. Okay. And have you--have you, by any chance,
12 discussed this dispute with your title insurer?

13 A. Yes, I have.

14 Q. Okay. And have they given you any--any peace of
15 mind as to how they would handle it?

16 A. What they said in a nutshell was, when title
17 insurance is purchased, the research that's done at the time is--
18 records are going through, and I would assume that would be
19 something more than just the county, but they research things to
20 make sure that there are no outstanding liens on the property,
21 whether that be individual companies or whether it be the county.
22 And the only thing that was found was this big backlog of taxes,
23 property taxes.

24 Q. And it looks like on page 7 of 12, that specifically
25 judgments, federal tax liens, and bankruptcies were looked into

1 for David W. Olsen, Hearthstone Development, and both yourself
2 and Mr. Workman.

3 A. Yes.

4 Q. Okay. And do you see anything here that shows
5 that there's a \$4,000 lien against your property for--either from
6 Mr. Olsen or Hearthstone Development?

7 A. Exactly. We do not.

8 Q. And do you see--well--do you see anything at all
9 that would indicate that there's any question about that matter?

10 A. No.

11 Q. Okay. And then you also mention that your property
12 was purchased as a HUD-1 home, correct? It was a HUD home?
13 I'm looking at the settlement statement right now.

14 A. What do you mean? How we financed or what?

15 Q. Yes.

16 A. Yes.

17 Q. Yes. And I believe there are some due diligence
18 that's involved in that?

19 A. Correct.

20 Q. Help me out. I don't want to testify for you, so help
21 me out with why you included this and what this establishes.

22 A. I only included the HUD-1 because everyone--
23 everyone can relate to a HUD-1. Everyone gets a settlement
24 statement.

25 Q. Okay.

1 A. And once again, it was a reiteration of the
2 information that was found by--or not found by the title company.

3 Q. Okay. So where--I know this is several pages,
4 probably three or four pages--is there a place that you would--
5 you would have expected to see a lien or a judgment for \$4,000
6 if it was going to show up?

7 A. Probably in the same spot where--or near where the
8 tax amounts were listed that were deducted from Mr. Olsen's
9 amount that he was paid. I forget which group that it is.

10 Q. Okay. But the long and the short of it, from what
11 I'm hearing you say, is that there's nothing here that would put
12 you on notice that there was a \$4,000 amount in question?

13 A. Correct. And--and had it shown up then, it would
14 have been water under the bridge. I mean, we would have just--
15 it would have been clarified for us, of course, that this amount
16 was found.

17 Q. Uh-huh (Affirmative).

18 A. And--

19 Q. And you would have dealt with it?

20 A. If we found it prior to walking in and signing on the
21 dotted line, we would have a chance to decide, are we going to
22 go ahead and assume this additional amount of money above
23 and beyond what we thought we were buying the house for--

24 Q. Okay.

25 A. --or--or that this was something that we were going

1 to be faced with later on in the future.

2 Q. Okay. Okay. All right. Let's turn to the \$55 charge,
3 which--if I understood you correctly, you understood that that
4 was the amount you'd be charged from the get-go, but as things
5 developed, you became aware of the tariff, which states that you
6 should--your starting charge was \$35, and it goes up from there.

7 A. Yes, we found out--

8 Q. What's your position on the \$55 with respect to the
9 relief that you're requesting inasmuch as somebody indicated
10 that they wanted to have that amount refunded, somebody
11 indicated that they were willing to waive that issue. What is your
12 position on that?

13 A. I'd be willing to have it credited to our account.

14 Q. Okay.

15 A. I don't expect to be written a check for it. But since
16 we've overpaid it for three years--almost three years, excluding
17 November and December of last year, we faithfully--we enjoyed
18 the services of the water company because we were paying the
19 \$55. I think we should be credited for the overages.

20 Q. Okay. Mr. Workman, do you wish to add anything to
21 the questions that I've asked today?

22 MR. WORKMAN: No. No, ma'am.

23 THE HEARING OFFICER: And Mrs. Workman, is
24 there any further clarification that you wish to add?

25 MS. WORKMAN: Not at this time.

1 THE HEARING OFFICER: Mr. Smith, Mr. Long, do
2 you have any follow-up?

3 MR. SMITH: No.

4 THE HEARING OFFICER: All right. Mr. Workman,
5 thank you for your testimony today. I appreciate you coming.

6 Oh, I'm sorry. Don't go. I have more questions.

7 MR. WORKMAN: Sit down.

8 THE HEARING OFFICER: I'm sorry. I got ahead of
9 myself. I do have more questions.

10 BY THE HEARING OFFICER:

11 Q. I want to talk to you about this document that you
12 brought today, Mrs. Workman and Mr. Workman. And there was
13 a question earlier, I believe Mr. Long had asked you.

14 When we write e-mails, of course we fill out the "To"
15 line, the "From" line is already filled out, and typically we type in
16 something on the "Subject" line. And I wanted to note--and I
17 didn't want this to go without notice--that your e-mail to Mr. A.
18 Ware on December 5th clearly has a subject line of, "Eagles
19 Landing Development Stats." Is that--is that correct?

20 MS. WORKMAN: Yes.

21 BY THE HEARING OFFICER:

22 Q. (Addressing Ms. Workman) Okay. And I'm assuming
23 that you included that because you wanted to talk about Eagles
24 Landing development?

25 A. Yes.

1 Q. Okay. And if you look through these e-mails,
2 several pages of them, that same subject line appears on every
3 e-mail. So it's--this is a long trail of--or chain of messages. And
4 the message that Mr. A. Ware sent to you on December 5th--it's
5 down at the very bottom--at 8:18, does specifically say, "Eagles
6 Landing Development Sites"--"Stats." Excuse me. By the way,
7 why does it say "Stats"?

8 A. Statistics.

9 Q. Okay.

10 A. And in that little--

11 Q. Do you mean--

12 A. --page that I drew up for him for clarification of the
13 lot number, the parcel number--

14 Q. Uh-huh (Affirmative).

15 A. --the homeowner, the date of purchase, the address.

16 Q. Okay. So it appears like at least you and Mr. A.
17 Ware are on the same page, that it's Eagles Landing. The part
18 that gets a little bit less concrete is his response to your
19 question. He doesn't give you a--a really concrete answer. It--
20 he tells you, "It looks like"--it--you know, he doesn't say, On this
21 date this is what occurred. These are the monies that were given
22 or received on this lot. And so it creates a little more question
23 than it really resolves.

24 Is there anything else that you have or that you
25 communicated with Mr. A. Ware about since receiving this

1 message from him that would--would satisfy the concern that
2 this--that you're asserting that five lots have already been paid
3 for--that's \$20,000. That's--that's a considerable sum. And if--is
4 there anything else that you can point to, other than this
5 message, which unfortunately doesn't clarify that very well?

6 A. These are all the e-mails that I have.

7 Q. Okay.

8 A. I've not had any conversations by phone or any
9 other e-mails whatsoever.

10 Q. Okay. And did you, during the process of this
11 docket, prior to the hearing today, request any information from
12 Mr. Olsen or from--or through his attorney to confirm whether or
13 not the company had received payments--

14 A. No, I did not.

15 Q. --as asserted on your JPG?

16 A. As--as being new to this process, I did not know that
17 I had that--that I was allowed to do that--

18 Q. Okay.

19 A. --or--or that that was within our realm of
20 complainants to do.

21 Q. And help me understand, again, who Mr. Ware is
22 and how--was he providing funding for the development itself?

23 A. Yes, he's--he is the--well, the construction loan
24 officer that lent money to Hearthstone Development, the LLC
25 which Mr. Olsen also owns.

1 Q. Did you ask Mr. Olsen to attend the hearing today--
2 or excuse me--Mr.--Mr. Ware?

3 A. No, I did not.

4 Q. Are there any other communications that you had
5 with him that are not expressed in this--

6 A. No, as I said before, no.

7 Q. Okay.

8 A. No telephone calls, no e-mails, just these.

9 Q. Okay. All right. Mrs. Workman, I'm assuming you
10 would like to make this part of the record?

11 And Mr. Smith, do you have any objection?

12 MR. SMITH: No, we don't--we do not object. We
13 don't think it shows anything, but we don't object to her
14 submitting it.

15 THE HEARING OFFICER: I'd like to mark it as
16 Workman Exhibit 1-21-2014. And we will include this in the--in
17 the docket and consider it when reviewing the matter. And--and I
18 appreciate you offering it today.

19 Exhibit-Workman 1-21-2014 marked

20 MS. WORKMAN: Thank you.

21 THE HEARING OFFICER: By chance, did you have
22 an extra copy that you--did you give a copy to the reporter?

23 MR. SMITH: Yeah, he has one.

24 THE HEARING OFFICER: Okay. Great.

25 MS. WORKMAN: And I have extras if you need

1 them.

2 THE HEARING OFFICER: Okay. I think we're
3 good. Thank you very much.

4 Mr. and Mrs. Workman, thank you again for your
5 time today.

6 And next, we have the Monsons.

7 MS. MONSON: My husband--

8 THE HEARING OFFICER: I'm going to have to
9 swear you in first, so if you would kindly raise your right hand.
10 And do you swear that the testimony you are about to give is the
11 truth?

12 MS. MONSON: Yes.

13 THE HEARING OFFICER: Thank you very much.

14 PAMELA MONSON, being first duly sworn, testified
15 as follows:

16 MS. MONSON: My husband and I purchased Lot
17 No. 3, 19648 Lariat Circle in the spring of 2011. And we
18 purchased it from Central Bank. It had just recently, I believe,
19 gone into foreclosure. We purchased it from Central Bank.

20 We have--we had been paying 55 a month for water.
21 However, there was no water meter at all on our home--on our
22 property, so no one could read the meter.

23 Since our hearing in--I believe it was December 3rd-
24 -

25 THE HEARING OFFICER: Do you mean the

1 scheduling conference?

2 MS. MONSON: Yes. There was a meter put in
3 place. And I believe it was by Mr.--Mr. Olsen that had that meter
4 installed after that hearing--that conference on December 3rd.

5 After we received the \$4,000 bill and the \$100 bill,
6 we called Ellis Taylor--we bought it through Ellis Taylor at
7 Central Bank--and he sent us a receipt that they had paid the
8 5,000--\$5,000 for the water hookup fee. And I believe that was
9 turned in--that receipt was turned in as part of our--my--

10 THE HEARING OFFICER: Yes, I have a copy.

11 MS. MONSON: --prefiled testimony. So we really
12 don't see how we could be charged that again, because that's
13 already been paid.

14 As far as the \$35 as opposed to the \$55, I think we
15 do want reimbursed from that, because as--it's in the tariff and
16 we feel like if you want us to pay the \$100, which is in the tariff
17 to abide by the tariff itself, if you want us to do that, then we
18 need to be reimbursed for the extra money that we've been
19 charged. We think that's pretty fair, as it is in the tariff. Like we
20 said in our closing statement, we want to--whoever is managing
21 our water, to abide by the established rules and follow the tariff.

22 So that's--that's basically the end of what I have
23 right . . .

24 THE HEARING OFFICER: Thank you, Mrs. Monson.

25 Questions?

1 MR. SMITH: I was just going to state we will
2 stipulate that the Monsons have paid their \$4,000 fee, or at least
3 their predecessor did. That was something we didn't have record
4 of and now we have record of. So if that can help clear up some
5 of this, that's--we're happy to make that stipulation.

6 THE HEARING OFFICER: Okay.

7 MR. RICHINS: May I ask a question?

8 THE HEARING OFFICER: Mr. Richins, you may not
9 ask a question at this point.

10 MR. RICHINS: Okay. Not to them; to her.

11 THE HEARING OFFICER: Well, not--not technically,
12 no. The testimony right now is Ms. Monson's testimony.

13 MR. RICHINS: Right, but I just want to clarify the
14 meter.

15 THE HEARING OFFICER: Well, we'll get to that--

16 MR. RICHINS: Okay.

17 THE HEARING OFFICER: --okay? That's he--you
18 relax, okay?

19 Ms. Monson, so did you understand what Mr.--

20 MS. MONSON: Yes, I understood that.

21 THE HEARING OFFICER: --Smith is saying?

22 MS. MONSON: But I'm not sure about the 35 and
23 \$55.

24 THE HEARING OFFICER: He's not addressing that
25 issue.

1 MS. MONSON: Just the 4,000?

2 THE HEARING OFFICER: He's stipulating that they
3 are withdrawing their claim to \$4,000.

4 Is that correct, Mr. Smith?

5 MR. SMITH: Yes, that is correct, Judge Reif.

6 THE HEARING OFFICER: So as it stands, your
7 complaint is for the \$100 turn-on fee and for reimbursement for
8 the overcharge when being charged \$55 instead of the \$35.
9 Okay.

10 MS. MONSON: I know that when we first looked at
11 the home, my husband was very concerned about the water. I
12 just kind of said, Oh, the water's going to be fine. You know, it's
13 going to be fine. He was very concerned about the water. And I
14 wish he was here because I can't remember exactly what he did
15 or the avenue he went to to find out about the water, but
16 obviously, we were--whatever we looked into confirmed enough
17 in our mind that it would be safe. And like I said, I just think we
18 need to abide by the tariff. And I'm not--we weren't told that
19 there was a \$100 hookup fee by whoever we purchased the
20 home.

21 And that's all.

22 THE HEARING OFFICER: Okay. Any further
23 questions?

24 MR. SMITH: Just--just a couple.

25 THE HEARING OFFICER: Okay.

1 CROSS-EXAMINATION

2 BY-MR.SMITH:

3 Q. Mrs. Monson, I take it you didn't make any contact
4 with the Eagles Landing Water Company prior to your purchase?

5 A. I'm not aware of it. If my husband was here, maybe
6 he would know.

7 Q. And so there was no one--when you say no one told
8 you about that, you're talking about your contacts with the
9 Central Bank--

10 A. Yes.

11 Q. --is who you were referring to, right?

12 A. Yes.

13 Q. And you--and you realize this was a home you were
14 buying was a foreclosed home, correct?

15 A. Yes.

16 Q. Had you ever bought a foreclosed home before?

17 A. No.

18 Q. And there wasn't--there wasn't a water meter at the
19 house at the time?

20 A. No.

21 Q. Did you think that was kind of unusual?

22 A. I don't--don't even know that we were even
23 concerned about it. We just--there's not a water meter. Don't
24 know why. We've never used--we've always lived out in the
25 country. We've had a well. We've never had to deal with these

1 kind of issues at all, actually.

2 Q. And then after you bought the house, you contacted
3 the water company to have the account changed over to you; is
4 that correct?

5 A. I don't want--I don't know. I--we could have done.

6 Q. So you don't--

7 A. Maybe the bank did that.

8 Q. Okay.

9 A. I don't know.

10 Q. You don't recall having any kind of conversation
11 with anybody at the water company about any kind of fees or
12 charges that would apply with your purchasing the home?

13 A. Well, we did contact our neighbor and he told us
14 what--that it was \$55 a month at that time.

15 Q. Okay. But your neighbor's not--

16 A. I know. I know.

17 Q. --wasn't connected to the water company, correct?

18 A. No, huh-uh (Negative).

19 MR. SMITH: That's all the questions I have.

20 THE HEARING OFFICER: Thank you.

21 EXAMINATION

22 BY-THE HEARING OFFICER:

23 Q. Ms. Monson, remind me when you moved in.

24 A. We moved in--oh, let me think--February, March
25 2011.

1 Q. And just got a water meter in 2012?

2 A. Uh-huh (Affirmative). 2013, actually.

3 Q. Did you request the water meter or did--did it just
4 appear?

5 A. I have no idea. I just know that--I don't know what a
6 water meter looks like. I--I know that there was a--

7 Q. How do you know you got one in 2013?

8 A. Because someone come up to our home. We were
9 in our home, they came, knocked on the door and said they were
10 putting a water meter in and my husband's in the shower. And
11 they said, Well, we'll wait till he's out of the shower, because
12 they didn't want to, you know, cut the water while he was having
13 a shower. And then they said they were putting a water meter in.

14 Q. Okay. And have you since observed the water
15 meter?

16 A. I think my husband's been out once to look at the
17 water meter.

18 Q. Where did the water meter exist?

19 A. It's at the front of our home, to the left a little bit,
20 right as--we live in a circular cul-de-sac, and it's right there by
21 the--as our home connects to our neighbor's home.

22 Q. And when you got the knock at the door, did
23 somebody identify themselves as being part of the water
24 company?

25 A. Yes, they said it was Dave Olsen that had--had said

1 to put the water meter there.

2 Q. Okay. Did--did you ask anybody, either the person
3 at the door or the water company itself, why they hadn't put the
4 water meter in sooner?

5 A. Not really. Huh-uh (Negative).

6 We were--we weren't aware that the water meters
7 were being read anywhere.

8 Q. Right.

9 A. So we didn't think it was an important thing to have
10 a water meter.

11 Q. Okay. Are you aware that the tariff addresses water
12 meters and when they're to be read?

13 A. No, I guess I'm not.

14 Q. Okay. When you moved in in 2011, did you have
15 water?

16 A. Uh-huh (Affirmative).

17 Q. Your water was already turned on?

18 A. Uh-huh (Affirmative).

19 Q. Okay. And you've indicated how you would like the
20 \$55 issue to be resolved. I'd like to talk to you about the \$100
21 issue. What is your position on that issue with the 100 dollar
22 turn on service?

23 A. I guess it's--if we abide by the tariff, and if that's the
24 legal thing that we have to do, then we'll do that. But on the
25 same--on the other side of the issue, if \$35 was the legal tariff,

1 then we should be able to get reimbursed so we can pay our
2 \$100.

3 Q. So if I'm hearing you correctly, assuming that there
4 is a reimbursement for the difference of the \$55 versus the \$35
5 for whatever period of time you have been paying that, that you
6 would acknowledge that you would be willing to pay the \$100 and
7 have your credit offset by that amount?

8 A. Is that a normal thing, to have a \$100 fee charged
9 that's not listed on the purchase agreement or it's not--like, I
10 think ours was a HUD-1 home. It's not listed in . . .

11 Q. You heard a little bit of my spiel earlier, I'm sure,
12 with--I think it was the Workmans. I'm--I cannot serve as your
13 legal counsel. And if you wanted to address that issue, you have
14 to do it in another forum. And what I mean by that is, you'd have
15 to file a lawsuit against Mr. Olsen in district court, and that
16 probably would be a lot more expensive than \$100.

17 So without giving you legal advice, I'm just telling
18 you that if for some reason you chose to pursue that option as a
19 matter of contract, you could do so in another forum--i.e., the
20 district court--where you live, but that is not something that the
21 Commission is going to be delving into. The Commission is
22 strictly looking at what does this tariff say and what has
23 occurred. Has the company complied with the tariff, and that
24 analysis and conclusion will be made.

25 What I'm asking of you is what your position is on

1 the \$100. Are you willing to pay the \$100? Are you still
2 challenging the \$100? Would you take it as an offset to your
3 credit on the overbilling of the \$55?

4 A. I think I'd be willing to do that.

5 Q. Okay. To take it as an offset?

6 A. Uh-huh (Affirmative).

7 THE HEARING OFFICER: Okay. Okay. Mr. Smith,
8 Mr. Long, any further--

9 MR. SMITH: Nothing further for this witness.

10 THE HEARING OFFICER: Okay. Ms. Monson,
11 thank you for being here today. You're excused.

12 We'll be off the record.

13 (A discussion was held off the record.)

14 THE HEARING OFFICER: We're back on the
15 record, and we're calling Mr. Dustin Bates. Mr. Bates is joining
16 us via telephone today.

17 And Mr. Bates, thank you for being here. I am going
18 to swear you in. And so what I'd like you to do is kindly raise
19 your right hand. And do you testify--excuse me--do you swear
20 that the testimony you're about to give is the truth?

21 MR. BATES: Yes, I do.

22 THE HEARING OFFICER: Thank you. Mr. Bates,
23 you may proceed. As we've done so far, the complainants have
24 chosen to either summarize and/or read their testimony as
25 submitted, so I'll let you choose what--what approach you take.

1 DUSTIN BATES, being first duly sworn, was testified
2 as follows:

3 MR. BATES: Well, I'll just summarize a little bit, I
4 guess. We bought our home from Dave Olsen back in--sorry--
5 it's--it was December, I guess, when we signed our closing
6 documents, December 21st of 2011. And at the closing of the
7 house is when we found out about the water company. We found
8 it out from the--the--Candida at Backman Title, which was the
9 company that Dave Olsen requested we close our house at.

10 So we did--we did call Eagles Landing Water
11 Company and got it set up and started making payments, and we
12 were told \$55 a month. And so that's what we paid. We didn't
13 move into the house until March of 2012. So there was basically
14 two months that we made payments of \$55 a month without
15 actually buying the house. I'm disputing the \$4,000 meter install,
16 the \$100 hookup, and I believe I would like a refund for the
17 overpayment of the \$55 a month that we--that we were charged.

18 And I guess you guys have already covered the real
19 estate purchase contracts part of things. So I would like to say
20 that I did contact--when I received my bill for the \$4,000 and the
21 \$100 hookup fee, I did contact Dave Olsen by phone to try and
22 rectify the situation before it escalated to this point, but
23 unfortunately, we weren't able to come to an agreement.

24 And so I guess--I guess that's about it.

25 THE HEARING OFFICER: Thank you, Mr. Bates.

1

Cross?

2

MR. SMITH: Thank you.

3

CROSS-EXAMINATION

4

BY-MR.SMITH:

5

Q. Mr. Bates, this is Craig Smith. Can you hear me?

6

A. Yeah.

7

Q. Okay. Good. Now, from your previous statement

8

prior to us going on the record, I understand now you've sold the

9

home; is that correct?

10

A. Yes, we have.

11

Q. And have you made any arrangements with the new

12

buyer regarding these claims that you're making, whether they

13

should come to you or to them or any discussion with the new

14

buyer about the--this issue that we're here for today?

15

A. The Realtor that we used to sell our home told us

16

that we had to disclose this to any potential buyer, the \$4,000

17

meter install, and unfortunately it wasn't disclosed to us when we

18

bought the house, and we actually used the same exact Realtor.

19

Q. Okay. So you have disclosed this to

20

the--to the new--to the new buyer?

21

A. Yes, but I don't feel that it's their--

22

Q. Okay.

23

A. --their problem, I guess. You know, it was before

24

they bought the house, I guess.

25

Q. Okay. Now, was there a house there when you

1 bought it in--when you bought the lot in 2011?

2 A. Yes, there was. Yes, and the water was turned on.

3 Q. And the water was turned on at that time?

4 A. Yes, it was.

5 Q. And then you moved in in 2012, in March; is that
6 right?

7 A. That's when we occupied the house, yes.

8 Q. Okay. But it had water service before that?

9 A. Yeah, it was on when we--the day we closed on the
10 house, we went up there and looked at--you know, walked
11 through the house one last time, because we were living in
12 Wyoming at the time, and so we went up and looked at it one last
13 time. And whoever was caring for the house didn't shut off the
14 waste and drain, and it froze the valve and there was water
15 running across the yard.

16 Q. Okay. You said you bought the house from Dave
17 Olsen. Was that from him personally or some company that he's
18 involved in or do you know? Who was the seller?

19 A. Dave Olsen signed all of the--all of the real estate
20 purchase contracts that--

21 Q. Right, but do you know if he was signing on his
22 personal behalf or behalf of a company that he might have some
23 involvement with?

24 A. I'm sure it was Dave Olsen.

25 MR. SMITH: Okay. That's all I have. Thank you.

1 EXAMINATION

2 BY-THE HEARING OFFICER:

3 Q. Mr. Bates, this is Melanie Reif, the ALJ. And I do
4 have a few follow-up questions for you. In your written
5 testimony, you state that you
6 were--you are or you were the second owners of the property?

7 A. Yes, that's correct.

8 Q. And the real estate purchase agreement that you
9 provided shows that the contract is between Dustin Bates and
10 David Olsen. Is it your understanding that David Olsen was the
11 original purchaser or the original owner or was there somebody
12 in--somebody else involved?

13 A. No, he had rented the house out as in my--my
14 conversation that I--I submitted as well, he had rented the house
15 out, but to the best of my knowledge, Dave Olsen owned the
16 house, and that's who signed the closing documents.

17 Q. Do you know who--who rented the home prior to you
18 living there and purchasing the home?

19 A. I--I don't know. The only thing in my conversation
20 with Dave Olsen is he said that they had a \$400-a-month water
21 bill and moved out after that. So I don't know their name.

22 Q. Okay. And again, when you moved in, you found
23 that the water service was connected and it was on?

24 A. Yes, running across the yard, yes.

25 Q. In your real estate documents, do you have any

1 evidence that the \$4,000 fee was taken care of previously, not
2 necessarily by yourself, but by some--some prior owner, maybe
3 Mr. Olsen?

4 A. No. To be perfectly honest, I didn't even know
5 about the \$4,000 fee until I got the bill from Dave Olsen--

6 Q. Okay.

7 A. --when we were in the process of selling our house.

8 Q. Okay. And I realize that you're in a different
9 position than everybody else here. You don't have a copy of the
10 document that I handed out earlier which was stipulated to as the
11 tariff in this case. But even so, could you please summarize
12 your position on the \$4,000 fee, please?

13 A. I guess my position on that fee is that it is not my
14 responsibility. You know, I didn't build the house. Had I bought
15 a lot and built a house, I would say, yeah, I'd pay it, but I didn't
16 build the house. And so it was previously installed. You know, it
17 was installed when the house was built, in 2007. And my stance
18 on it is if I was--if I was to sell that house, I would figure my
19 \$4,000 water meter fee into the price of the house and that
20 would be so I could recoup my money that way instead of what
21 we're doing, I guess, now.

22 Q. Okay. Is--is part of your position that being a
23 subsequent purchaser, being the second owner, that it was the
24 obligation of the prior owner to pay that fee?

25 A. I think it should be the obligation of the person that-

1 -that built the house, I guess, so yeah, Dave Olsen, yeah.

2 Q. Okay. And let's turn now to the issue of the \$55
3 versus the \$35 that's listed in the tariff. You indicated that you
4 were requesting a refund. And I'd also like to talk to you about
5 your position on the \$100 turn-on fee. When you moved into the
6 house, were you ever notified right away about a turn-on fee?

7 A. Absolutely not. We got our--we got a bill in the
8 mail, but no--no copy of the tariff or anything like that, no.

9 Q. Okay. And what is--what is your position on the
10 \$100 turn-on fee? Do you believe that's applicable to your
11 situation?

12 A. I don't, because the water was already on and I
13 guess I somewhat have a unique situation. You know, we moved
14 out of state, but basically into the same type of a subdivision,
15 you know, it's a rural subdivision on a private well and there was
16 no turn-on fee at this residence down here, so I feel, no, it was
17 already on.

18 Q. Okay. Okay. Mr. Bates, I don't think I have any
19 further questions for you. Was there any further clarification that
20 you wanted to provide concerning your--your complaint?

21 A. I guess the only--the only thing I would like to add
22 is--is, you know, as far as my refund, I figured in the months that
23 we have not occupied the house and--and I thought those should
24 be a standby fee versus, you know, the \$35 a month, because
25 we're not using any water. So that's--that was figured in there. I

1 mean, the standby fee is very--a very gray area, I guess.

2 Q. Okay.

3 A. But I guess all in all, that's--that's all I have. I
4 guess, like some of the other people said, a title search would
5 have caught it that. You know, something would have come up
6 had there been a lien put on--put on the property for that. So . .
7 .

8 Q. I don't see anything in your testimony that you're
9 submitting anything of that nature; is that correct?

10 A. As far as the refund?

11 Q. No, no, no. As far as the title information.

12 A. Oh. I didn't, I guess, I mean, just other just my--my
13 real estate purchase contract.

14 Q. Right. Right. Okay. So let me make sure I
15 understand it correctly. Since you--you said you closed on the
16 home in late 2011, but didn't move in until a couple of months
17 later--actually three months later. So what you're asking for is a
18 standby fee for that time, which--the standby fee in your
19 testimony says \$10. I'm--okay. Yes, that matches the tariff.
20 Okay.

21 Okay.

22 A. And then towards the end, because we left up there
23 in August is when we moved out, August of 2013, we moved out
24 and the house had sat vacant until basically the--I'm assuming
25 the 26th of December, when--when the new owners have--I don't

1 even think they were living there, from what I understand, but
2 that's when it turned over to them was basically December 26th,
3 so there was a few months there as well, in my mind, should
4 have been standby fee.

5 Q. Okay. But the prior owners, that's--that's not--
6 they're not a complainant in this matter, and--nor do you have
7 standing to bring a complaint on their behalf, so . . .

8 A. That's not what I was saying. Because we left in
9 August, so September, October, November, and pretty much all
10 of December should have been standby fee, because we still
11 owned the house at that point.

12 Q. Well, your testimony earlier, sir, was that you
13 bought the home from Dave Olsen and that you closed on it in
14 December of 2011.

15 A. Oh, no--no, that was December of 2013. Sorry.

16 Q. That doesn't make sense.

17 A. Yeah, when we bought it. Sorry. Yeah, when we
18 bought it. We closed on December, like, 21st of 2011 and we
19 just sold the house December 26th of 2013.

20 Q. Okay. So when did you move out of the home
21 recently?

22 A. We moved out the end of August of 2013.

23 Q. Okay. And--so you believe that from August 2013 to
24 December 2013, you should also be on standby?

25 A. Well, September--I guess the month of September. I

1 would say the last day of August we moved out, so the month of
2 September, October, November--

3 Q. Okay.

4 A. --and December.

5 Q. Okay. And did you shut the water off? Did you ask
6 the company to shut the water off during that time? Did you
7 notify them that you were moving and that you no longer wished
8 to have service or that--or that you wished that it go into standby
9 mode?

10 A. When I got the--when I got the bill, the \$4,000 and
11 the \$100, that's when I contacted Dave Olsen and I informed him
12 at that time that we were selling our house and didn't live there
13 anymore.

14 Q. Okay.

15 A. And I was--I asked him about the standby fee. And
16 he told me that was for the people like the Orrs that are building
17 their house right across the street from us that have their water
18 meter installed but aren't actually using any water. And I asked,
19 Well, how is that any different than a vacant house that's not
20 using any water? And he said that is not--we didn't qualify for
21 the standby.

22 Q. Okay. And in your opinion, the situation is the same
23 inasmuch as you're not--you're not occupying the property and
24 you're not using the water?

25 A. Right.

1 Q. Would you have left any--would you have been
2 irrigating or anything like that to keep the lawn looking nice in
3 anticipation of your new owners moving in?

4 A. I guess--I guess I can't--I don't really know when the
5 sprinklers were turned off. We had our neighbors do that. So I
6 guess it's possible maybe--possibly September they were still on,
7 I guess. I guess I never thought about that, but, yeah, so it's
8 possible September, but--

9 Q. So--

10 A. --by the end of September, it was winterized.

11 Q. --so you think probably October at the earliest,
12 probably, for what you're requesting?

13 A. Yeah.

14 Q. Okay. Okay.

15 A. For that area, yeah. It would have froze pipes then.

16 Q. And again, did you ever make an official request
17 that effective either September or October that you--that you be
18 given the standby rate?

19 A. I--I guess I'm not sure what you mean by official."
20 Did I write them a letter and all that? I didn't write them a letter
21 something like that.

22 Q. Did you have any communication--any further
23 communication with Mr. Olsen other than that conversation
24 where he disagreed with you that the situation was different?

25 A. No, I figured at that point it was not

1 real . . .

2 THE HEARING OFFICER: Okay. Mr. Bates, thank
3 you for your testimony today.

4 Is there any follow-up?

5 RECROSS EXAMINATION

6 BY-MR.SMITH:

7 Q. When was this conversation that you were referring
8 to with Mr. Olsen? Was that in November or December? When
9 was that? When you told--

10 A. Down here . . .

11 It must have actually been first part of October, I
12 believe. I don't believe I have it listed on my testimony here, but
13 it was--it was--once we got the bill for the \$4,000, which,
14 granted, took a little bit longer than the people up at Eagles
15 Landing--probably another week, I think--

16 THE REPORTER: Sorry. I'm having a hard time
17 hearing him. I didn't hear that last--

18 THE HEARING OFFICER: Mr. Bates, could you
19 repeat what you just said? The court reporter's having a hard
20 time hearing you.

21 THE WITNESS: I said I don't have an exact date of-
22 -when I spoke to Dave Olsen, but it was approximately a week
23 after--after the \$4,000 meter install bill. It was--it was
24 approximately a week because of the delay in mail coming down
25 here.

1 BY MR. SMITH:

2 Q. Okay. In looking at your--some of the documents
3 that you submitted with your testimony, you submitted two bills,
4 one for \$100 that you got from Eagles Landing Water Company,
5 one for \$4,000. Those were dated 10/24, 2013, so it would have
6 been a week or so after that. Is that when you had that
7 conversation with Mr. Olsen? Does that refresh your memory?

8 A. That--that--yeah, approximately.

9 Q. Okay.

10 A. I don't know exactly the date, but approximately,
11 you know. Because it was mailed to our mail box in Utah, which
12 then forwarded down here in Texas, so approximately a week
13 after that.

14 Q. In any event, it was after that bill--after you
15 received that bill on October twenty--that's dated October 24,
16 2013?

17 A. I'm sorry. What was that?

18 Q. In any event, this conversation with Mr. Olsen about
19 the--wanting to have standby fees wasn't until after you had
20 received this billing that's dated 10/24, 2013?

21 A. Correct. Yes.

22 Q. So it probably was the first part of November
23 sometime rather than October?

24 A. Yeah. I--yeah, I guess.

25 Q. Okay.

1 A. Yeah, probably.

2 MR. SMITH: Thank you.

3 FURTHER EXAMINATION

4 BY-THE HEARING OFFICER:

5 Q. So Mr. Bates--just making some notes here--so in
6 actuality, for the last part of your ownership, your--you're really
7 claiming two months of standby, so that would be November,
8 December, with--would you agree to that?

9 A. Yeah. Yeah, I guess that probably lines up a little
10 bit better. And I think that coincides with what I put in my
11 testimony for four months of standby, so the first two months and
12 then the last two months.

13 Q. Well--

14 A. Is that right?

15 Q. --well, let's back up just a second. Because at the
16 end of your ownership, the two months makes sense, but at the
17 beginning of your ownership, if I understood your testimony
18 correctly, you didn't move in until March of 2012, but you closed
19 in December. So that's--that's approximately four months.

20 A. Well, we moved in the first part of March.

21 Q. Okay. Well, let's--let's--

22 A. --the very end of December.

23 Q. Let's say three months, then. I show--I show your
24 testimony as being that you closed on December 21, 2011, and
25 you moved in in March 2012. I don't have an exact date, but

1 that's more or less three months. So--

2 A. We moved in the very first of March. I mean, it was,
3 like, the first day of March.

4 Q. Okay.

5 A. So I guess that's why I was saying two months.

6 Q. So two months. Okay. All right. Well, then I guess
7 your total of four is exactly right. Okay. Thank you for clarifying
8 that. And I apologize to have to go over that with such detail,
9 but it's very helpful and I appreciate it. Thank you.

10 A. You bet.

11 Q. Mr. Bates, is there anything further?

12 A. I don't believe so.

13 Q. Okay. Well, I want to thank you very much for being
14 patient and standing on the line so long and for your testimony
15 today. You're welcome to stay on the line and listen to the rest
16 of the hearing. And if you have the capability of muting your
17 phone, that would be very helpful. And if you wish to hang up,
18 feel free to do so at any time.

19 A. Okay. Thank you.

20 THE HEARING OFFICER: Thank you again, sir.

21 We'll be off the record.

22 (Luncheon recess taken, 11:58 a.m.-1:00 p.m.)

23 THE HEARING OFFICER: Welcome back, everyone.

24 We're on the record.

25 And we have Chris and Sherry Paulos up next to

1 testify. Mr. and Mrs. Paulos, I'd like to swear you in at the same
2 time. Would you kindly raise your right hand. And do you swear
3 that the testimony you're about to give is the truth?

4 MS. PAULOS: I do.

5 MR. PAULOS: I do.

6 THE HEARING OFFICER: Thank you both. As
7 we've done previously, you're welcome to read what you
8 submitted, summarize, or otherwise provide your testimony.

9 SHERI AND CHRIS PAULOS, being first duly sworn,
10 testified as follows:

11 MS. PAULOS: We're the second owners of the
12 home that we live in in Birdseye, Utah. As far as we know, we
13 are the second owners, previous owners were Rick and Susan
14 Olsen, which is another brother to Dave Olsen. Our home was
15 not a new-construction home, so our water meter was already in
16 place and connected prior to us moving in. So I feel that our title
17 company, when they--when we got our loan for our home would
18 have found if there was any liens against our home, and that
19 should have been brought up then.

20 When we were going through the process of looking
21 into the subdivision that we did move into, we debated on it for
22 quite a while. And in that time, we had stopped by one of the
23 neighbors' house to find out more about the area and about the
24 utilities and stuff like that. So we had talked to Ron and Dianne
25 Workman just to kind of get a feel of our utilities, what they

1 would be. But it was a good nine months to a year before we did
2 buy into the development, the home. When we did, it was within
3 a day or two that we had a neighbor, which was Diane Workman
4 come over and bring me a paper that had the names of the water
5 company and who we would sign up for for our hookups for
6 Questar and stuff like that because we did not have any clue who
7 the water company was or where to go with that. We had asked
8 our Realtor, and he gave us the name. That was it.

9 So when I tried calling Dave Olsen--I called several
10 times, I left messages, he never returned my call. On that paper
11 that Diane Workman had given me was also his nephew, I
12 assume's, phone number, and so I called him to let him know
13 that we were new owners of the home.

14 And when I talked to Dustin Olsen, he told me that
15 our bill was \$55 a month. At that time, he didn't tell me there
16 was any hookup fees, any setup fees, any of that.

17 I asked him if--So our bill is \$55 a month? And he
18 said, Yes. So that's what we he went by. I asked him if we
19 would be getting a bill monthly, because I'd heard it was kind of
20 sporadic that we sometimes didn't get a bill. And he says, Yes,
21 you should be getting a bill every month. Well, if you look on my
22 first paper here, my first exhibit, we didn't get a statement. So I
23 didn't know how much the bill was. I went ahead and sent him
24 our information and paid the \$55.

25 We continued to pay the 55 until July 2012, when

1 we was billed \$110. When we got the bill for \$110, I told my
2 husband they can't do that. You have to be notified, you know, if
3 they're going to have a rate increase. And he said, Let's go
4 ahead and just pay it. We'd rather pay the 110 for six months
5 than to have it that cost all the time. So we went ahead and paid
6 it.

7 The next month, we got a bill that was stamped,
8 "Paid." So they took our 110 for two months' payments. And we
9 went back to the \$55 every month, because no one else paid the
10 110; we did. And so they refunded us back--or credited us for
11 the next month.

12 In November of 2013, our bill started--or our
13 statement started showing \$35 a month. So from May of 2012
14 until November 2013, we paid \$55 a month.

15 As far as the \$100 turn-on service, I feel that our
16 title company should have found that if there was a lien on the
17 home, that that should have shown, and the 4,000. I don't feel
18 that we are responsible for that. The 4,000 hookup fee, like I
19 said, our meter was already in place, our water was running. I
20 don't feel that that is our responsibility. The \$100, if they would
21 have billed us for it at the time of us moving in, then maybe we
22 would have paid that. But you can't come back two years later
23 and say, You need to pay this.

24 I think that's all I have.

25 THE HEARING OFFICER: Thank you, Ms. Paulos.

1 Mr. Paulos, do you wish to add anything?

2 MR. PAULOS: Yeah. When we looked into that
3 house, it was in foreclosure. And we purchased that house. We
4 had to wait a couple months to even get into that house because
5 of issues of liens against that house.

6 MS. PAULOS: And they weren't water issue liens.

7 MR. PAULOS: And there was nothing about--

8 THE HEARING OFFICER: Please don't speak over
9 one another. Thank you.

10 MR. PAULOS: And there wasn't nothing about they
11 could find to do with the water against the house. The house
12 was previously owned. The first owner that we know of through
13 the records was Rick and Susan Olsen. And that house was built
14 in 2007. And it was lived in from 2007 with Rick--Rick and Susan
15 Olsen until April 28 or 23rd--I can't remember exact--right in
16 there of 2012.

17 I feel like we have followed the procedures. We
18 didn't know anything about the tariff, but as we--as my wife,
19 Sheri, talked to Dustin Olsen, that we feel that they are affiliated
20 with that water company, that they would tell us the rates per
21 month and at that time, I think that should have been said. And
22 there is a hookup fee or \$100 transfer fee--whatever you want to
23 call it--at the time and billed me for it and it would have been
24 paid. But it would never--nothing like that was ever said or
25 anything. And we did ask. Sheri did ask if there's anything else

1 and he said, No. So we left it as that until October 23rd or 24th
2 of 2013. I get a bill in the mail saying \$100 hookup and a \$4,000
3 meter set.

4 That--on the 4,000, I do disagree. As far as the
5 \$100, I do disagree in a certain way, but that should have been
6 brought up at the beginning, as we had called the water company
7 in, told them who we were, what lot we bought, and that should
8 have been brought out and billed to me at that time. It would
9 have been paid with no questions asked. But to come back,
10 what, over a year and a half, and tell me I owe them this, you
11 know, I--I have a little heartburn over that, really.

12 As far as the \$100 goes, I'd pay it. And the reason I
13 haven't paid it yet is because of the hearings. But as far as the
14 \$4,000, I don't feel like we owe that, because it wasn't our
15 responsibility as the first owner, because we were not the first
16 owner. We didn't build the house. And the first owner lived in
17 that house for how many years, and then we had purchased the
18 house and it seemed like all of a sudden, we get the bill. To me,
19 that's not right, and I disagree.

20 That's all I have to say.

21 THE HEARING OFFICER: Thank you, Mr. Paulos.

22 Ms. Paulos, before I move to cross, you and your
23 husband were slightly in disagreement about the \$100. Your
24 husband last testifying that he would pay the \$100. Do you
25 agree with that?

1 MS. PAULOS: I think if we were billed that from the
2 beginning, then yes, then I could see that being the case. But if
3 he says we'll pay it, we'll pay it.

4 THE HEARING OFFICER: Okay. Cross?

5 MR. SMITH: Yeah, we have a few questions.

6 CROSS-EXAMINATION

7 BY-MR.SMITH:

8 Q. (Addressing Ms. Paulos) Just so I'm clear, which
9 year did you buy the house? Was that 2012?

10 A. 2012.

11 Q. And what month was that?

12 A. April.

13 Q. And it was being lived in up to the time that you--

14 A. No. He was wrong on that. I'm sorry. They had
15 just moved out. We--

16 MR. PAULOS: Two months before we got in.

17 MS. PAULOS: They moved out in December or
18 January. It was February when we first started trying to buy the
19 home, so they had moved out by then.

20 BY MR. SMITH:

21 Q. I'm hoping I'll never have to testify with my wife
22 because there'd be a lot of things that she'd find with my
23 testimony, so that's fine.

24 So prior to your buying the house, did you--you said
25 it was going through a foreclosure. Did the house get actually

1 foreclosed on?

2 MR. PAULOS: Yeah.

3 BY MR. SMITH:

4 Q. And did you buy that from the bank?

5 MR. PAULOS: Yes.

6 MS. PAULOS: Yes.

7 BY MR. SMITH:

8 Q. (Addressing Ms. Paulos) And did you end up paying
9 any of the liens?

10 A. No.

11 Q. You said you had to take care of liens. Did you pay
12 any of those liens?

13 A. No, we did not.

14 Q. And prior to--it sounds like you looked at the house
15 for a while doing--trying to make a decision whether to buy it or
16 not; is that accurate?

17 A. We were actually looking at a different home for
18 about a year before we bought the one we did.

19 Q. Okay. Different home in the same subdivision?

20 MR. PAULOS: Yeah.

21 MS. PAULOS: Yes.

22 BY MR. SMITH:

23 Q. (Addressing Ms. Paulos) Okay. During that time--
24 other than your conversations--I think you said you had some
25 conversations with Dustin Olsen?

1 A. Yes.

2 Q. Were those before or after you bought the house?

3 A. It was after we bought the home.

4 Q. Okay. Let's talk about just the time period before
5 you bought the house. Did you make any contacts with anybody
6 at the water company at that time?

7 A. No. We did not know who the water company was.
8 I asked our Realtor, and he said he would get us that
9 information.

10 Q. But I take it you never did?

11 A. Right.

12 MR. PAULOS: Not really.

13 MS. PAULOS: It wasn't until we had signed papers
14 or something. And he simply gave us the name. No information,
15 who to contact nothing, so . . .

16 BY MR. SMITH:

17 Q. (Addressing Ms. Paulos) Okay. How about--I think
18 you mentioned you talked to one of the neighbors, Workmans or
19 somebody before you bought the house. Did you ask them about
20 who the water company was and how to get ahold of the water
21 company?

22 A. No, because when I had talked to them, it was a
23 year before and we hadn't bought.

24 Q. Okay. So you didn't have any knowledge about if
25 anything was owed on the water at the house other than there

1 were no liens that you're aware of?

2 A. Correct.

3 Q. Okay. Did anybody at the bank make any
4 representations to you about the payment of the water bills?

5 A. No.

6 Q. Did you ask anybody at the bank about that situation
7 that you were buying the house from?

8 A. No. What was there to ask?

9 Q. Did--now, you mentioned that an owner before yours
10 had been Rick and Susan Olsen; is that correct?

11 A. Yes.

12 Q. And do you know what relationship they have to the
13 water company, if any?

14 A. I do not.

15 MR. SMITH: That's all I have. Thank you.

16 THE HEARING OFFICER: Thank you, Mr. Smith.

17 EXAMINATION

18 BY-THE HEARING OFFICER:

19 Q. Mr. and Mrs. Paulos, I have some questions for you.
20 And first of all, in the information that you submitted, I do not
21 have copy of the bill for \$4,000.

22 MR. PAULOS: We have that here.

23 MS. PAULOS: That's here.

24 BY THE HEARING OFFICER:

25 Q. (Addressing Ms. Paulos) Was that a bill that looked

1 similar to the bill that you received for \$55 and the \$35 bill and
2 the \$110 bill?

3 A. Yes, it's right here. We have a copy of it. And it
4 should have been submitted with everyone else's.

5 Q. It could be that just somehow my copy is lacking.

6 A. Okay. We have one right here.

7 I don't have a copy. These are my originals, but . . .

8 Q. Well, let me just ask you, then--and you can answer
9 based on the information you have there: Is the invoice
10 consistent with what the other invoices look like? Essentially,
11 there's a statement that's from Eagles Landing Water Company.
12 It's to Christopher and Sheri Paulos. And there's an indication--I
13 assume that there's an amount due of \$4,000?

14 A. Correct.

15 Q. Could you tell me what the "Description" category
16 says?

17 A. "Meter set, \$4,000."

18 Q. Is there anything else on that document?

19 A. No.

20 Q. What's the date on that document?

21 A. 10/31.

22 MR. PAULOS: 10/24.

23 MS. PAULOS: Oh. Sorry. I'm looking at the due
24 date. 10/24.

25 BY THE HEARING OFFICER:

1 Q. (Addressing Ms. Paulos) And the date? The year?
2 A. 2013.
3 Q. (Addressing Mr. Paulos) Okay. Sir, I'm not sure
4 what--
5 A. They have a copy. Do you want a copy?
6 Q. No, that's okay. That's okay.
7 (Addressing Mr. Paulos) But please don't interfere
8 when there's somebody testifying. I--I very much would
9 appreciate that. Thank you.
10 (Addressing Ms. Paulos) Okay. In the last exhibit
11 that's included with your testimony, there's a Utah legal notice.
12 And I believe this is the notice of trustee sale for the property
13 that you purchased--
14 A. Okay.
15 Q. --okay? Is that correct?
16 A. I don't have that one sitting right in front of me, so
17 yes.
18 Q. There's a property highlighted on here. It's Parcel
19 2, Plat A, Eagles Landing?
20 A. Right.
21 Q. It goes on to give more of a description. Gives the
22 property address at 19664 South Lariat Circle in Birdseye?
23 A. Uh-huh (Affirmative).
24 Q. Could you turn to that page, please? I have a
25 question about that.

1 A. Is it a very faint document?

2 Q. Mine's not terribly faint, but it says, "Utah Legal
3 Notices" at the top. There's--

4 A. Oh, okay.

5 Q. And it says, "Notice of Trustee's Sale"?

6 A. Okay.

7 Q. It's the very last document attached to your
8 testimony.

9 A. It's here somewhere.

10 Q. In the right-hand corner of the document, it's--
11 there's a little handwritten note, "page 6-A." And then the
12 second page is written as, "page 6-B."

13 A. Okay. Sorry. I thought I had them in order here.
14 6-B.

15 Q. Uh-huh (Affirmative). 6-A is the question--is the
16 page that I have a question on.

17 A. Okay. I'm sorry. I'm not finding it.

18 Q. Okay.

19 A. I'm up to 5.

20 Q. Someone has indicated that they have an extra
21 copy, so I'm going to allow them to hand that to you. And--

22 A. Thank you.

23 Q. If you would take a look at that please, and tell me
24 if that represents the Utah Legal Notices copy that was attached
25 to your testimony.

1 A. Yes.

2 Q. Okay. Now, your copy may be--it may not be
3 highlighted if it was just a copy from a copy machine, but the
4 part that I'm looking at has the, "Parcel 2" in--in a highlighted
5 box. And the second paragraph from the bottom, which reads,
6 "The current beneficiary"--are you following me?

7 A. Uh-huh (Affirmative).

8 Q. Would you read that sentence for me, please?

9 A. "The current beneficiary of the"--sorry--"of the
10 construction deed of trust is M&T Mortgage Corporation and the
11 record owners of the property as of the recording of the notice of
12 default are David Olsen as to Parcel 1 and Rick Olsen and Susan
13 Olsen, husband and wife, as joint tenants, as to Parcel 2."

14 Q. Okay. Was it Parcel 1 or Parcel 2 that you were
15 purchasing?

16 A. Two.

17 Q. Okay. And as you've testified, the prior owners
18 were Rick and Susan Olsen?

19 A. Correct.

20 Q. Who you understand are related to Mr. Olsen? And
21 do you know if they have any involvement with Mr. Olsen's
22 development company?

23 A. I--I don't.

24 Q. Okay. If I understood Mr. Paulos's testimony, there
25 were some liens. Were those liens resolved prior to your

1 purchase?

2 A. Yes.

3 Q. And do you recall that any of those liens had
4 anything to do with Eagles Landing Water Company?

5 A. None were for the water company, no.

6 Q. Okay. Regarding your conversation with Dustin
7 Olsen, do you know what his position is with the water company?

8 A. I don't. Like I said, Diane Workman gave me the
9 number, and she gave me Dave and Dustin's phone number
10 because sometimes Dave was hard to get ahold of.

11 Q. Uh-huh (Affirmative).

12 A. And that proved true because I called several times,
13 left messages, and he never called me back. So how can you,
14 you know, give him your information if they're not willing to
15 answer your phone calls? So that's why I called Dustin. I have
16 no clue what he has to do with the company.

17 Q. So when you called the number that was provided,
18 did Dustin answer? Is that--or--

19 A. Dustin did answer, and he told me to just fill out--or
20 send in some information with our name and whatnot on it. And
21 that's what I did. And that's what your--

22 Q. That's the copy of the check and such?

23 A. Uh-huh (Affirmative).

24 Q. Okay. And even so, you never received a bill until--

25 A. Until we'd already made the payment.

1 Q. Okay. Okay. Did Mr. Dustin Olsen ever explain to
2 you that the \$55 monthly charge which you testified was--was
3 told to you by him--did he ever explain to you that that was an
4 agreement between the water company and the customers?

5 A. No. He basically wasn't giving me any information.
6 I had to ask. I says, So is our bill--you know, he says, Just send
7 in your information with your payment.

8 Okay. But is our payment \$55 a month?

9 Yeah.

10 Q. Okay. Was there ever any mention that Eagles
11 Landing was a public utility? Was there ever any mention of the
12 Utah Public Service Commission?

13 A. No.

14 Q. Was there any mention of a tariff?

15 A. None.

16 Q. Okay. Do you have any information on whether Mr.
17 and Mrs. Rick R. Olsen paid the \$4,000 amount when they were
18 the owners of the home prior to the foreclosure?

19 A. No.

20 Q. And it's my understanding that you're also claiming--
21 you're claiming the \$4,000, the \$100, and the 55 dollar
22 overcharge, right?

23 A. Sorry. Yes.

24 Q. Okay. So on the \$55 overcharge, would it be
25 correct to say that what you're seeking there is a credit so that

1 the tariff amount would be applicable as opposed to the \$55
2 charge that the company was applying?

3 A. Yes.

4 Q. Or--okay. Okay. And--and the \$4,000 charge, your
5 position on that is that that was--or should have been charged to
6 the original owner, correct?

7 A. Correct.

8 Q. Okay. And the \$100 turn-on service--so just
9 backing up one second, so when you moved into the home, the
10 water service was on?

11 A. Yes.

12 Q. Okay. And--but you did notify the water company
13 and the account was changed and it was put into your name?

14 A. Yes.

15 Q. Was there ever any interruption in service? Did
16 they ever turn the water off and turn it back on?

17 A. No.

18 Q. Okay. So help understand me your position with
19 respect to the \$100 turn-on service.

20 A. Like I said, I feel if that was to be billed, it should
21 have been so when we started service, not a year and a half
22 down the road tried to recoup those fees. When I talked to
23 Dustin, that's something he should have told me. I left messages
24 for Dave. He could have called me back and, you know. We
25 didn't even get a statement--I just went ahead and sent my \$55

1 hoping I was sending it to the right place that we were being
2 credited for our payment. I feel that the hundred-twenty--or \$100
3 should have been billed to us at the beginning of our service.

4 Q. Do you know if your water meter's ever been read?

5 A. I don't know.

6 Q. Has any statement that you've ever received
7 indicated that there was a water--water--a water meter reading
8 done?

9 A. No.

10 Q. You mentioned earlier that when you got the \$110
11 Invoice, which you did end up paying, Mrs. Paulos, you indicated
12 in your testimony that--I believe you were probably talking to
13 your husband--you said that they can't do this, they must have a
14 rate increase. What led you to believe that they must have a
15 rate increase?

16 A. You have to be notified. I know from our previous
17 home that when they increased our rates, they let us know in
18 advance. I don't know if it was two, three months or--

19 Q. Okay.

20 A. --but they let you know that you were having a rate
21 increase. They didn't just say, Here's your bill and this is what it
22 is, you know.

23 Q. Prior to this bill that is for \$110, had you received
24 any explanation, any newsletter, any pamphlet, anything at all
25 that said, We're pending a rate increase. We're going before the

1 Utah Public Service Commission. This is--

2 A. No.

3 Q. --an interim rate, whatever?

4 A. None of that.

5 Q. Okay.

6 A. When we got the \$110 bill, it did have a little thing
7 on it. I did not find mine--their reasoning behind it, but again, I
8 just said, you know, they normally would have to let you know in
9 advance, not just bill you and say this is what it is.

10 Q. Okay. Thank you both very much. Is there anything
11 further that you wish to add?

12 MR. PAULOS: No.

13 MS. PAULOS: No.

14 THE HEARING OFFICER: Any follow-up, Mr.
15 Smith?

16 MR. SMITH: No.

17 THE HEARING OFFICER: Okay. Thank you both.
18 You're excused.

19 Next, Bryan and Teresa Young. Is this the party
20 that's not here? Is there anyone here who's been authorized to
21 speak on their behalf?

22 MR. WORKMAN: Just verbal.

23 THE HEARING OFFICER: Pardon me?

24 MR. WORKMAN: Just probably verbal.

25 THE HEARING OFFICER: All right. The

1 Commission will make note of their testimony and note that--I'm
2 not sure if it was on the record, but Mr. and Mrs. Young were
3 unable to attend the hearing today and we'll take notice of their
4 testimony.

5 Mr. Smith, that leaves you without an opportunity to
6 cross-examine them.

7 MR. SMITH: We would ask their complaint be
8 dismissed because if they can't come to the hearing, we can't
9 cross-examine them and that deprives us of our due process
10 rights to be able to do that. So we would ask if--these people all
11 came out of--you know, came to the hearing. Obviously, they
12 had other things they could have been--everybody else could
13 have been doing today, and probably rather be doing today. So
14 we would ask that the Youngs' complaint be dismissed.

15 THE HEARING OFFICER: I will--I'll bring that to the
16 Commission's attention and let them know that you have a
17 motion pending for that result, and we'll see what they say.

18 MR. SMITH: Okay. Thank you.

19 THE HEARING OFFICER: We'll move forward with
20 Trevor Butterfield. Mrs. Butterfield.

21 Remind me of your name, please.

22 MS. BUTTERFIELD: Jessica.

23 THE HEARING OFFICER: Jessica. Jessica
24 Butterfield. Thank you very much. Okay. Okay. Ms. Butterfield,
25 you know the plan here. You can read from your testimony which

1 was filed by your husband. You can summarize, do whatever
2 you wish.

3 MS. BUTTERFIELD: Okay. Do I have to be sworn
4 in?

5 THE HEARING OFFICER: Yes, you do. Yes, you
6 do.

7 And were there questions or were you just
8 reminding me to swear her in? Okay.

9 MR. WORKMAN: Don't want anything to cause a
10 problem.

11 THE HEARING OFFICER: All right. Ms. Butterfield,
12 please raise your right hand. And do you swear that the
13 testimony you're about to give is the truth?

14 MS. BUTTERFIELD: Yes.

15 THE HEARING OFFICER: Please proceed.

16 JESSICA BUTTERFIELD, being first duly sworn,
17 testified as follows:

18 MS. BUTTERFIELD: Okay. Our testimony: The
19 home located at 4594 Cougar
20 Run--is this on?

21 THE HEARING OFFICER: Please just put it real
22 close to you. It might feel awkward. Yes, it helps out a lot.
23 Thank you.

24 MS. BUTTERFIELD: The home located at 4594
25 Cougar Run, Birdseye, Utah, was built in 2011. The original

1 developer, Eagles Landing already charged those initial hookup
2 fees in 2011 to Knight West Construction. Before the home was
3 completed, water has been provided to this residence by the
4 water company since the building of the home in 2011. The
5 amount paid by Knight West Construction Company was
6 \$3,192.50, which included the fees for the water hookup and
7 water service while the home was under construction. There was
8 an approval received via e-mail by Knight West Construction
9 from David Olsen confirming approval that the water fees had
10 been paid for Lot No. 68 on which my home is built. I feel that
11 the \$1,000 water meter fee and the \$100 water hookup fee are
12 inappropriate considering these fees were already paid by the
13 construction company. And we're just asking for those fees to be
14 dismissed.

15 THE HEARING OFFICER: Okay. Thank you, Mrs.
16 Butterfield.

17 Cross?

18 MR. LONG: The company will stipulate that the
19 connection fee and 3,000--or the \$100 turn-on fee and \$3,000 of
20 the \$4,000 connection fee have been paid by the construction
21 company, leaving \$1,000 still owing.

22 THE HEARING OFFICER: Ms. Butterfield, do you
23 wish to respond to that?

24 MS. BUTTERFIELD: We feel it's not our
25 responsibility to pay the \$1,000 difference. If that was accepted

1 by David Olsen from the construction company, then that falls on
2 him. That was his responsibility to make sure the appropriate
3 amount was charged in the first place. And . . .

4 THE HEARING OFFICER: Do you know whether
5 there was any agreement to that effect? Was there anything
6 reduced in writing that you know of?

7 THE WITNESS: No.

8 MR. LONG: No further questions from us.

9 EXAMINATION

10 BY-THE HEARING OFFICER:

11 Q. Okay. Mrs. Butterfield, other than the disagreement
12 about the \$1,000, were you also part of the group that was being
13 charged the \$55?

14 A. Yes, we were a part of that, but we weren't
15 necessarily concerned about that. However, we do feel that it is-
16 -it is fair that we be reimbursed or credited for the overcharge.
17 Where he's wanting to charge the thousand- dollar difference for
18 what is stated on the tariff, is--the \$4,000 should have been paid
19 to 3,000--then we should have only been paying 35 instead of
20 the \$55 amount, especially when my husband--he's been single
21 for the first year he lived there, he was hardly home, did not use
22 that much water. We have no lawn. So we feel that that's only
23 fair to ask for that.

24 Q. Do you have a meter?

25 A. Yes, we do.

1 Q. Do you know if your meter's ever been read?

2 A. I'm not aware of it being read at all.

3 Q. Have you ever received an invoice that would
4 indicate that it's been read?

5 A. No.

6 Q. And back to the \$55, given what you've indicated
7 about that, would it be amenable to you that--that that amount--
8 any difference between that amount and the \$35 amount
9 recognized in the tariff could be used to offset any subsequent
10 fees?

11 A. No, because I don't think that it's our responsibility
12 to pay the \$1,000 difference at all.

13 Q. No, no, no. I'm not suggesting there's a connection
14 between that per se. I'm just saying fees in general--

15 A. Okay.

16 Q. --whether they're usage fees for your water usage,
17 whatever the Commission determines, would you be willing to
18 accept an offset?

19 A. Yeah.

20 Q. If your husband were here today, do you think he
21 might be able to offer any testimony with respect to the
22 difference between the \$1,000 and the \$4,000?

23 A. He might be able to. I'm not sure.

24 Q. Okay. He's not able to join us today?

25 A. We probably could call him. I was not aware that

1 maybe he--because he had to work,
2 but . . .

3 Q. If he wanted to participate, he would have had to
4 call the Commission in advance. I was just wondering if you
5 were personally aware of any--anything with respect to that
6 issue.

7 A. No.

8 Q. Okay. Do you know if West Knight Construction
9 occupied the home before your husband purchased it?

10 A. They did not. He was the first owner.

11 Q. He was the first owner?

12 A. Uh-huh (Affirmative).

13 THE HEARING OFFICER: Mrs. Butterfield, I don't
14 have any further questions.

15 Anything further?

16 MR. SMITH: No, we don't have anything further.

17 THE HEARING OFFICER: Thank you, Mrs.
18 Butterfield.

19 MS. BUTTERFIELD: Thank you.

20 THE HEARING OFFICER: You may be excused.

21 Next we have the Allens, Allen and Smith party.

22 Welcome, Mr. Smith and Ms.--excuse me--Mr. Allen
23 and Ms. Smith. I'm going to swear you in now. Could you
24 please raise your right hand? And do you swear that the
25 testimony you're about to give is the truth?

1 MR. ALLEN: Yes.

2 MS. SMITH ALLEN: Yes.

3 THE HEARING OFFICER: Thank you. You may
4 proceed.

5 GENE ALLEN AND BETTY SMITH ALLEN, being
6 first duly sworn, testified as follows:

7 MR. ALLEN: Okay. In our case, we bought the
8 home from--on lot No. 4 from David Olsen. And we did know
9 about the water, the \$55 payment. And we knew who to pay it
10 from because we were acquaintances with his brother Rick, who
11 filled us in how to fill out the check and where to mail it. But we
12 feel that the \$4,000 deal is--should have been brought forth at
13 the time of closing. And the \$100 bill should have been enclosed
14 at that time also.

15 So we feel that because there was no--nothing
16 brought up about that at the closing, we feel that it's--should be
17 waived. As it says so in our statement and in the--in the papers
18 from Backman Title, as I submitted, if it isn't done at the time of
19 closing, it's--everything should be waived.

20 In the Backman Title search, under the escrow
21 general provisions statement which I submitted, Section 14, it
22 says, "Utilities and water rights," and it explains there our views
23 on the water thing. And in the closing statement of that same
24 paragraph, No. 23, it says, "Closing conditions," which states
25 that if it's not satisfied at the time of closing, that everything

1 should be waived. That's where we stand. And we--we stand by
2 that. And that's our statement.

3 THE HEARING OFFICER: Ms. Smith, do you wish
4 to add anything?

5 MS. SMITH ALLEN: No.

6 THE HEARING OFFICER: Mr. Smith?

7 MR. SMITH: Yeah, I have a few questions.

8 CROSS-EXAMINATION

9 BY-MR.SMITH:

10 Q. (Addressing Mr. Allen) You mention in your
11 testimony that you knew about the \$55 monthly fee. What did
12 you know about that?

13 A. I knew that was the monthly payment that had been
14 agreed with the water company and the homeowners at that time
15 that they--that was in a verbal agreement between all the
16 homeowners and Eagles Landing water. And we agreed to pay
17 that.

18 Q. Okay. And that was--that was in lieu of having
19 meters read and charging for overages?

20 A. Yes, it was.

21 Q. Okay. And you were okay with that?

22 A. Yeah.

23 Q. Okay.

24 A. I was at that time, but now I'm not.

25 Q. And what's happened between now and then that

1 has changed your view from being okay with paying that to not
2 paying?

3 A. Well, the thing that has changed our view is, we're
4 all different homeowners now. And the thing that brought this
5 forth was the increase in water, which wasn't done through the
6 Commission. So it wasn't done properly. Had it been done
7 properly and we received the bill from the Commission that had
8 been approved, a water increase would have been approved, we
9 would have paid it.

10 Q. Okay. So if I understand your testimony, it's
11 because you've learned that the company didn't go through
12 proper channels to change that--to do that--

13 A. Exactly.

14 Q. --is that right?

15 A. Yes.

16 Q. So you bought your home from the developer, David
17 Olsen; is that correct?

18 A. I did.

19 Q. And as I understand your testimony, tell me if I'm
20 wrong--if he would have told you at the time of closing that you
21 had to pay the \$4,000 connection fee, you would have paid it at
22 that time?

23 A. If he would have disclosed that at the time of
24 closing, we could have affiliated this with our loan and everything
25 would have been fine.

1 Q. Okay. So it's really a--your complaint is based on
2 the timing of being charged this?

3 A. Well, yeah, you don't come back 3 1/2 years later
4 and bill me for something that should have been done at closing
5 time. I mean, that's--that's not right.

6 Q. And that's based on just your understanding of right
7 and wrong or do you have some--

8 A. Well, how do you feel about it? How would you like
9 a \$4,000 bill--

10 Q. I'm sorry. I can't answer--I can't answer questions.

11 A. --3 1/2 years later?

12 THE HEARING OFFICER: Mr. Allen?

13 THE WITNESS: I didn't like it.

14 THE HEARING OFFICER: Mr. Allen?

15 MR. SMITH: I'm just trying to see what the basis of
16 his understanding is.

17 THE HEARING OFFICER: I understand. And I'm
18 trying to get a response. There's not a question. Do you feel
19 like you have an answer to your question, Mr. Smith?

20 MR. SMITH: No, I don't think he's answered my
21 question. I just want to--I'll ask it again.

22 BY MR. SMITH:

23 Q. I'm not trying to be argumentative, Mr. Allen. I just
24 want to understand. When you say that's not right, I just want to
25 understand where you--why you conclude that.

1 A. It says in the statement if it isn't done at closing, it
2 isn't--it's done. There should be no more billing. It says so in
3 the Backman Title search. Nothing was owed on my property.
4 And in my way of thinking, nothing is nothing.

5 Q. Okay. Anything else or just based on what you read
6 in the closing statement?

7 A. That's all I have to say.

8 MR. SMITH: Okay. That's all the questions I have.
9 Thank you.

10 THE HEARING OFFICER: Thank you, Mr. Smith.

11 EXAMINATION

12 BY-THE HEARING OFFICER:

13 Q. Mr. Allen, were you the original purchaser of that
14 home?

15 A. As far as I know, Dave Olsen was the owner before I
16 bought it.

17 Q. And did he occupy the home?

18 A. It was used as the model home. It was fully
19 furnished when we looked at it and on June 2nd of our purchase
20 date, Dave Olsen and Dustin and another helper came and
21 removed the furniture and as he walked out the door he says, It's
22 all yours.

23 Q. Okay. I'm going to ask you not to dramatize. I just
24 want you to answer the questions that I--that I pose. So when
25 you bought the home, was the water on?

1 A. Yes.

2 Q. And what the point did you contact the water
3 company and have the account put in your name?

4 A. The first month we lived there, we sent him a bill for
5 \$55.

6 Q. Okay. And that was based on your understanding of
7 this arrangement between the homeowners and the water
8 company?

9 A. Uh-huh (Affirmative).

10 Q. And were you actually billed for \$55?

11 A. I never received a bill for months.

12 Q. Okay.

13 A. We just sent in the money because we knew where
14 to send it, because of his brother.

15 Q. Okay. Mr. Allen, I'd like to ask you a question and it
16 relates--it relates in part to the \$4,000 fee, and in part it relates
17 to the \$55 fee. You've indicated that you're comfortable with the
18 \$55 fee having known about it in advance. But yet, you've
19 indicated that you're not comfortable with the \$4,000 fee and you
20 mentioned the tariff. I have difficulty understanding the
21 inconsistency in those statements, because both the monthly fee
22 and the \$4,000 amount, whether or not they apply or not to your
23 particular situation--I'm not making a judgment on--are in the
24 tariff. So regardless of whether there was a side agreement
25 between the utility and the homeowners, the tariff still says \$35 a

1 month.

2 A. I agree. It does say \$35 a month for the first 10,000
3 gallons.

4 Q. It does. So why would you be willing to sternly
5 apply the tariff as you believe it applies to a \$4,000 figure when
6 that amount is in the tariff, again, not making any judgment about
7 whether it applies to your particular situation, but at the same
8 time not recognize that the tariff also mentions the \$35 fee, not a
9 \$55 fee, which the company overrode on its own. If you wish to
10 waive that issue, you're welcome to it. I'm just trying to better
11 understand your rationale because it seems to me that you're--
12 you're inconsistent.

13 A. Well, inconsistent in which way? I mean, what are
14 you--I don't know what you want me to say.

15 Q. Well--

16 A. I agreed to pay the \$55.

17 Q. If that's your position, that's your position. I just am
18 wanting to make sure that
19 you--you're comfortable knowing that I find it inconsistent.

20 A. I--I agreed to pay the \$55 when we bought the
21 home.

22 Q. Okay. And when you bought the home, what year
23 was that?

24 A. In 2010.

25 Q. Okay. And had you seen the tariff that was--that

1 was sent around earlier?

2 A. Yes.

3 Q. And that tariff was effective September 1, 2008. So
4 that went into effect two years prior to your purchase?

5 A. Correct.

6 Q. Okay. And this tariff says \$35 a month?

7 A. Yes.

8 Q. Okay. So I just want to understand: Are you telling
9 me that you're comfortable having known that it was something
10 other than the tariff, that that's what you're going to go with?

11 A. I went with the agreement between the water
12 company and the previous owners. And I agreed to pay that.
13 Now that we have stipulations stating that it's overcharged, I'm
14 comfortable with that also. So I'm willing to pay the \$35 and
15 have my meter read every month and pay what is owed.

16 Q. Okay. But with respect to the \$55, you're just
17 willing to let that go? You're not--you're not asking for--

18 A. No, I want a refund.

19 Q. --a correction?

20 A. I want a refund. I've been paying \$55 for 3 1/2
21 years.

22 Q. Okay. Okay. I--I didn't understand that that's what
23 you were saying--

24 A. Okay.

25 Q. --earlier.

1 We've gone over these questions so many times I'm
2 having a hard time remembering who I asked what, so I do
3 apologize if I asked you this question earlier, Mr. Allen.

4 And Ms. Smith, please feel free jump in as well.

5 With respect to the \$4,000, do you know if that fee
6 was paid previously given that the house was used and was--the
7 water was turned on when you were there when you moved in?

8 A. Alls I know is the statement we have from M&T and
9 the money was disbursed to Hearthstone Construction and what--
10 how he disbursed the money was up to him.

11 Q. Can you elaborate a little bit about what you just
12 said? I'm not sure I'm understanding what M&T--

13 A. Well, M&T is the loaner--the mortgage holder on the
14 loaner of those five homes.

15 Q. Uh-huh (Affirmative).

16 A. And you went through that with Mrs. Workman.

17 Q. Okay.

18 A. I can't add any more to that because that's all there
19 is to it.

20 Q. Help me understand, if you would, please, you--
21 you're relying in part on your escrow document, which you've
22 attached to your testimony. Do you have a copy of that with
23 you?

24 A. I do.

25 Q. Could you turn to page 4--excuse me--page 3 of--

1 A. Three of five?

2 Q. --3 of 5, please? You've indicated that you're
3 relying on, in part, paragraph 14--

4 A. Yes.

5 Q. --of this document. Perhaps you should read that
6 paragraph into the record first and then help me understand what
7 it is about this paragraph that supports your position and your--
8 and your--

9 A. Okay. I'll read the whole paragraph.

10 Q. Thank you.

11 A. "Escrow agent shall not be responsible for the
12 transfer of utilities. Escrow agent shall not be responsible for
13 the transfer of water rights or shares unless specifically
14 instructed by parties. It is hereby acknowledged and understood
15 that any and all service charges and/or assessments levied by all
16 utility companies will be paid by the seller either directly or
17 through closing. All final charges to date of closing will be paid
18 directly to utility companies by seller directly through the closing
19 on or before"--"on or before said buyer takes possession of the
20 property. This includes water, sewer, garbage, heat, electricity,
21 condominium fees, city assessments and all other assessments
22 of any kind that may exist in relation to the subject's property. If
23 the amount paid through closing are insufficient, seller shall be
24 [sic] the difference before buyer takes possession of the
25 property."

1 Q. Back up. Could you read that last sentence one
2 more time, please?

3 A. The last sentence?

4 Q. Yes.

5 A. "If the amount paid through closing are insufficient,
6 seller shall pay the difference before buyer takes possession of
7 the property."

8 Q. Okay. Thank you, sir. And--okay. So without
9 making your argument for you, tell me what it is about this that
10 supports your position on the--on the \$4,000 and the \$100?

11 A. What supports my position is the last paragraph,
12 where the seller is liable to pay it, seller being Dave Olsen who
13 signed this paper.

14 Q. Okay. So I'm assuming--although you've not stated
15 it--is that those fees were not included, so therefore he's
16 responsible for them?

17 A. Yes.

18 Q. Okay. You also were relying on paragraph 20,
19 which is on page 4 of 5. That paragraph is entitled, "Tax
20 Reporting, Withholding, and Disclosure." Am I understanding
21 that correctly that you're also relying on this paragraph?

22 A. No, it was paragraph 23.

23 Q. Twenty-three. Okay. Okay. What is it about
24 paragraph 23--why don't you just read that. That's just a short
25 one, short sentence.

1 A. Twenty-three: "Closing Conditions. Seller and
2 buyer represent to escrow agent that they have delivered to
3 escrow agent an entire copy, including addendums and exhibits,
4 of the real estate purchase contract. Seller and buyer also
5 represent to escrow agent that all conditions to closing in the
6 contract have been satisfied or hereby waived."

7 Q. Okay. So again, if I'm taking what you said earlier,
8 basically the same idea applies?

9 A. Yes.

10 Q. Okay.

11 A. And that last statement, you can see the signatures
12 who have agreed upon that statement.

13 Q. Mr. Allen, I'm going to repeat something that I said
14 earlier, and I--I hope that--I hope that it's understood. I--I'm not
15 your lawyer. What I am is the administrative law judge in this
16 case, and I hear the matter. I advise the Commission. The
17 Commission decides the matter and an order is issued. The
18 Commission does not make decisions as a matter of contract.

19 So if you have a--an issue with this particular
20 company that you feel needs to be resolved in another way, you-
21 -you may need to do that in a different forum. And I just--I just
22 want to make a note of that, that the Commission's jurisdiction is
23 limited to the utility and whether it's operating within its tariff.
24 To the extent that you may have a different concern or a
25 contract-related concern as a result of this escrow agreement or

1 some other agreement, that's something that you should address
2 with your legal counsel, okay?

3 A. Okay.

4 THE HEARING OFFICER: Okay. Any follow-up?

5 MR. SMITH: None. We have no follow-up.

6 THE HEARING OFFICER: Okay. Thank you both
7 very much. And you're excused.

8 Okay. We have Brent and Raeleen Duncan.

9 Mr. and Mrs. Duncan, welcome this afternoon, and
10 thank you for your patience. You're the last one, at least from
11 the complainant's standpoint, so let's get you sworn in. I'll swear
12 you in both at the same time, if you'd kindly raise your right
13 hand. And do you swear the testimony you are about to give is
14 the truth?

15 MR. DUNCAN: Yes.

16 MS. DUNCAN: Yes.

17 THE HEARING OFFICER: And would you kindly
18 make sure your microphones are turned on? There should be a
19 green light. And just make sure you're talking right into it so it
20 picks up your voice well. You're welcome to proceed, if you
21 wish, to do a summary or read directly from your testimony,
22 whichever you prefer.

23 BRENT AND RAELEEN DUNCAN, being first duly
24 sworn, testified as follows:

25 MR. DUNCAN: Okay. I'll make a testimony. And

1 it'll be partly summarized, but mostly read from my--my document
2 here.

3 There's a couple points. The first point is, all fees
4 should be charged according to the fees authorized by the Public
5 Service Commission according to the authorized tariff. And the
6 tariff is something that we became aware of after the fact of
7 buying our home. So it was something that was intervening
8 between the purchase and today.

9 We have been charged \$55 for 10,000 gallons of
10 water each month since we purchased the home in January of
11 2012. And the home's located at 19638 South Buckskin Circle in
12 Birdseye.

13 We formally request that all fees that have been
14 charged in excess of the \$35 per month since January 2012
15 through November 2013 be refunded to us at the time of this
16 court hearing.

17 We have also been charged a \$200 hookup fee at
18 the time we purchased the home in January of twenty--2012. We
19 request a refund of the \$100 overpayment.

20 The next point is, we--we state that the water meter
21 set fees and hookup fees are charged at the time the service is
22 delivered. The home located at 19638 South Buckskin Circle,
23 Birdseye, Utah was built in 2004. The original developer of
24 Eagles Landing would have and should have charged those initial
25 one time hookup fees in 2004 before the home was completed

1 and before the first resident closed on the property and moved
2 in.

3 We believe that the burden of proof is on the Eagles
4 Landing Water Company to show a legal precedence for charging
5 any one of multiple sequential homeowners for the initial onetime
6 hookup and setup fee each time the property owner changes.

7 It is a fact that water has been provided to this
8 residence by the water company to four sequential owners over a
9 period of nine years. It is common knowledge that utility
10 company services are not provided on a continual basis unless
11 the company has received the initial water meter set and hookup
12 fees required at the time of services being rendered and billed
13 for.

14 There are two more issues that strengthen our case
15 as the current residents of this particular home. The initial
16 developer of Eagles Landing, which included the Eagles Landing
17 Water Company, took out bankruptcy in 2005, thus dissolving
18 any unresolved liens. Eagles Landing development was sold to
19 Dave Olsen in 2006. According to bankruptcy law, had there
20 been any outstanding liens, they would have been all cleared out
21 at that time.

22 Eagles Landing Water Company has no legitimate
23 claim on any fees associated with new property initialization and
24 hookup fees. These fees are a onetime- only fee assessed to
25 the contractor before the original homeowner closes on the home

1 and moves in.

2 In 2011, Scott and Kimberly Lofgren lost this
3 particular home to foreclosure. All existing liens were cleared
4 concerning the property known as 19638 South Buckskin Circle,
5 Birdseye, Utah, when the home was purchased. No additional
6 fees can be charged to the current owner as clear title was given
7 at the time of closing on this property.

8 So we ask that the Court to rule in favor that the
9 residents of Eagles Landing receive water services through
10 Eagles Landing Water Company and request that all fees that
11 have been assessed by the water company to the residents of--
12 for water meter set fees and turn-on fees be dismissed.

13 THE HEARING OFFICER: Thank you, Mr. Duncan.

14 Mrs. Duncan, do you wish to add anything?

15 MS. DUNCAN: I don't.

16 THE HEARING OFFICER: Cross?

17 MR. LONG: Excuse me. My voice is failing today.

18 Just a couple questions.

19 CROSS-EXAMINATION

20 BY-MR.LONG:

21 Q. With your testimony, you submitted a number of
22 exhibits or attachments. Could I direct you to--I'll tell you the
23 page here--to what you have labeled as page 18 of 123?

24 MS. DUNCAN: Did you say 18 of 123?

25 BY MR. LONG:

1 Q. Eighteen, yes.

2 (Addressed to Ms. Duncan) This is just a--to clear
3 the record so we have all our facts straight. You've mentioned
4 back on page 5 of 123 under the paragraph that starts pages 98
5 through 106--in that paragraph, you mention David Gardner. Do
6 you have anything else on Mr. Gardner's supposed involvement
7 other than this e-mail from Craig Smith on page 18 of 123?

8 A. I do note that Mr. Gardner had ownership in the
9 development that was lost, and I do have pages included that
10 show him being listed as an owner earlier, before 2006.

11 Q. And anything else regarding his involvement with
12 the company after Hearthstone Development took over the
13 subdivision?

14 A. This stating that, "At this time, Mr. Gardner is
15 unable to retain my services or services of any legal counsel due
16 to the lack of funds. We were hoping to be able to discuss the
17 issue and any thoughts that the Division may have on what steps
18 we could take to make the company financially viable. Frankly, if
19 the financial situation doesn't change soon, there will not be a
20 company to complain about and the residents will be left to their
21 own devices for drinking water. I know that this is something
22 that the Division has faced before. Thus, we are seeking your
23 input."

24 This is where the law office has mentioned Dave
25 Gardner.

1 Q. I'm just trying to make sure it's on the record. I
2 believe it's just a typo, but we'll clear that up when Mr. Olsen's
3 on the stand. Again, I think that's just a typo with "Mr. Gardner"
4 instead of "Mr. Olsen."

5 A. It just says--Ms. Martinez, back on page 17 of 123--
6 "I actually hope to be able to discuss the larger issue of the
7 financial viability of the company. It is currently not able to meet
8 its monthly obligations and is only surviving due to regular cash
9 infusion by Mr. Dave Gardner."

10 So it was mentioned twice, Mr. Dave Gardner.

11 Q. I just want to make sure the record is clear. And
12 we'll ask Mr. Olsen about this.

13 THE HEARING OFFICER: Mr. Long, since this was
14 written by counsel, shouldn't counsel just clear the record?

15 MR. SMITH: I'll--I'm just waiting for the opportunity.
16 Thank you, Judge Reif. Yeah, I have a client named David
17 Gardner who has no connection with this. And obviously, that
18 was on my mind when I sent this e-mail. It should have said
19 David Olsen in both places. And so just, you know, to clear up
20 the phantom, I don't know if there was a Gardner involved before
21 on this, but I've never met him. And I meant to say David Olsen.
22 It was just a mistake on my part. And I apologize for the
23 confusion that this has obviously caused a lot of people.

24 THE HEARING OFFICER: Mrs. Duncan, are you
25 satisfied with that?

1 MS. DUNCAN: It's interesting it was mentioned
2 twice and that he was a previous owner of this development. So
3 if it's Dave--if Dave Olsen is supposed to be listed there and
4 Dave Gardner has absolutely no financial interest in this, that's
5 good to know.

6 THE HEARING OFFICER: I think Mr. Smith has
7 indicated his client is Mr. Olsen.

8 MR. SMITH: The David Gardner that I know is the--
9 works at Draper Irrigation Company and is second in command
10 there, but has nothing to do with this. So it was just a mistake
11 on my part. I guess I was consistent in making the mistake
12 twice. I apologize.

13 THE HEARING OFFICER: Let's just clear the
14 record. Let's--let's take notice of the correction that the
15 references to Mr. Gardner in Mr. Smith's e-mail dated September
16 19, 2013, were in error and should be replaced with the word
17 Olsen.

18 MR. SMITH: Thank you. That's correct.

19 THE HEARING OFFICER: Okay.

20 BY MR. LONG:

21 Q. Again, excuse me.

22 (Addressing Ms. Duncan) Could I also direct you to
23 what you have labeled as page 100 of 123 in the exhibits to your
24 prefiled testimony? And what I see here is a Utah Business
25 Search page for Eagles Landing Water Company, LLC, showing it

1 expired as of 2002. Is that accurate?

2 A. Yes.

3 Q. When did Hearthstone Development and David
4 Olsen become involved with the Eagles Landing Water
5 Company?

6 A. I believe in 2006.

7 Q. When you were searching for the Eagles Landing
8 entity, did you look for any other variations such as an Eagle's
9 with an apostrophe s?

10 A. I believe I just went by what the billing that we'd
11 received states.

12 MR. LONG: Okay. We will--again, I want to ask Mr.
13 Olsen about the existence of the entity when he's on the stand,
14 again, just to make sure the record is clear as far as the
15 company actually existing.

16 I have no further questions.

17 THE HEARING OFFICER: Okay. Thank you, Mr.
18 Long.

19 EXAMINATION

20 BY-THE HEARING OFFICER:

21 Q. Mr. and Mrs. Duncan, I do have a few questions for
22 you, and I'd like to start with Mr. Duncan because he gave the
23 initial statement. And I would like to clarify a few things. Based
24 on a couple of terms of art that you used, are you an expert in
25 the area of water utilities?

1 A. I am not an expert.

2 Q. Do you have a background in water utilities?

3 A. I--the only thing I could say to that is I know that
4 you have to get permission to raise rates.

5 Q. Okay.

6 A. And it's a publicly disclosed process, it's not
7 showing up in your bill suddenly.

8 Q. Okay.

9 A. So that was a red flag for me.

10 Q. Okay.

11 A. And whatever rate is determined has to be
12 acceptable by the Commission, not based on financial need of a
13 given particular company that provides the service.

14 Q. Okay. Okay. Very good. So on page 2 of your
15 testimony, in the second paragraph, help me understand what
16 you mean by, "It is common knowledge that utility company
17 services are not provided on a continual basis unless the
18 company has received the initial water meter and hookup fees
19 required at the time of services being rendered and paid"--"and
20 billed for."

21 What do you mean by common knowledge?

22 A. Common knowledge, as I would call it, is what--if
23 you were to ask a series of people just on the street, what's your
24 understanding of a given subject, so when I say common
25 knowledge with regard to a utility company, my understanding is

1 that the very first and only first occupant or owner of a dwelling
2 is the one that will receive that initial hookup fee. It is not open
3 to be suspended or forgotten or neglected until a future date.
4 And for that matter, if we allow that kind of logic, we go down a
5 slippery slope. How many other unknown and unidentified
6 hidden charges are we subject to as property owners?

7 Q. Okay, Mr. Duncan. So to clarify, you're talking
8 about the \$4,000 fee; is that correct?

9 A. That is correct.

10 Q. Okay. You refer to a water meter set and hookup
11 fees. So is it something more than the \$4,000 that you're
12 referring to there? It's just a little difficult for me to follow.

13 A. Well, okay. According to the water service rate
14 schedule--

15 Q. And let me interrupt, please.

16 Mrs. Duncan, I realize you're both together. And
17 you're welcome to give testimony, but please don't feed each
18 other information. You know, when I ask a question, please
19 don't whisper an answer. I'll ask you for your testimony as well,
20 and--I realize this is a joint effort, but please--please be orderly.
21 Thank you.

22 MR. DUNCAN: There's a couple of line items on the
23 water service rate schedule. And this would be the service
24 connection charges, so the first item it's talking about the
25 onetime charge for service requiring a new meter installation.

1 That's the \$4,000.

2 And that, I believe, is only applicable to the very
3 first occupant of the home, not four, five, six, whatever number,
4 down the road.

5 BY THE HEARING OFFICER:

6 Q. (Addressing Mr. Duncan) And who--do you know
7 who that was in this case?

8 A. I believe it was Justin Wilding. I think he was the
9 son of one of the developers of the original group that came
10 together to build the subdivision.

11 Q. And how did he come to reside in the home?

12 A. I do not know.

13 I--I understand he did reside. And then there was a
14 second owner that did reside there.

15 Q. Was this gentleman who you mentioned, was he an
16 owner?

17 A. I don't have a recollection of looking online or
18 looking at records--

19 Q. Okay.

20 A. --but--

21 Q. How far down the road are you as far as number of
22 owners?

23 A. Justin--yeah--no, Justin--sorry. Is it Justin? Is that
24 what I said?

25 Q. I'm not sure.

1 A. I think it's Justin Wilding. And then it was the
2 Lofgrens--Scott and Kimberly Lofgren. And then it went to the
3 bank because it went into default. And then we bought it from
4 the bank. So we're number four, the fourth owners.

5 Q. Okay. Okay. And are you also including the \$100
6 in that--in that statement that we're looking at?

7 A. Well, as far as the--yeah, as far as a complaint, yes,
8 we're including it, because we were charged \$200 instead of
9 \$100.

10 Q. Okay.

11 A. That's the only dispute. I don't dispute a turn-on
12 fee.

13 Q. You're not disputing the \$100, but you're--you are
14 disputing the fact that you were double--

15 A. --double-charged, right.

16 Q. Do you know why that--how that came about? Was
17 it in your closing statement or what--how did that come about?

18 A. At the time we were getting ready to close on the
19 home, we discovered the water was not turned on. We thought it
20 was frozen or something because it was in the middle of winter.
21 But we called Dusty Olsen with the water company, and he says
22 he would go and get it taken care of. So I can only guess that
23 he must have just turned it back on, just went up there and
24 turned the switch back on--

25 Q. Okay.

1 A. --on the valve.

2 Q. Okay.

3 A. So then the water worked at that point.

4 Q. Okay.

5 A. So I guess technically that's a turn-on of the water.

6 Q. Okay. And as a part of your complaint, are you also
7 contesting the \$55? You are; is that correct?

8 A. Absolutely, yes.

9 Q. And similar to what I've asked the other
10 participants, are you requesting that that be credited--

11 A. Yes.

12 Q. --based on the overcharge? Okay.

13 A. We'll have a credit on that.

14 Q. On page 33 of 123 of your testimony, there's a
15 statement. Could you help me understand--does this apply to
16 something in particular?

17 A. Oh, yes. This refers to a rate increase in our water
18 that happened not in 2013, but in 2012. And it says this--this
19 came with our bill to inform us of the change in the rates. So
20 this was our first notice: "Due to the high water the usage this
21 year, water rates will be raised to \$110 for the period of June
22 2012 to October 2012. After that time, water rates will return to
23 \$55. Thanks. Eagles Landing Water Company."

24 Q. Okay. And will you turn the page, please, to the
25 page 34 of 123?

1

A. Okay.

2

Q. Is this the invoice that that notice

3

came--that it came with?

4

A. I have to say yes. And the \$110 has been crossed

5

out and \$55 has been put in place.

6

Q. Okay. And did you cross that out and mark the

7

\$55?

8

A. This would be Raeleen that did this.

9

Q. Okay.

10

A. She pays the bills.

11

Q. Okay. Okay. If you would kindly go to page 54 of

12

123--

13

A. Okay.

14

Q. --this, again, is communication from Eagles Landing.

15

I assume this is something that you received; is that correct?

16

A. That is correct.

17

Q. And could you read that into the record, please?

18

A. Absolutely. It's dated October 24, 2013: "To Whom

19

it May Concern: After reviewing with our attorneys and the

20

Public Service Commission, we are now following the water

21

service rate schedule for the Eagles Landing Water Company,

22

LLC that is attached. As of November 11, 2013, water will be

23

billed as per the schedule and meters will be read monthly as

24

weather conditions permit. Payments for the water"--"for the

25

meter set are due upon receipt. If you have any question, please

1 call David Olsen at 801-885-1040. Thanks. Eagles Landing
2 Water Company, LLC."

3 Q. Okay. And then if you would please turn to the next
4 page, there is what appears to be a bill for \$100. Did this
5 accompany the letter that you just read?

6 A. I didn't open the mail on that particular--

7 Q. (Addressing Ms. Duncan) Mrs. Duncan, do you wish
8 to respond? Would you--

9 A. Yes. The letter came with the additional \$100 and,
10 if you go to the next page, the \$4,000.

11 Q. Okay. Okay. And then the very next page, page 57
12 of 123, was that also included or is that just an extraneous
13 document that just happened?

14 A. It was included with the mailing, so the four sheets

15 Q. Okay. Okay. And upon receiving that, did you
16 make any communication with Eagles Landing, either of you?

17 A. I did not.

18 MR. DUNCAN: No.

19 THE HEARING OFFICER: Mr. Duncan? Okay.

20 Have you paid the \$4,000?

21 MR. DUNCAN: No, we have not.

22 BY THE HEARING OFFICER:

23 Q. (Addressing Mr. Duncan) Have you paid the \$100?

24 A. No, we have not.

25 Q. I did--I did understand you that when you moved in,

1 the water was off, and then it was turned on; is that correct?

2 A. That is correct.

3 Q. So help me understand--you've explained your
4 position on the \$4,000. Help me understand your position on the
5 \$100.

6 A. Well, the--my understanding is that was paid at the
7 time that we closed on the home, and there was the \$200 that
8 was paid for the turn-on fee.

9 Q. Okay.

10 A. However, we did not know what the tariff was for a
11 turn-on fee. So we had no basis for questioning that amount.

12 Q. Is there anything in the documents that you've
13 submitted that would establish proof of the payment? As you
14 say, it was a \$200 charge.

15 A. I believe there is. I don't know what page it's on,
16 but it's--can I consult with Raeleen on this?

17 Q. Yes, please do.

18 A. There is a bill from Eagles Landing Water Company
19 showing \$200.

20 Q. And can you direct me to that in your testimony?

21 MR. SMITH: I think it's 28 of 123.

22 MR. DUNCAN: That's correct, page 28.

23 THE HEARING OFFICER: Does this represent an
24 invoice you received, Mrs. Duncan, or--

25 MR. DUNCAN: Raeleen can clarify that.

1 MS. DUNCAN: Yes, it was.

2 BY THE HEARING OFFICER:

3 Q. Okay.

4 (Addressing Mr. Duncan) Were you aware at that
5 time that there was a \$100 turn-on fee?

6 A. We did not know there was a tariff in any sense of
7 the word at that time, so we had no basis for questioning or
8 countering.

9 Q. Okay. (Addressing Ms. Duncan) And how did you
10 pay? Did you pay in the form of a check?

11 A. Yes.

12 Q. Is there copy of your check here?

13 A. No.

14 Q. And was your check cashed by the company?

15 A. Yes.

16 THE HEARING OFFICER: Okay. Okay. I don't
17 think I have any additional questions for you, Mr. or Mrs.

18 Duncan. I really appreciate your testimony today.

19 Mr. Smith, do you have any follow-up?

20 MR. SMITH: No, we don't.

21 THE HEARING OFFICER: Okay. Thank you both
22 very much. You're excused, and may stay for the remainder of
23 the hearing, if you wish.

24 MR. DUNCAN: Thank you.

25 MR. SMITH: Is this an appropriate

1 time--we've been going for an hour and a half--to take a short
2 break? I think we're done with all the complainants, and Mr.
3 Olsen would be our next witness.

4 THE HEARING OFFICER: That's correct. How long
5 would you like? Do you want to take a quick break?

6 MR. SMITH: Like ten minutes.

7 THE HEARING OFFICER: Ten minutes. See you
8 back here in ten minutes.

9 (Recess taken, 2:30-2:39 p.m.)

10 THE HEARING OFFICER: Thank you, everyone.
11 We're back on the record.

12 And Mr. Olsen, before you have a seat there,
13 please, if you would kindly raise your right hand. And do you
14 swear that the testimony you are about to give is the truth?

15 MR. OLSEN: I do.

16 THE HEARING OFFICER: Thank you. You may be
17 seated. Would you pull that microphone right up to you and give
18 it a test a couple of times? I just want to make sure.

19 MR. OLSEN: Hello.

20 THE HEARING OFFICER: Perfect. If you talk right
21 into it, that will help us all out.

22 MR. SMITH: I'm going to ask Mr. Olsen some open-
23 ended questions just to speed through his testimony or get the
24 bulk of his prefiled testimony on the record.

25 DAVID OLSEN, being first duly sworn, was

1 examined and testified as follows:

2 EXAMINATION

3 BY-MR.SMITH:

4 Q. Mr. Olsen, could you state your name and address
5 for the record, please?

6 A. David Olsen. 772 South Carterville Road, Orem,
7 Utah.

8 Q. Can you take a few minutes and talk about how you
9 became involved with first--well, let's first talk about the Eagles
10 Landing development, how you became involved with that
11 development and just talk about the development from the
12 beginning up until this time.

13 A. There was a broker that got ahold of us, because
14 Textron foreclosed on the original developer and it had been
15 sitting dormant for a couple of years.

16 Q. And about what year was that?

17 A. I'm not sure.

18 Q. Okay. Go ahead. Sorry.

19 A. A couple of years after they built those homes.

20 Q. Would it be about 2004, 2005?

21 A. Probably, yeah.

22 Q. Okay.

23 A. And we made them an offer. They didn't like it, so
24 we let it be. They're a big company in New York, so they just
25 wanted to get rid of the asset. So they tendered our offer and

1 we bought it and closed deal.

2 Q. When you say we, who are you--

3 A. Hearthstone Development.

4 Q. Who else was involved with Hearthstone besides
5 yourself?

6 A. Just myself.

7 Q. Okay.

8 A. Okay?

9 Then I got a loan from a local bank, and we started
10 trying to fix the problems that were left with the subdivision,
11 because when Wilding quit, he never finished. But I'd never ran a
12 water company before, so I didn't know what was entailed there.
13 I just went through the things that need to be fixed for the county
14 on the plat. Then we had an education with the--the water
15 department on what we need to do to get the water system
16 qualified and up to par so it was a normal system to serve
17 people.

18 When we took it over, there was a small pump put in
19 there like you use for a house that I think the original first owner
20 of the first house put in there because he had no water. So he
21 used that along with the water lines as his water tank.
22 Amundson.

23 And so we went to work to find out what we needed
24 to do to fix everything. We put a 25-horse pump in. We
25 chlorinated the tank. There was a bunch of valves and other

1 things in the subdivision that needed to be repaired to get it up
2 to the state standards. And there was a gentleman that worked
3 for me by the name of Jay Spencer, and he ramrodded that chore
4 to get it up to par, get it qualified, get it in working condition and
5 so that we could actually run it.

6 So . . .

7 Q. And what's your involvement at this time with the
8 Eagles Landing? Let's talk about the development first, and then
9 I'll ask you about the water company.

10 A. Well, when the downturn in the market came and all
11 the--all the financial crash, everybody--well, you know how things
12 went. The houses and the subdivision and the lots all just
13 collapsed. So the loan that we had on the subdivision at the
14 time of the collapse, the lot releases were 110,000 a lot. So
15 there was no way anybody was going to buy a lot from us and
16 clear out the bank note for a lot. So it just sat dormant.

17 And then there was a few things that need to be
18 taken care of with the County. And because there was no money
19 left in the loans, it just stopped. And there was a few lots left in
20 Phase 1 that could either be built on or sold or what have you,
21 but you had existing homes up there of people we were building
22 houses for. And they--because of the new--because of the way
23 the loans collapsed, they couldn't get their loans closed. So I
24 got stuck with five or six spec houses without my choice,
25 because I'm not a spec builder. We always build houses to sell

1 to people and never really built spec homes.

2 Q. Those--I think we had some discussion. Can you
3 identify which homes those were?

4 A. Lot 95, Lot 2, Lot 3, Lot 4, Lot 68, Lot 69.

5 MR. SMITH: I think it would be helpful--would that
6 be helpful if he could I put some names of the current owners?

7 THE HEARING OFFICER: That would be very
8 helpful.

9 BY MR. SMITH:

10 Q. Let me--

11 A. Well, the current owner. It's been changed.

12 Q. That might help you. That's a map of the--some of
13 the existing--of the existing homes.

14 A. Mr. Richins, Mr. Paulos, Mr. Monson, Mr. Allen, Mr.
15 Bates, Mr. Workman. Mr. Young built--Mr. Young bought his
16 house from the bank. Mr. Gasser built his own house. He paid
17 his fees. Mr. Duncan bought his house from someone else. And
18 Mr. Butterfield had his house built by a contractor.

19 Q. Now, you've been here throughout this proceeding,
20 and you understand that a lot of the complainants are concerned
21 because fees weren't charged originally. Can you explain why--
22 I'm sure everybody's wondering why that-- why--we'll talk about--
23 let's first of all talk about the \$4,000 fee, why that wasn't
24 charged until later.

25 A. Easy. When the banks made their loans, they

1 purposely short the loans so that when you get to the end of it,
2 you either got to put up money yourself or you got to close out in
3 the long term so you get paid back. So when all those houses
4 went to specs, we--I had to take out of my personal pocket
5 \$275,000 and pay subs up to the point of having no liens on the
6 houses. But that didn't rectify the water company's debt,
7 because there was no money for it, so it got left unpaid.

8 Q. And that would be the houses that you--the spec
9 homes you identified?

10 A. Right. Except for--there was one check I noticed on
11 Central Bank for Monson's house that got put in there, so . . .

12 Q. So what's your understanding about which lots--
13 which homes, which lots have paid the 4,000--\$4,000 fee and
14 which ones haven't?

15 A. Monsons. Butterfield paid most of it. There was a
16 mistake between Joni's billing and what should have been. That
17 was a total mistake between the contractor.

18 Youngs--the Youngs did not pay. Gassers paid.
19 That's it.

20 Q. And you sent out bills to the rest of the
21 complainants about getting those paid. Have any payments
22 come in on the bills that you sent?

23 A. I didn't send those bills out until we had a chance to
24 talk to you to find out what I do, because they filed complaints
25 with the PSC. And you told me that if they hadn't paid, they

1 need to pay.

2 The other mistake I think we made was when we
3 read the meters, the people weren't paying their bill, so we
4 changed it to level billing, but I didn't know we had to stay with
5 the tariff. I was trying to help because of Questar and the others
6 that do--

7 Q. Can you explain how you got to the level--the level
8 billing, I think, is--is, you started charging 55 instead of 35 that's
9 in the tariff; is that correct?

10 A. Right.

11 Q. Can you explain how you got to that point, why that
12 happened?

13 A. When Amundson and Rick got the bills for the first
14 few summer months, they were quite high, but they were using a
15 lot of water. So what Amundson suggested was, This is what my
16 bills have been for the last year or so. Why don't we just take
17 and divide that by 12 and make it an equal billing like Questar
18 does and make it easier on the people so they don't have a huge
19 bill in the summer? And that's how all that came about. It
20 wasn't anything malicious or--it was just trying to help them.

21 Q. And have you subsequently had an opportunity to
22 start looking at meters and reading meters?

23 A. Yes.

24 Q. And what has--what have you found out from your
25 review of meter records?

1 A. Well, some of the meters have huge amounts on
2 them. And I think it's because the people that were not being
3 very, what, water-saving, that they--I call them water hogs--they--
4 -they were abusing it. And there were some that were really
5 good about it. And you'll look at those, and they--they're not bad
6 at all. Especially like Butterfields, they don't have any lawn, so
7 it's hardly any water, whereas lot 68 is nuts. It has like four
8 million gallons.

9 So I was told by Craig to read the meters every
10 month. And we have, other than when it was really cold. And we
11 will through the rest of the year. And we'll follow exactly the
12 tariff. But I think they're going to be surprised in the
13 summertime what their bills are going to be.

14 Q. What's--from your reading of the meters, what's the
15 average per house usage of water?

16 A. On some of those, it looked like to me 30,000
17 gallons that was really watering the lawn, so that's about 90 a
18 month. So I thought I was being really fair.

19 Q. So would you say that 30,000 would be the average
20 per month for the--

21 A. On basic lawn usage, yeah. They've got big lawns.

22 Q. By the way, how big--what was the water company
23 bill to serve? Was it built to serve 12 to 15 customers?

24 A. It was built to serve 95.

25 Q. And why doesn't it have 95 customers?

1 A. The market collapsed. You can't build houses
2 where people don't want to go. And you can't get builders to
3 come up and build houses if they don't think they can get buyers.

4 Q. Do you have any lots for sale
5 personally--I mean, through you or your companies to try to
6 recoup some of this?

7 A. I sold my last one that I could sell without the bank
8 tied to it, and it was only for 25,000. The--I gave the Central
9 Bank a couple lots to offset Monsons' loss. And there was
10 another guy that picked up another four or five lots that he's
11 been trying to sell for 25,000 a lot. It's 21,000 to put the roads
12 in.

13 Q. How many lots can be built on at this time based on
14 what's been approved by Utah County as far as the subdivision?

15 A. Ninety-five.

16 Q. No. You couldn't--

17 A. Oh, no, no, no. Phase 2's been put in, but they will
18 not release it because they've got issues with the plat and issues
19 with the road that they want corrected, but it's going to cost
20 money to fix it.

21 Q. So how many lots are in Phase 1?

22 A. I think there's 21.

23 Q. And that's--that's all that you could
24 sell--that's all that someone could build on at this time, right?

25 A. Right.

1 Q. Who's been operating the water company since--
2 since you took over the development?

3 A. Jay Spencer started, and then he had Dustin Olsen
4 help him. Jay worked on getting all the approvals and everything
5 that need to be fixed in the system fixed, where Dustin was
6 working on meter reading and making sure the water services
7 were hooked up to each house.

8 Q. Did he have any responsibility other than doing
9 those things?

10 A. No.

11 Q. And just so we're clear, who is Dustin Olsen? Is he
12 your son?

13 A. My son.

14 Q. So he was kind of your hands-on--

15 A. Hands-on guy.

16 Q. --guy?

17 A. Uh-huh (Affirmative). But when the market dried up,
18 I had to let him off.

19 Q. How about in the office? Do you have anybody that
20 works for you in the office?

21 A. Joni comes in part-time to do the billing.

22 Q. Do you have a manager for the company?

23 A. No, I'm doing it.

24 Q. How long have you been doing that?

25 A. Almost two years since Dustin was laid off. Not by

1 choice, but doing the--

2 Q. Tell me what do you do? What are your duties?

3 A. I do the water tests. There was problems this last
4 summer where we had to get Delco Western up there to fix all
5 the components.

6 THE REPORTER: I'm sorry. Who up there?

7 THE WITNESS: Delco Western is a repair company.
8 Because they need to repair a bunch of the valves and the
9 controls inside the pump house so it can work on its own. When
10 my brother lived up there, it didn't--that part didn't function right,
11 so he'd turn on and turn off the pump manually. When Rick
12 moved out, then Ron said he would take care of it for a while.
13 And it just got to be too much of a burden, so I thought we
14 needed to get it fixed the right way.

15 THE HEARING OFFICER: Mr. Olsen, could I
16 interrupt for just a moment, please? I'm hearing you okay, but I
17 don't think your microphone is close enough to you to pick up
18 your voice and that may be causing some difficulty in hearing.

19 THE WITNESS: For him?

20 THE HEARING OFFICER: Well, maybe others as
21 well. So if you could just be conscientious of that. It may--it may
22 swing a little closer and you might be able to straighten it out a
23 little bit, but if you could just keep that right in front of you.

24 THE WITNESS: Okay.

25 THE HEARING OFFICER: That's much better.

1 Thank you.

2 THE WITNESS: All right.

3 BY MR. SMITH:

4 Q. Have you been--has the water company been
5 profitable since the time you've owned it?

6 A. No.

7 Q. Has it been unprofitable?

8 A. Well, there's several years that we had to pay
9 personal money just to keep it breaking even, because it didn't
10 cash flow. And that's without any repairs or lines breaking or
11 anything else. There's just not enough by the time you pay all of
12 the testing and the power to make it work.

13 Q. Has the water company operated throughout the
14 time you've owned it?

15 A. Yes.

16 Q. Is it still operating today?

17 A. Yes.

18 Q. Have you ever had to shut it down for any purpose?

19 A. No, I've been feeding it money to keep it going.

20 Q. Do you have money to continue to subsidize the
21 company?

22 A. Not for very long.

23 Q. If the company is required to make refunds for
24 overcharging, where's that money going to come from?

25 A. Nowhere. It's not there.

1 Q. How much--how about reserves? How much money
2 does the company have in reserves?

3 A. Like \$220. And then if I get their checks, it raises
4 up. By the time we pay the power bills and pay the testing, it
5 goes down to almost zero.

6 Q. I think that kind of sets the background I wanted to
7 set with his testimony. So I would say he's available for cross-
8 examination or examination from the judge.

9 THE HEARING OFFICER: Okay. Complainants,
10 typically I would move to you at this point. And would it be okay
11 with you if I ask a few questions--and I may want to ask
12 additional questions after you ask questions as well--or is it your
13 preference to go ahead and do your cross-examination now and
14 then I'll just follow up at the end?

15 MR. RICHINS: I think it would be fine for you to go
16 ahead. I don't have the best memory, so I may not remember the
17 questions I have.

18 THE HEARING OFFICER: Well, at this point, we've
19 gone through so many different variations, I have to admit it does
20 have a tendency to become difficult to recall, so . . .

21 EXAMINATION

22 BY-THE HEARING OFFICER:

23 Q. Mr. Olsen, thank you for being here today and for
24 being patient and being--contributing your entire day, as
25 everyone else has, to this hearing today.

1 I--I hear what you have said and I just--I want to
2 make sure that there's not a misunderstanding that when the
3 company came before the Commission in 2008 and I'll ask you if
4 you recall this--the company, Eagles Landing, sought a CPCN.
5 Do you know what a CPCN is?

6 A. No, but go ahead.

7 Q. A CPCN is a Certificate of Public Convenience and
8 Necessity. And what that does, it allows you to operate as a
9 public utility rendering culinary water service under Commission
10 statutes and rules in the state of Utah. So when that happens,
11 you're under Commission regulation. And being under
12 Commission regulation means that you have to operate in a
13 certain way. So while you may have the best of intentions, you
14 can't simply decide on making a change without bringing it to the
15 Commission first. So--

16 A. Such as the billing?

17 Q. Such as in many different things. And--so I--I want
18 to make sure that you're aware of that. I assume you are. I
19 believe your company has filed a notice of intent to file a rate
20 case; is that correct?

21 A. Yes.

22 Q. Okay. And given the fact that you're in what seems
23 to be a very dire situation, is there any reason why you haven't
24 moved forward with that in a--are you waiting for the resolution
25 of this matter?

1 A. Well, we've got to find out what's going to happen
2 here, because if this doesn't work out, then why?

3 Q. Okay.

4 A. It's broke.

5 Q. Okay.

6 A. It's a broken deal that needs help.

7 Q. Okay. So why aren't you seeking that help now?
8 Why are you waiting?

9 A. I don't know. I'm just following their lead
10 (Indicating). I'm following Craig's lead on what you need to do.
11 He says come here first and then we'll do the rate increase
12 request. So it's right behind.

13 Q. Are you aware, sir, that if you wish to make any
14 changes to the tariff that was circulated earlier and that was
15 stipulated as the tariff in this docket, that if you wish to make
16 any changes whatsoever in how your company operates, that you
17 need to come before the Commission and petition the
18 Commission to do whatever it is that you're seeking to do?

19 A. Right.

20 Q. Whether it's changing a rate from \$35 to \$55,
21 whether it's not checking meters when the tariff says you're
22 going to check meters, that sort of thing?

23 You've heard a lot of testimony today from various
24 complainants on their viewpoints on the turn-on fee. The turn-on
25 fee being the \$100 turn-on fee. In, I think, the majority of

1 circumstances, the testimony was that the water was already on
2 when these individuals came into the home, closed on the home.
3 I think there was only one person who testified that this was
4 actually--the service was off and had to be turned on. Given
5 that, how do you justify charging the \$100 fee?

6 A. So was this supposed to be turned off every time
7 and go up and physically turn it back on?

8 Q. I'm asking you the question, sir. How do you justify
9 the fee?

10 A. I justify it if there's a new customer that needs to
11 have his water turned on, do I physically have to go turn the
12 water on in order to charge the fee? I'm asking you.

13 Q. Well, your--

14 MR. SMITH: Dave, you can't do that. You have to
15 just answer the question the best you can.

16 THE WITNESS: Okay.

17 MR. SMITH: You can't ask questions of the judge.

18 THE WITNESS: Okay. Go ahead.

19 BY THE HEARING OFFICER:

20 Q. Okay. So my question to you is, again, given the
21 testimony that has been provided today--

22 A. Uh-huh (Affirmative).

23 Q. --which is that the overwhelming majority of
24 complainants, with the exception of one, I believe, testified that
25 they moved into their home and water was already turned on,

1 they were already accessing water, it wasn't until they actually
2 notified the company that they were living in the home that the
3 water changed, and even then, they weren't billed the \$100 fee.
4 So help me understand in such a circumstance how it is under
5 the tariff that says there's a \$100 turn-on service where water
6 meter is already in place that you can justify that.

7 A. When you have as many projects as we had going
8 on and as simple as that request is, I live in Orem, and I get a
9 water bill. And whenever I have to go hook up water in Orem
10 from one of our other houses, there's a turn-on fee, so I assumed
11 that was the same thing. And whether or not the physical water
12 got turned on the same way, when we--when we sell a house and
13 pass Mountain Fuel from one to another and they go, I'll call and
14 I'll get the gas turned in my name, why would it be any different
15 whether the water was turned on and turned off as long as they
16 met the requirements of the turn-on fee? I think it should be
17 charged.

18 MR. SMITH: Can I ask--can I ask just a couple? I
19 think I can help to speed this up if I ask a couple of follow-up
20 questions, if that's okay.

21 THE HEARING OFFICER: Sure.

22 MR. SMITH: When a new customer comes on, do
23 you have to change the records of the company to show the new
24 customer as the new owner that should be getting billed?

25 THE WITNESS: Yes.

1 MR. SMITH: And is there some expense involved
2 with that?

3 THE WITNESS: Yes.

4 MR. SMITH: And how about reading the meter? Do
5 you need to go read the meter when the new customer comes
6 on?

7 THE WITNESS: Yes.

8 MR. SMITH: And how much time does it take if you
9 or somebody else from the company to go read a meter at this
10 location.

11 THE WITNESS: If it was somebody else other than
12 myself, they'd still take an hour to drive up, drive back, plus their
13 fuel and time to go do that.

14 MR. SMITH: So an hour each way--

15 THE WITNESS: Yeah.

16 MR. SMITH: --from--have you do it--you've been
17 doing this recently, right?

18 THE WITNESS: Right.

19 MR. SMITH: So it's a two-hour drive, correct?

20 THE WITNESS: Trip.

21 MR. SMITH: Then whatever time it takes to read
22 the meter?

23 THE WITNESS: Right.

24 MR. SMITH: So we're talking, what, three or four
25 hours of time to--to--

1 THE WITNESS: Three and a half hours, probably.

2 MR. SMITH: And that's to make sure that the new
3 owners not paying for something that they didn't use?

4 THE WITNESS: Correct.

5 BY THE HEARING OFFICER:

6 Q. Mr. Olsen, I think it's your testimony, is it not, that
7 you have recently begun to check meters.

8 A. Right.

9 Q. You didn't do so in the past?

10 A. No.

11 Q. You didn't--

12 A. No. In the past, when we first started, Joni had
13 Dustin read the meters every month, but every one these people
14 are not even any of the ones that lived there before. When we
15 changed and thought we were okay to level billing, it was the
16 other owners that were there. And if I would have known how
17 strict it was through Craig on reading meters, I would have never
18 changed it. But yes, the meters are read every month for
19 probably--from the time we started with the Public Service
20 Commission until those people started moving out.

21 Q. And when was that?

22 A. Well, they started falling off because somebody was
23 getting foreclosed on.

24 Q. When was that, sir?

25 A. I don't know. Rick was the last one.

1 Q. 2009? 2008?

2 A. Go ahead.

3 MR. DUNCAN: I moved in the same day that Rick
4 moved out.

5 THE WITNESS: Okay. That's helpful.

6 MR. DUNCAN: So that was January of 2012.

7 THE WITNESS: So 2012 is the last one.

8 BY THE HEARING OFFICER:

9 Q. Mr. Olsen, let me make very clear. I ask the
10 Questions, you answer the questions. Please don't delegate to
11 individuals in the audience.

12 A. I just can't remember the dates.

13 Q. Okay. Mr. Olsen, there were a number of
14 individuals today who shared information with the Commission
15 about their \$4,000 fee. And there were a couple of instances
16 where your legal counsel stipulated to those fees being paid.
17 And can you help explain why those individuals would have been
18 billed if those fees had already been paid?

19 A. Just had to be clerical error, just a mistake.

20 Q. Do you keep records?

21 A. Yes.

22 Q. Did you review those records before you billed those
23 complaints, customers?

24 A. When that spreadsheet was put together, she went
25 through what she had on our record of who paid, who didn't pay.

1 The only one that was missed was Mr. Monson, period. The rest
2 of them are accurate. And once we realized that, he stipulated
3 to it. The rest of them are the same.

4 Q. Okay. And can you explain the double billing on--

5 A. Double billing?

6 Q. There was a double billing.

7 A. For Mr. . . .

8 Q. Mr. and Mrs.--

9 A. Duncan? That was a mistake from Joni. Just a
10 statement mistake.

11 Q. Do you know if that has been resolved? Have they
12 been credited back the \$100?

13 A. I don't think they've been billed again.

14 Have you? I don't think.

15 Q. Remember, I ask the questions; you answer the
16 questions.

17 A. I don't think they've been billed again.

18 Q. Have you notified them that you've rectified that
19 issue so that they can be--

20 A. Well--

21 Q. --assured that--

22 A. --I don't know what she did. I've got to find out.

23 Q. Okay.

24 A. Okay?

25 Q. Who is Joni?

1 A. She was our office manager when things were going
2 fine. When we wound down the development company, she went
3 on part-time as needed.

4 Q. What is Joni's last name?

5 A. Pratt.

6 Q. Could you spell that for me?

7 A. P-r-a-t-t.

8 Q. And does she work for you now?

9 A. Uh-huh (Affirmative), on a part-time basis.

10 Q. Mr. Olsen, are you aware that as a public utility,
11 you're required to keep your records current and available for
12 inspection?

13 A. No, I'm not--I don't--no.

14 Q. Under the rules governing public utilities--and these
15 are the rules of the administrative procedure--there's a rule that
16 unpaid amounts for billing cycles older than four years are not
17 allowed. Are you aware of that?

18 A. No.

19 Q. Are you aware that meters are to be kept--utilities
20 that have meters, such as yourself, that the utility is to keep
21 individual cards for each meter measuring culinary water and
22 these shall show, at a minimum, identification data, date and
23 location of latest meter test, reason for test, name of person or
24 organization performing the test, and result of the test. And they
25 also shall be available for inspection by the Commission. Are

1 you aware of that?

2 A. No.

3 Q. Okay. Sir, do you have a copy of the tariff with
4 you?

5 A. I don't.

6 MR. SMITH: If it's okay, I'll give him a copy.

7 THE HEARING OFFICER: Okay. Thank you.

8 BY THE HEARING OFFICER:

9 Q. Just wanted to go through a few different things with
10 you, please. If you would turn to page 3 of the tariff, at the very
11 top of the page, it says original sheet No. 3, and then at about,
12 oh, a couple of inches from the top, it says, "Water Service Rate
13 Schedule." Are you with me?

14 A. Rate schedule down here (Indicating)?

15 Q. At page 3.

16 A. (Indicating.)

17 Q. Yes. Yes.

18 A. Okay.

19 Q. Could you read for me under, "Service Connection
20 Charges," the description that is to the left of the charge for
21 \$4,000?

22 A. "1, Service to property line, where [the] service
23 fronts property line, including meter and materials. Onetime
24 charge for each service requiring new meter installation," \$4,000.

25 Q. Okay. Thank you. And a number of individuals

1 have today testified that they are not the original owners of the
2 property. They have purchased, in some instances, I think, a
3 third, maybe even fourth owners, yet this charge is--is being
4 asserted against them. Can you help me understand what the
5 company's position is with respect to that charge, given not only
6 the four-year limitation that I referenced earlier, but the language
7 in the tariff itself?

8 A. When the development company didn't pay the
9 water company, all we were trying to do was keep the little
10 system alive. When there's issues that came before us here,
11 you, I told Craig what had happened. He goes, Well, if they
12 haven't paid, they need to pay. So that's why those bills went
13 out for those that didn't pay the connection. When I say they,
14 the house--

15 Q. Okay.

16 A. --okay?

17 Q. Would it be true that for each of those individuals
18 who were here today and some of whom are still here today, that
19 none of those that I can recall--maybe I'm--maybe I'm wrong and
20 you can correct me on that--required new meter installation?

21 A. No, the Monsons had to have a new meter.

22 Q. Okay.

23 A. They never had a meter.

24 Q. Okay. Were they--did they have prior owners or
25 were they brand new?

1 A. No, they were brand new.

2 Q. Okay. So other than the Monsons, is there anybody
3 else that would--

4 A. The Duncans. Their meter was faulty, so it had to
5 be replaced with a new one, okay?

6 Q. So that justified a \$4,000 charge? Is that what I'm
7 understanding you saying?

8 A. No, what I'm saying is that whoever didn't get--
9 whoever didn't pay the original fee, four--

10 Q. The original fee being what?

11 A. --the \$4,000 connection on the homes that didn't
12 pay, we were told to invoice those homes.

13 Q. Okay. Now, is it the home that you're looking at or
14 is it the owner that you're looking at? Is it that you're looking--

15 A. It's the residence. It's where the meter where the
16 service is placed--

17 Q. Okay.

18 A. --okay?

19 Q. And when you say it wasn't previously charged, is
20 that an indication that it wasn't charged to the prior owner or it
21 was charged to the prior owner, perhaps, and they just never
22 paid it?

23 A. Never charged. Never charged.

24 Q. Why is that?

25 A. Fell through the cracks. It just didn't happen.

1 Q. Okay.

2 A. But the ones that did pay, we've got record of it and
3 we gave them credit.

4 Q. Okay.

5 A. They're not here because they paid.

6 Q. Okay. So let's move down to the next line.

7 A. Okay.

8 Q. And if you would please read what that says
9 regarding the \$100 charge.

10 A. "Turn-on service where meter is already in place." I
11 understood that to be when someone new moves in, they have to
12 pay a turn-on fee. Someone has to go up and either turn it on or
13 read the meter.

14 Q. Okay. And would you read the section below the
15 next--

16 A. "Turn-on off service [fee], \$25."

17 Q. Okay. So to your knowledge, of those individuals
18 who testified today that their water was actually on when they
19 moved in and they were just recently charged the \$100 fee, what
20 justifies the--that if their water was never turned off?

21 A. Somebody's got to read the meter. Somebody's got
22 to make sure that the billing is transferred to the new buyer, the
23 new owner or resident.

24 Q. Is there something in the wording under the \$100
25 fee that would help make that connection as far as--

1 A. I don't understand what you're saying.

2 Q. --help--help support what you're--what you're
3 arguing?

4 A. Somebody has to be paid to go up there and do it.
5 Someone has to read it. Someone has to change the billing for
6 the new customer. That doesn't just happen for free.

7 Q. Does it say under the \$100 for change in service or
8 change of name or for reading the meter?

9 A. That's the interpretation of you. Would you like to
10 get--I don't know.

11 Q. Mr. Olsen, I--

12 A. I--I--my interpretation is that someone has to pay it
13 and then go hook up their meter service.

14 Q. Okay. Okay. Let's move on. On page 5 of the
15 tariff, which is entitled rules and regulations, it states, under
16 "Service Connections," "Any party desiring to obtain a supply of
17 water from the company shall make application in writing." Do
18 you require application in writing, sir?

19 A. Never knew I was supposed to do it.

20 Q. Did you ever read this tariff?

21 A. Not really. I had people working for me that took
22 care of this stuff.

23 Q. And you're the manager of the water company; is
24 that correct?

25 A. Well, I'm the owner, but I had managers of it.

1 Q. Well, you testified earlier, sir, that you're currently
2 the manager.

3 A. Ma'am, the people that I had working for me were
4 the managers. When I laid them off, I got put in that spot myself
5 because of money or the lack of money--

6 Q. Okay.

7 A. --okay? It's not something I want to do.

8 Q. Okay. I'm not making a determination--

9 A. Well--

10 Q. --about whether it's something you want to do or
11 not.

12 A. All right. Well, I got donated the job.

13 Q. You're the owner of the company; is that correct?

14 A. Right.

15 Q. And you did testify earlier that as a result of certain
16 things that have happened, you are the acting manager, correct?

17 A. Correct.

18 Q. Okay. Thank you.

19 A. All right.

20 Q. Okay. Down a few lines, please, if you would go to
21 paragraph 8, this states as follows, "Service Turn-on and Turn-
22 Off. No unauthorized person shall turn the water from any main
23 or distribution pipe into any service pipe. Service may be turned
24 off by the company when so requested by the applicant or when
25 the applicant fails to abide by these regulations. Whenever the

1 water is turned off from any premise, it shall not be turned on
2 again until the applicable charge shown in the rate scheduled
3 has been paid." Have you ever read that before, sir?

4 A. No.

5 Q. Okay. On page 6, please, paragraph 11, "Reading
6 of Meters," and I'll read the paragraph: "All meters will be read
7 by the company each month, excepting November, December,
8 January, February, and March. The monthly charge"--"charges
9 for the months when meters are read shall be based upon the
10 meter readings, except as provided in paragraph 4 herein above.
11 The monthly charge for the months the meters are not read will
12 be a rate of \$35 per month. In the event that any . . . surpasses,
13 on average, 10,000 gallons per month, an average [sic] charge
14 will be assessed based upon the rate schedule."

15 Are you aware, sir, that--based on this tariff, that
16 the base rate is \$35 and goes up from--from that point based on
17 usage?

18 A. Yes.

19 Q. And that's what you're currently charging, correct?

20 A. Right.

21 Q. And that was effective rather recently from--

22 A. Back when Craig said we should follow the tariff.

23 THE HEARING OFFICER: Okay. All right, sir. I
24 may have some additional questions for you. I'm going to open
25 the opportunity now for the complainants who wish to do so to

1 ask questions. And Mr. Richins, do you wish to go first?

2 MR. RICHINS: I would, please. Thank you.

3 THE HEARING OFFICER: If you kindly would,
4 identify yourself again. I may not always remember your names.
5 Thank you.

6 MR. RICHINS: I'm Elmo Richins, and I own the
7 house on Lot 95 in Eagles Landing subdivision.

8 CROSS-EXAMINATION

9 BY-MR.RICHINS:

10 Q. First of all, I'd like to get some clarification. You
11 said in your testimony that when you was reading the meters that
12 the owners wasn't paying?

13 A. Correct.

14 Q. Would you clarify who the owners was that wasn't
15 paying?

16 A. The occupants of the house.

17 Q. Are any of those in this room?

18 A. No.

19 Q. Are any of the complainants?

20 A. No.

21 Q. Has any of the current homeowners ever not paid
22 you?

23 A. I'd have to look at the records, but I think most of
24 the bill has been paid other than Mr. Bates decided to short his
25 bill the last two months when he moved out. He might have

1 thought that that standby usage number was what applied to his
2 house.

3 Q. Okay. Thank you.

4 A. But I think everybody else has been pretty steady on
5 the new number, on that 35 a month.

6 Q. Now, you're saying that the \$100 hookup fee is to
7 pay someone to go up and actually read the meter and start
8 charging what the meter--for the actual usage for the current
9 homeowner?

10 A. Right.

11 Q. When I contacted the water company and started
12 getting billed \$55 a month, no one came up and read my meter.

13 A. No.

14 Q. No. Okay. Thank you.

15 A. It was level billing.

16 Q. And you also say according to your records, the only
17 people that have paid is the Butterfields and the Gassers; is that
18 correct?

19 A. And Monsons.

20 Q. Well, the Monsons was after Monsons produced a
21 check--

22 A. Yeah.

23 Q. --showing that the payment was made. But before
24 that, it was just the Butterfields--

25 A. Butterfields.

1 Q. --and Gassers.

2 Excuse me. I've got to collect my thoughts for a
3 second.

4 As far as the Monsons' house, I want to clarify what
5 wasn't as far as a meter. The meter base and the water--the
6 plumbing was all in place, correct?

7 A. The meter base was not in there.

8 Q. The meter base was in there.

9 A. No. There was a cheater that was put in there by
10 the plumber so that they could get water into the house during
11 the construction, but there was never a meter installed.

12 Q. I'm not asking about the meter. I'm asking about
13 the meter base.

14 A. Well, the yoke is a whole different story. You're
15 asking meter base. No, there's no meter base in there. It was
16 just the yoke. The yoke that receives the meter has nothing to
17 do with the meter.

18 Q. It has everything to do the meter.

19 A. No. No, it doesn't.

20 Q. Okay. If I was to, say, want to buy a lot, say, Lot 1
21 that's vacant--

22 A. Okay.

23 Q. --and I want to get the water hooked up, what
24 procedure would I have to do to do that?

25 A. You have to bring in your connection fees to pay for

1 that. I would have Eric go up there and hook it up.

2 Q. So I would have to actually pay you before you hook
3 it up?

4 A. Just like the Orrs did.

5 Q. Just like the Orrs did. Thank you.

6 And the Orrs paid the \$4,000 and then you set the
7 fee, and now they're paying a \$10 standby fee. Is that what I
8 understand?

9 A. Until they start building their house.

10 Q. Is there any other property owners up there paying
11 a \$10 standby fee?

12 A. No.

13 Q. And that's why I needed a clarification of the
14 standby fee. From what I understand, it's supposed to be
15 charged to any vacant lot that is in the subdivision?

16 A. Is that right?

17 Q. That's what I--I looked it up on the Internet and
18 that's what it basically said. Any vacant lot that's--water usage
19 area that the subdivision--so it's--the purpose is to supplement
20 the water company until the actual house is built and--and the
21 rates can continue to start paying.

22 THE HEARING OFFICER: Mr. Richins, are you
23 asking me a question?

24 MR. RICHINS: Well, I'm--my interpretation of the
25 standby fee--I'm just trying to clarify what that is.

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BY MR. RICHINS:

Q. Is that the way you understand it?

A. I don't know.

Q. Well, you're charging the Orrs a standby fee, but--

A. I don't know about vacant lots with anybody that hasn't bought. I'm talking about the ones that bought a lot that want water service.

Q. Well--

A. She wanted her water service hooked up so she knew it was ready so when she got ready to start her house, it was already set and ready to go.

Q. And is there any other lots up there that have the water bases set?

A. No.

Q. There's not?

A. Nope. There is yokes and cans, but there's no meter base.

Q. What's the difference?

A. The difference is, you have the housing and you have the--the apparatus for the meter base, but there's no meter. You have to pay for the meter and put it in before you get service.

Q. So is the fee for the meter set--is that for setting the yoke and the can or just the--

A. Meter.

1 Q. --meter?

2 A. Uh-huh (Affirmative).

3 Q. I disagree with that.

4 According to your records, when--I'm assuming this
5 is when this all came about was when the Orrs came to you and
6 said they wanted meters--a meter set so that they could get their
7 building permit to build their house. Is that when you checked
8 your records and found out that there was houses up there that
9 that fee had never been paid?

10 A. We knew that every time a house got started, they
11 needed to pay for the hookup. When that was done, I had Joni
12 go back through after we talked to Craig and ask him what we
13 should do. And he said we should bill everybody that hasn't paid
14 the water company because it's not the development company,
15 it's two separate companies.

16 Q. And in that--in your records, Monsons hadn't paid?

17 A. Well, she didn't think so.

18 Q. Well, that was in your records, right--

19 A. Right.

20 Q. --that they hadn't paid?

21 Okay. Now, Central Bank, who supplied the turn-on
22 fee--or the construction loan produced a check to--that was given
23 to Eagles Landing Water and showed that it was paid?

24 A. So when she seen that, then she corrected that
25 particular house.

1 Q. Okay. Is it possible, then, that you
2 just--you could have been paid for those other lots and you
3 simply don't have record of it?

4 A. No, there's records of every house, of every check
5 that's been paid from M&T Bank.

6 Q. Except for the Monsons?

7 A. Yeah.

8 Q. Seems to reason that you could have not kept the
9 records?

10 A. What.

11 Q. Kept accurate records?

12 A. They are accurate. Every one of those checks that
13 were paid out of that account, if it would have went to Eagles
14 Landing, she would have showed it.

15 Q. And there's a lot up there that's Lot No. 6 that's
16 owned by Central Bank?

17 A. Right.

18 Q. And that lot has a can and a lid and everything on it.
19 There's no meter in it, right?

20 A. No.

21 Q. But we differ in the interpretation of the meter set?

22 A. Well, interpret all you want. Whenever we build
23 subdivisions and we put in lots and we put in the can for meters,
24 we never set a meter. That's the responsibility of the city that's
25 going to take care of the water. In this case, up there, it's

1 Eagles Landing water. It's not--it's not the bank. It's not
2 anybody else. What you see in the streets are empty meter cans
3 waiting for the meter--

4 Q. Exactly.

5 A. --okay? Okay.

6 Q. And how many of those lots are there that have
7 those on there?

8 A. In Phase 1?

9 Q. In Phase 1 and 2.

10 A. I don't know. Whichever ones aren't built on.

11 Q. Well, I went up and counted at least 14 lots that
12 have the meter can set.

13 A. In Phase 1?

14 Q. In 1 and 2.

15 A. Well, there's 18 lots in Phase 2. There's 21 lots in
16 Phase 1. You have 10 homes up there. That pretty much tells
17 you what's left other than Mrs. Orr's house.

18 Q. Well, why didn't Mrs. Orr's have a meter base in
19 there if you did the whole rest of them?

20 A. You don't get it.

21 Q. I don't get it?

22 A. No, you don't get it. There's a meter can set that's
23 always in a lot. When you request a meter set, you go put the
24 physical meter in.

25 (Addressing the hearing officer) That's what he's

1 trying to understand.

2 THE HEARING OFFICER: Mr. Richins, does that
3 adequately answer your question?

4 MR. RICHINS: Well, it answers his interpretation of
5 it. That's not the way I interpret it from--from the way it reads
6 here.

7 THE HEARING OFFICER: Okay. Just like when I'm
8 asking the questions, this is your opportunity to ask questions
9 and get answers. Try not to argue back and forth, if you would,
10 please. And if you need to ask follow-up questions to try to get
11 further clarifications, please feel free to do so.

12 BY MR. RICHINS:

13 Q. Well, I really need to be clarified on what the
14 standby fee is. Is it applicable to all vacant lots or just ones that
15 have meter sets on them?

16 A. I thought it was just for people who bought the lot
17 who paid for the fee and they're just waiting to build their house.
18 If I've misinterpreted the tariff, then maybe somebody else needs
19 to be paying a standby fee for all those months.

20 Q. Exactly, and that's my point. When you have 90--
21 well, there's 95 lots, 11 owners, that leaves you with 84 vacant
22 lots, 84 vacant lots since 2002--

23 A. No, there's not 84 vacant lots. There's only the 21
24 in Phase 1 and the 18 in Phase 2 and none of the other lots have
25 any improvements.

1 Q. Well, they don't have improvements, but they're still
2 in the boundaries of the water company.

3 A. It's not even a part of the escrow bond agreement
4 with the county. It's not even--it's a recorded lot, but there is--
5 there is no utilities.

6 Q. I don't interpret it that way, but that's fine. Even if
7 it's just the--I know you say twenty and--

8 A. Eighteen.

9 Q. Eighteen?

10 A. Twenty-one.

11 Q. So how many of those lots do you own?

12 A. Well, our name's on 18 of them, but the bank's
13 frozen it, so it's just a matter of time before they finish up taking
14 it. And they'll own it. They'll own them all.

15 Q. So at that point, the bank would be liable for the--

16 A. Every one.

17 Q. --the standby fee, right, if that's--

18 A. I don't--you're interpreting the standby fee as
19 something that's supposed to be paid by every lot right now, and
20 I don't interpret it like that. So if there's a clarification from the
21 Public Service Commission, I'm sure happy to hear it.

22 Q. Thank you. We need that clarification, I think.

23 When your brothers lived up there, you had two
24 brothers that lived up there; is that correct?

25 A. Right.

1 Q. When they lived up here, did they pay their
2 obligations to the water company?

3 A. Yes.

4 Q. That's good. Thank you.

5 THE HEARING OFFICER: What do you mean by
6 obligations, Mr. Richins?

7 MR. RICHINS: Well, when you're living up there for
8 a month and you use the water, you have to pay for it. They're
9 obligated to pay for it, right?

10 THE HEARING OFFICER: Would there have been
11 any connection fees or anything like that you're--

12 THE WITNESS: That's what he's asking.

13 THE HEARING OFFICER: --you're referring to or
14 are you talking about a monthly bill?

15 MR. RICHINS: I'm talking about the monthly bill.

16 THE HEARING OFFICER: Okay.

17 MR. RICHINS: I just want to make sure that Mr.
18 Olsen was treating all property owners equally and not just
19 picking and choosing who he wants to charge what to. Because,
20 you know, it's--it's our feeling as a property owners that Eagles
21 Landing water would be viable, would have plenty of money to
22 operate if Mr. Olsen would have followed the tariffs.

23 THE HEARING OFFICER: Do you have reason to
24 believe he has treated his relatives differently?

25 MR. RICHINS: Well, I don't have any books or

1 anything. I guess that's why I asked. He's under oath, so I
2 assume he's answering truthfully.

3 THE HEARING OFFICER: Is there some reason
4 other than just suspicion he's not treating people equally?

5 MR. RICHINS: Well, I have heard that he didn't
6 charge his brothers water, but that's secondary.

7 THE HEARING OFFICER: Well, we accept hearsay,
8 so what did you hear?

9 MR. RICHINS: That's what I heard.

10 THE HEARING OFFICER: And from whom did you
11 hear it?

12 MR. RICHINS: Other property owners up there.

13 THE HEARING OFFICER: Okay. Can you be more
14 specific?

15 MR. RICHINS: I'd rather not, but if they want to
16 share their testimony, that would be fine with me.

17 THE HEARING OFFICER: Okay. And do you have
18 any idea how they became aware of that?

19 MR. RICHINS: Maybe just from them. I don't know.

20 THE HEARING OFFICER: From the relatives telling
21 them?

22 MR. RICHINS: Yeah.

23 THE HEARING OFFICER: Okay.

24 BY MR. RICHINS:

25 Q. The water service--we already discussed the water

1 service, but--with Brother--or Mr. Workman as far as his--he went
2 up there on his own after your brother moved out and he turned
3 the well on, filled up the water, and he did that for about two--

4 MR. WORKMAN: I'll come do that. That's fine.

5 MR. RICHINS: All right. I have no more questions.

6 THE HEARING OFFICER: Okay. Before we move
7 to the next person, let me just ask a couple of follow-up
8 questions, if I may, please.

9 FURTHER EXAMINATION

10 BY-THE HEARING OFFICER:

11 Q. Mr. Olsen, you've expressed your position about the
12 standby fee and also indicated that maybe that needs to be
13 clarified. Just--just to go back a little bit, it was Mr. Bates'
14 testimony that he was requesting a standby fee for four months
15 total and the way that he calculated that was, he was calculating
16 it based on the two months prior to him moving in and the two
17 months that he had his house on the market after he had moved
18 out and he was awaiting the new owner to move in. And it was
19 his testimony that inasmuch as the latter portion of his--of his
20 ownership and request to go on standby, he actually did make a
21 request to go into standby. Do you remember that request?

22 A. No.

23 Q. Okay. And is there any reason in your mind why he
24 would not be eligible for standby service?

25 A. I would assume if there's a house there and there's

1 service and there's water on, whether he lives there or not, they
2 should be paid. If he wants to turn it off, we could go turn it off.
3 And then when somebody's ready to move in, we can turn it back
4 on, but then there's that turn-on fee.

5 Q. Okay. So what--if he wanted to--

6 A. We were never notified that he was leaving nor that
7 he wanted this--

8 Q. Okay.

9 A. --standby fee. I didn't think that was applicable
10 when you have your minimum that we thought we were supposed
11 to be following for the dwelling--

12 Q. Okay.

13 A. --okay?

14 Q. So back to the person that you said the standby fee,
15 under your interpretation, is applicable, explain to me again how
16 that differs from the--Mr. Bates' situation.

17 A. There's no home. Mrs. Orr requested her meter set.
18 She says, I want to make sure my water's there and it's ready to
19 go when I start my house. But she says, Under the tariff, I
20 understand there's a standby fee if I don't have a home there. I
21 says, Well, okay. I guess if that's what it is, let's do it. So that's
22 what we billed her.

23 Q. Okay.

24 A. But assuming that the house is a dwelling, they
25 should be paying the minimum unless they request the water to

1 be turned off.

2 Q. So what if there's a dwelling, but there's no water
3 usage, they're not--it's just sitting there?

4 A. They've got water in the house. They've got water
5 in the house.

6 Q. Well, you mean they have access to water?

7 A. Well, yeah. You tell me. What does--what is your
8 interpretation of the rate schedule?

9 Q. Sir, I'm asking the question--

10 A. I don't know.

11 Q. --and I'm asking you to answer.

12 A. I think they should pay it.

13 Q. Under what--under what--

14 A. They didn't request to turn the water off. If they
15 requested to turn the water off, we'd turn it off. There would be
16 no billing, but the water would be turned off.

17 THE HEARING OFFICER: Okay. All right. Let's go
18 to the next person who wishes to ask questions.

19 Is that you, sir? And would you kindly identify
20 yourself, please.

21 MR. WORKMAN: Yes. My name's Ron Workman. I
22 live on 4576 Cougar Run in Eagles Landing.

23 CROSS-EXAMINATION

24 BY-MR.WORKMAN:

25 Q. Kind of jumping around a little bit different on going

1 back to the well, as I'm familiar with the well.

2 THE HEARING OFFICER: Mr. Workman, could you
3 make sure your microphone is on and it's pulled right up to you?

4 MR. WORKMAN: Oh, green button.

5 THE HEARING OFFICER: That's great. Thank you
6 so much.

7 BY MR. WORKMAN:

8 Q. I'm real familiar with the well, and Dave knows I'm
9 familiar with the well. I went up during the summer and during
10 the winter and manually started the well pump to replenish the
11 reservoir in that well. And if anything I say is wrong, stop me
12 and correct me, Dave. So that makes me understand how that
13 well operates, manually operating it, opening the lid, and looking
14 at the reservoir and timing it to see how long it takes to replenish
15 the well for the water that was used in the summertime and in
16 the wintertime. I did it for over a year and a half.

17 Now, in the summertime, that well was used. The
18 guzzler sprinklers and systems go on in neighborhood. Some
19 people will not have any lawn at all. Some people have a quarter
20 of an acre. Some people have more. The well would use 2 feet
21 to 2 1/2 feet a day. There would be days that that pump would
22 run 8 to 10 hours to replenish what was used. And that would be
23 almost on a daily basis of going up and turning that well on and
24 in the 5 or 6 hours or 7 hours later, turning the well off.

25 Now, in the--in the wintertime, it would go 3, 4 days

1 and only use maybe a foot and a half of water. So Dave made
2 the statement that there was 95 lots. And--now, the way the well
3 uses the water, how can that well, half million, 50,000 gallons,
4 supply water to 95 lots?

5 A. It cannot.

6 Q. Has there ever been mentioned of any other well or
7 well reservoir being built in the future to take up the slack in
8 supplying water to more houses?

9 A. In that phase bonding agreement, I think they said
10 after the 53rd house, there would have to be a secondary pump
11 house put in to support the flows into the tank.

12 Q. Which house--how many houses?

13 A. Fifty-three--

14 Q. Fifty-three?

15 A. --homes.

16 Q. So your opinion, your professional opinion, because
17 you own the well, you're stating that that well is capable of
18 servicing 53 houses?

19 A. You're--you're asking an engineering question,
20 where--

21 Q. No, I'm asking Dave Olsen.

22 A. No. No, I'm telling you what the engineers told us,
23 and that was that's what it could do. Whether or not it can is a
24 different story. But that's why we hire engineers to design tanks
25 and pumps and everything else to handle and what--what the

1 flows are. The aquifers, if they are at a different level, it--the
2 recharge could take longer. And if you have a dry year, it could
3 take longer to fill. So you might have had a dry year and it took
4 longer to fill.

5 Q. But you said 53 houses. And when I was taking
6 care of well--turning it on and off manually--

7 A. Uh-huh (Affirmative).

8 Q. --because the money wasn't there to be able to
9 make it go over electronically and put it on auto, but seeing what
10 was being used on that well, I--I had a problem with it even
11 taking care of 12 to 14 houses. I even went to everybody that's
12 in this room and I think maybe one or two people that's not in
13 this room. I either physically pulled in their driveway or made
14 phone calls and told them to back off on their watering. And I
15 almost told them to cut in half what they was doing because the
16 supply and demand wasn't there on the well.

17 A. Okay.

18 Q. We could not do it. And then--but you're stating that
19 the well is capable of handling 53 houses. I could see that if we
20 all had gravel yards. But one of the reasons why we buy there,
21 one of the things we look at, when a new prospective buyer looks
22 at when they come into that subdivision is the nice, pretty lawns,
23 the nice sprinkler systems doing on, the waterfalls at the
24 beginning of the entryway that hasn't worked in years--

25 A. Uh-huh (Affirmative).

1 Q. --but it's just to draw you in. But when people come
2 in and look at our subdivision and see nothing but dead lawns,
3 they're going to start asking questions why. And we're going to
4 say, Because the water supply we have here won't handle you
5 having a lawn. You're welcome to build here, but you can't have
6 a yard unless you pay \$400 a month for your water bill. And that
7 possibly could happen. That's--just on the well thing.

8 That's what I--things I needed to say and ask you
9 and find out what your response would be.

10 You made a comment earlier about the Youngs.
11 They're not here. But you said--I'm just using them as an
12 example--you said that they haven't paid yet. Who lived there
13 before the Youngs?

14 A. The Smarts.

15 Q. Why didn't they pay that?

16 A. I don't know.

17 Q. Why are you putting the ball in the Youngs' court to
18 have to pay the bill that somebody else was supposed to pay?
19 And that is a blanket thing for everybody in this room. You're
20 putting the ball in our court where somebody else dropped the
21 ball, whether it was you or your homeowner before us or the
22 contractor before us and it just so happens the contractor before
23 us also owned the water company. The person that owned the
24 water company didn't bill the contractor, which was the same
25 person, and then that bill would have been taken care of and we

1 wouldn't be sitting here doing what we're doing today. Is that
2 correct or not?

3 A. No.

4 Q. No. But aren't you the owner of the well?

5 A. Owner of the water company.

6 Q. Who is the contractor of the five houses that's
7 mainly in question?

8 A. Hearthstone Development.

9 Q. Who owns that company?

10 A. I do.

11 Q. Why didn't you bill yourself when you built those
12 houses?

13 A. Ron, I paid \$275,000--

14 Q. That's not the question.

15 A. --to fix those houses up, and there was not--

16 Q. That's not the question.

17 THE HEARING OFFICER: Gentlemen.

18 THE WITNESS: --enough money to--you know
19 what? He's out of line.

20 MR. SMITH: Dave, just relax.

21 THE HEARING OFFICER: Mr. Olsen--

22 MR. WORKMAN: I'm not out of line.

23 THE HEARING OFFICER: --we have a question
24 pending. Just answer the question.

25 THE WITNESS: What's the question?

1 BY MR. WORKMAN:

2 Q. The construction of the house--let's just say for a
3 number--

4 A. Okay.

5 Q. --it cost \$300,000 to build this house--

6 A. Okay.

7 Q. --and you sold it for \$325,000. Why not sell it for
8 \$329,000 and take 4,000 of that 325 and put it towards the well?

9 A. Because every one of you people that bought one of
10 those houses bought a short sale and the cost of those houses
11 was a hundred to a hundred fifty thousand dollars less than what
12 it cost to build that house. And you all know that you got a good
13 deal. And I had to come out of my pocket with my own money to
14 pay the rest of the subs off to zero it out. Didn't give any money
15 for the water company, nor the connections. The whole thing
16 has been carried by my wallet. And I'm not doing it any more,
17 okay?

18 Q. That's--I don't think--

19 A. You can give all the scenarios you want.

20 Q. I don't think your problems are our problems.

21 A. Sorry, Dude. You're living there.

22 Q. I'm living there, yeah. Look at what we're going
23 there because I'm living there. I mean, I got a shingled roof.
24 You was able to pay for my roof. You was able to pay the
25 painters to come out and paint the walls. Why can't you pay the

1 plumbers and whoever hooked up the water to the house, why
2 can't that come out of the cost of building our house?

3 A. I paid it.

4 Q. You paid it?

5 A. I paid every sub on each of one of those houses.

6 Q. You paid everybody--you just said, I paid it.

7 A. But the water company.

8 Q. Why are you charging us for it, then?

9 A. Because it's a separate bill that never got paid and
10 I'm not paying any more money.

11 Q. It wasn't included in the price of the house. You
12 just said, I paid it.

13 A. It was a separate deal.

14 Q. But you just said, I paid it.

15 A. I paid--you misunderstood me. I paid all the subs.
16 The water company is not a sub. It's a different business. It's
17 supposed to be running on its own. And if it had its money, we
18 wouldn't be here because it would be carrying itself, okay? Even
19 with these few houses, if those connections would have been
20 paid, it would still have been cash flowing.

21 Q. But isn't supplying water to that house making that
22 house final for occupancy? Don't
23 you--don't you have an inspection on that house that--

24 A. Inspector inspects the house for the stuff in the
25 house. He has nothing to do with the water company, nor does

1 he have anything to do--

2 Q. No.

3 A. --with the city utilities. He's just the inspector to
4 inspect to make sure that everybody that worked on that house
5 did their job right. And because the bank shorted all the loans, I
6 had to pay for it myself out of other money I had to dig up
7 because--it wasn't your fault, but it was the bank's fault. But you
8 guys prospered with the short sale on every one of the houses.
9 That's what aggravates me. You're arguing about a \$4,000 fee
10 when every one of you got \$100,000 worth of value, or a
11 hundred-fifty. Now, that's not your fault, but I'm taking the hit for
12 it.

13 THE HEARING OFFICER: Mr. Workman, may I
14 interject for just a moment and I'll let you continue? Maybe it'll
15 help get things back on track a little bit.

16 Mr. Olsen, if I'm hearing you correctly, what you're
17 saying is that the homes that you built, which--the bank took
18 back the five homes, I believe?

19 THE WITNESS: Didn't take them all back.

20 THE HEARING OFFICER: Well, there were
21 approximately five; is that correct?

22 THE WITNESS: They're called short sales. They
23 force you to sign the documents based on what the present value
24 that someone's willing to pay.

25 THE HEARING OFFICER: Okay.

1 THE WITNESS: Okay?

2 THE HEARING OFFICER: Okay.

3 THE WITNESS: There was a couple that got
4 foreclosed on, but the others were just--

5 THE HEARING OFFICER: Okay.

6 THE WITNESS: --short sales.

7 THE HEARING OFFICER: Okay. So the short sales
8 that many of these individuals benefited from, it seems like
9 you're using that as a rationale to hold against them a \$4,000
10 charge that it--in my mind, there's just really--I--I see your
11 position. I mean, you put a lot of time and effort and money into
12 homes. Did you, at any time, place a lien on those homes for the
13 water--

14 THE WITNESS: No.

15 THE HEARING OFFICER: --for the water fee?

16 THE WITNESS: No.

17 THE HEARING OFFICER: Is there any reason why
18 you didn't--

19 THE WITNESS: I didn't think about it.

20 THE HEARING OFFICER: --to ensure that your
21 company would be paid?

22 THE WITNESS: I didn't think about it.

23 THE HEARING OFFICER: Okay. But now that
24 you're thinking about it, you're thinking: Okay. They got a good
25 deal. They're in a better position financially. Isn't that what

1 you're thinking?

2 THE WITNESS: This little water company has never
3 carried itself. I've always fed it with money. The reason why it's
4 carried is because I fed it. When I went to Craig and I told him
5 what was going on, he says, They need to pay the connections.
6 Well, I didn't ever intend this little company to make money. It
7 was just to support the houses, okay? And--and whoever ends
8 up finishing off the development, they've got to pay the
9 connections for every one of those units. This was never
10 intended to be a profit center; this is a service center.

11 THE HEARING OFFICER: I'm not sure if anybody's
12 asserting that it's a profit center.

13 THE WITNESS: It's a negative center. It's losing
14 money.

15 THE HEARING OFFICER: Which begs the question
16 of where you are in your rate case.

17 THE WITNESS: Okay.

18 MR. SMITH: And I'd like to ask him some questions
19 to clarify the rate case, if that'd be okay.

20 THE HEARING OFFICER: Sure.

21 Mr. Workman--

22 MR. WORKMAN: I have one more.

23 THE HEARING OFFICER: Let's go back to Mr.
24 Workman and we'll come back to the rate case.

25 BY MR. WORKMAN:

1 Q. You have mentioned several times--and in this
2 room, we've got pages and pages of burden on our part to prove
3 our case. You--we haven't seen one thing from anybody here
4 showing us what it costs you to run that well. You're just telling
5 us numbers. I mean, I haven't actually even heard numbers of
6 what it's cost in July and what it cost in December. How do we
7 know that what you're getting now--let's just say we're all paying
8 \$55 a month. Let's say you're bringing in \$650 a month from the
9 neighborhood. How do we know your electric bill is not only
10 \$450, so there's \$200 a month left over? We don't have any
11 numbers from you telling us what it's costing you.

12 A. (Addressing Mr. Smith) Show them this? Am I
13 supposed to show them?

14 MR. SMITH: I think you just try answer the
15 question. If you can't answer the question, you can't answer the
16 question.

17 THE WITNESS: By the time I get the checks in and
18 we pay the bills, we barely get by. The only reason we are able
19 to go pay Delco Western a little bit of money is because Mrs. Orr
20 paid her connection fee. If that wouldn't have occurred, I would
21 have still owed those people \$5,000 for the repairs to get it so
22 you never had to go back up there again, which I appreciate, but
23 you got compensated on your bill by not being charged a little
24 while.

25 .

1 BY MR. WORKMAN:

2 Q. For three months, yeah.

3 A. Right, but you still were being really good about
4 taking care of it after Rick quit.

5 Q. Yeah. But still, you--you act like you cannot
6 produce an electric bill, or you don't want to produce an electric
7 bill?

8 A. It's easy.

9 MR. SMITH: I'm going to--I'm going to just stop
10 right now. This is not the--we're not having the rate proceeding
11 today.

12 THE HEARING OFFICER: Yes. Yes.

13 Mr. Workman, I think it does need to be clarified.
14 And I think, in part, this will soothe your concern to some extent:
15 Should the rate case actually be filed, there will be
16 documentation and information that the company will be required
17 to submit. And you will have access to that information. And
18 you will have access to the opportunity to provide public input on
19 that information. So while in this proceeding there was an
20 opportunity to do discovery, really, this is a rate case question.

21 So let's see what Mr. Smith has to say about that
22 issue. I think now's a good time for him to address that. And I
23 think eventually you'll get an answer to your question.

24 FURTHER EXAMINATION

25 BY-MR.SMITH:

1 Q. Thank you.

2 Mr. Olsen, did I send you some information of what
3 you would need to--the financial information that you need to
4 gather to file a rate case?

5 A. Yes.

6 Q. Are you attempting to gather that information at this
7 time?

8 A. Yes.

9 Q. Is it taking you--are you still trying gather that
10 information at this time?

11 A. I'm trying to gather it because--because of the way
12 the things that happen with the company and researching
13 documents is taking a little longer because Joni's part-time, but if
14 I need to have her come more often, I will.

15 Q. How are you going to pay--how much does she work
16 a month right now?

17 A. She's, you know, \$250 a day. But the problem is,
18 how do I pay her unless I pay her out of my pocket, because
19 there's not enough money in the checkbook for the collections of
20 the \$35 to cover the utility bill and the-- the water testing
21 monthly to even justify paying her for two or three hours of work.

22 Q. So you've been delayed in gathering the information
23 necessary to file--

24 A. Yeah.

25 Q. --your rate case--

1

A. Yes.

2

Q. --because of lack of help--

3

A. So if I could get enough cash to pay

4

her--

5

Q. --in your office?

6

A. --so she could come in and do it, out of my pocket

7

again.

8

Q. Okay. Do you have anybody else that's able to do

9

this work?

10

A. No. She was the one that ran the books from the

11

day we started Hearthstone. And she completely understands

12

what checks went where. And she's just got to research it and

13

compile it.

14

Q. Does she work for free?

15

A. No, she's \$250 a day.

16

Q. Okay. Let's say you're not successful in collecting

17

any of the fees that we're here about today. Who are you going

18

to look to to pay--to get the company solvent?

19

A. I'll have to come up with the money myself.

20

Q. Do you have the money for that?

21

A. Not right now. And we're barely eking along every

22

month by the time they send their bills in to pay the utility bill

23

and the testing. And that's not paying me anything to go up to

24

do the testing. That's just trying to break even.

25

MR. SMITH: Thanks. That's all the questions I

1 have on that point.

2 THE HEARING OFFICER: Thank you, Mr. Smith.
3 Sir, please identify yourself.

4 MR. DUNCAN: Brent Duncan.

5 THE HEARING OFFICER: Thank you.

6 CROSS-EXAMINATION

7 BY-MR.DUNCAN:

8 Q. I have a question that--in speaking with you on the
9 phone about a year ago when you called and asked me about the
10 complaint that we had, the--the line of discussion that you
11 presented to me is very similar to what your attorney has now
12 been asking you, the same types of questions, which begs the
13 question: Who is ultimately responsible for the solvency of the
14 water company? Is it the homeowners--

15 A. No.

16 Q. --or is it David Olsen?

17 A. Eagles Landing Water.

18 Q. So if Eagles Landing Water has no money, what's--

19 A. It goes defunct.

20 Q. --what happens?

21 A. It goes defunct.

22 Q. Then what happens?

23 A. I don't know. That's a Craig question.

24 Q. Because it seems to me that your belief system is
25 no matter what the expenses may be, it is ultimately up to the

1 homeowners or the homeowner association, whatever, it's their
2 responsibility to make sure that you are solvent. Now, I don't
3 know if I believe that's correct, but it seems to me that is your
4 belief.

5 A. Nope. If the rates are wrong, they need to be
6 changed. Obviously it's not working. In years past, we fed that
7 thing thousands of dollars to keep it afloat and it has to change.

8 MR. DUNCAN: Okay. That's all I have.

9 THE HEARING OFFICER: Thank you, Mr. Duncan.
10 Mr. Paulos.

11 MR. PAULOS: I'm Chris Paulos. I live in Eagles
12 Landing in Birdseye. I've got a couple of questions or so for
13 Dave Olsen.

14 CROSS-EXAMINATION

15 BY-MR.PAULOS:

16 Q. Who actually built this house on 19664 South Lariat
17 Circle?

18 A. That's your house?

19 Q. Yeah. Who--who is the original builder of that
20 house?

21 A. We formed a company called Fortress Homes.
22 Fortress Homes was set up so Jay Spencer would run it because
23 as we were building lots in different subdivisions, if we were the
24 ones as Hearthstone Development putting our names on the
25 homes, it created conflict with the other builders. So it was truly

1 Fortress Homes. And he was in charge of Fortress Homes, but I
2 was the backing for Fortress Homes as--as myself and the
3 development company guaranteeing the loans.

4 Q. Okay.

5 A. He was a construction manager, superintendent,
6 foreman over the jobs.

7 Q. Who was the very first person that actually
8 purchased that home--

9 A. Rick--

10 Q. --on 19664 South Lariat Circle? Who was it?

11 A. Rick Olsen. Rick and Susan.

12 Q. Okay.

13 A. Well, they were supposed to. They never paid me.

14 Q. Okay. My question is--yes, they did purchase that
15 house.

16 A. Real estate contract.

17 Q. Okay. Why wasn't that \$4,100--why wasn't that
18 collected, or was it collected?

19 A. Rick was supposed to get a new loan and get it
20 refinanced because I was carrying it, and he never did. And if he
21 had have paid me what he owed me back then, this wouldn't
22 even be an issue and you wouldn't be having a bill.

23 Q. Okay. I understand that, but I know you stated that
24 every home that was purchased by an owner at first and you
25 stated that--that--that water meter and turn-on fee should have

1 been collected?

2 A. Uh-huh (Affirmative).

3 Q. Why wasn't it collected, really?

4 A. I don't know.

5 Q. So my next question is, why--if it wasn't collected
6 from the beginning like it's supposed to, if I'm right, it's in the
7 tariff, right?

8 A. Right.

9 Q. So why--well, basically, you say it wasn't collected
10 because he didn't pay you, so I don't see anywhere in the tariff
11 saying that the next person who actually bought the house in
12 some kind of default short sale or foreclosure saying that the
13 next person come along has to pay it.

14 A. I answered your question earlier. And that's
15 because I paid the rest of the subs and the water company never
16 got paid its connection fees on every one of those first owners.

17 Q. Okay. Well, why did it take seven years for the bill
18 to come out?

19 A. Seven?

20 Q. Yeah. I mean, the house was built in 2007.

21 A. How long has our financial crash been going on?
22 And how many projects did I have I had to try to clean up and
23 how long have I been trying to clean up this project that the bank
24 won't let me clean up?

25 Q. Okay.

1 A. This is one of those deals that will never stop.

2 Q. Okay. How long did Rick and Susan Olsen live in
3 that house?

4 A. I don't know. Too long.

5 Q. Okay. I've lived there a little more--oh, about a year
6 and a half. Why--why, in that time, did I deserve that bill, really.

7 A. And why didn't they pay? They never had any
8 money.

9 MR. PAULOS: That's all I have to say. Thanks.

10 MR. RICHINS: Anybody else?

11 Do you have some questions? Oh.

12 THE HEARING OFFICER: If there are other people
13 with questions, please feel free to take a seat at the table.

14 Mrs. Gavrila, right?

15 MS. GAVRILA: Yes.

16 THE HEARING OFFICER: Okay. Great. Please
17 identify yourself, if you would, please, for the record and go
18 ahead.

19 MS. GAVRILA: Mary Gavrila. I live on Lariat Circle.

20 CROSS-EXAMINATION

21 BY-MS.GAVRILA:

22 Q. I just have a little bit of a question in regards to the
23 standby fee. There was conversation about--

24 THE HEARING OFFICER: Please use your
25 microphone.

1 MS. GAVRILA: I'm sorry.

2 THE HEARING OFFICER: You need to push the
3 button until it turns green--

4 MS. GAVRILA: Got it.

5 THE HEARING OFFICER: --and then have it right in
6 front of you.

7 BY MS. GAVRILA:

8 Q. You indicated that you didn't feel the standby fee
9 was applicable to the Bates. As it was testified earlier, he
10 indicated that the sprinklers had been on in September, and then
11 in October and November, no water was being used. It--wouldn't
12 it stand to reason with you that the standby fee makes more
13 sense than having pipes freeze or--or no access?

14 A. I don't know. It's his house. If he's not there, he
15 should have figured out something to take care of it.

16 Q. Well, I think that was the point was with the standby
17 fee to leave the water on.

18 A. He never notified us that he moved out--

19 Q. Well--

20 A. --so how did we know when he was gone? The only
21 way I knew he was gone is when the new buyer called and said,
22 Can you please switch the billing to our name?

23 THE HEARING OFFICER: Mr. Richins--I don't
24 believe a question is pending, so if you would kindly--

25 THE WITNESS: Who?

1 THE HEARING OFFICER: I'm sorry. Mr. Olsen. I
2 don't believe a question is pending, so if you would kindly
3 respect the Commission, as well as the person who's asking the
4 question.

5 Ms. Gavril, please . . .

6 MS. GAVRILA: I believe Mr. Bates is on the line, is
7 he not?

8 THE HEARING OFFICER: No, he left us. He left
9 us.

10 MR. BATES: No, I'm still here.

11 THE HEARING OFFICER: Oh, you are.

12 MR. BATES: I am here.

13 THE HEARING OFFICER: Wow. Okay.

14 MS. GAVRILA: I'll let him address that particular
15 piece.

16 THE HEARING OFFICER: I didn't realize that. I
17 thought he left us long ago.

18 My apologies, Mr. Bates.

19 MR. BATES: That's okay.

20 BY MS. GAVRILA:

21 Q. You indicated earlier that people were water hogs.
22 And yet the meters have not been read until most recently. Can
23 you verify with me that all meters that were set were brand new?
24 Were there--was there any readings on them at the time that they
25 were put in?

1 A. They were all new. When the houses were new,
2 those were all new meters.

3 Q. Okay. All right. I also understood in previous
4 testimony that there had been some faulty readings or some
5 problems with the well. I believe Mr. Workman mentioned
6 something about that--

7 A. Faulty readings.

8 Q. --that there were some problems with accuracy?

9 THE HEARING OFFICER: Ms. Gavril, are you
10 referring to the well or to the meters?

11 THE WITNESS: I don't know what you're talking
12 about.

13 MR. WORKMAN: Meter.

14 MS. GAVRILA: Well, to the well, I guess. Was
15 there--may I have him . . .

16 THE WITNESS: No.

17 MS. GAVRILA: No? Maybe I misunderstood.

18 MR. WORKMAN: Can I . . .

19 THE HEARING OFFICER: Why don't you wait your
20 turn, sir.

21 MR. WORKMAN: I already had my turn. I just want
22 to clear up what she was talking about.

23 THE HEARING OFFICER: Okay. Please go ahead.

24 MS. GAVRILA: And maybe I misunderstood, but--go
25 ahead.

1 MR. WORKMAN: Start over again.

2 MS. GAVRILA: Oh. Well--

3 MR. WORKMAN: What was the question?

4 MS. GAVRILA: The question was that the meters
5 were reading really high numbers, but I understood that there
6 was a possibility that there was some problems with the readings
7 up at the well.

8 MR. WORKMAN: No.

9 MS. GAVRILA: No?

10 MR. WORKMAN: Not at the well. When the
11 plumber was over putting in the meter for the Orrs, Dave made
12 the comment about--and he even chuckled about it--that one of
13 the meters read several million gallons and you thought there
14 was a problem with that meter. And I think it might have been
15 Duncans' meter.

16 THE WITNESS: No, it was Bates'.

17 MR. WORKMAN: I'm not sure.

18 Bates'?

19 THE WITNESS: But when I go back through the old
20 records where Dustin kept track, I'm sure we'll find where that
21 stopped and then it just kept on going.

22 MR. WORKMAN: So it possibly was not a faulty
23 meter?

24 THE WITNESS: No. The meters aren't--the only
25 meter that went bad was Duncans', and I had Eric replace it

1 because it wasn't actually turning. I think it froze. When they
2 freeze, they break.

3 MR. WORKMAN: So we have to assume that these
4 meters are fault-proof?

5 THE WITNESS: Well, they're all working. The only
6 way they would stop working is if they froze.

7 MR. WORKMAN: And we--it's not required to have
8 anybody certified to read those meters and know what they're
9 doing?

10 THE WITNESS: Every month.

11 MR. WORKMAN: Somebody has--are you certified
12 to read the meter?

13 THE WITNESS: I don't think you don't have--

14 MR. WORKMAN: Is that required?

15 THE WITNESS: --to say certified. I've never heard
16 that.

17 MR. WORKMAN: Is that required, to be certified to
18 read a meter?

19 THE HEARING OFFICER: Sir, inasmuch as you're
20 asking questions, you can ask a question, but not of the
21 Commission.

22 MR. WORKMAN: Oh, okay. Well, I just was curious
23 on that--

24 THE HEARING OFFICER: Okay.

25 MR. WORKMAN: --whether we can trust those

1 meters or not.

2 THE HEARING OFFICER: Well, I--you can take a
3 look at the rules of administrative procedure. And you might
4 want to take a look at R746-330-3. It refers to meters. That
5 might help you a little bit.

6 MR. RICHINS: Would that clarify the meter set--

7 THE HEARING OFFICER: I don't know.

8 MR. RICHINS: --I mean the standby?

9 THE HEARING OFFICER: I don't know, sir. You're
10 welcome to have a look.

11 Ms. Gavrila, do you have further questions?

12 MS. GAVRILA: I do, just one.

13 BY MS. GAVRILA:

14 Q. You indicated that all of the homeowners here whom
15 you didn't have record of paying for the \$4,000 needed to pay,
16 that it was an accurate billing. You didn't build my house, so
17 why would you assume, then, that I would need to pay you?

18 A. There was no record of your house being paid for
19 that connection.

20 Q. But you weren't the owner at the time.

21 A. It doesn't matter. I'm not--for the water company,
22 it's a fee that's charged that never got paid on that lot.

23 Q. But how would you know that when it was a different
24 contractor?

25 A. The only way you're going to find out is if you go

1 check with John Wilding.

2 MS. GAVRILA: Thank you.

3 THE HEARING OFFICER: Mr. Olsen, your response
4 concerned me a little bit. Is it--is it that she needs to check with
5 her--

6 A. Well--

7 Q. --contractor or is it that your records clearly show
8 that--

9 A. Our records--

10 Q. --it hasn't been paid?

11 A. --clearly show it hasn't been paid.

12 Q. Then why would you respond to her like that?

13 A. Well, she acted like I was building her house. I did
14 not build her house.

15 Q. No, she clearly indicated you didn't build her House.

16 A. I said someone else built her house, but they didn't
17 pay it.

18 THE HEARING OFFICER: Okay. I'd like to take a
19 recess, please. And I'd like to finish up in the next--when we
20 come back, I'd like to finish up in 15 minutes. Thank you.

21 (Recess taken, 4:11-4:20 p.m.)

22 THE HEARING OFFICER: Let's go back on the
23 record.

24 And Ms. Gavrila, the floor is yours.

25 .

1 BY MS. GAVRILA:

2 Q. I just wanted to clarify a little bit when we were
3 talking about that you didn't build my home. Also, at the time
4 that it went in, you did not own the water company. And so I
5 don't understand how my home would even fall into being billed
6 by Eagles Landing Water Company when it was built at the time
7 that it was belonging to Mr. Wilding with Eagles Landing Water
8 Company. Did he, in fact, transfer records to you to indicate
9 what did or did not get paid by those before you?

10 A. He didn't give us any information.

11 Q. So you really wouldn't know if it had been paid or
12 not?

13 A. No, because they filed bankruptcy and they
14 foreclosed on both him and--

15 Q. So that, in itself, the bankruptcy itself, then, should
16 certainly wipe out the \$4,000 fee, would it not?

17 A. I don't know. That's interpretation. I was told to bill
18 who was there, so we did.

19 MS. GAVRILA: All right. Thank you.

20 THE HEARING OFFICER: Thank you, Ms. Gavrila.
21 Mr. Smith, was there something that you wanted to
22 add?

23 MR. SMITH: No.

24 THE HEARING OFFICER: Okay. Ms. Monson.

25 MS. MONSON: Thank you. I'm Pam Monson.

1 CROSS-EXAMINATION

2 BY-MS.MONSON:

3 Q. Just two questions. Would you explain why the
4 connection fee to our home was \$5,000 instead of the tariff
5 \$4,000?

6 A. It should have been four.

7 Q. It should have been four?

8 A. Uh-huh (Affirmative). Should have been 4,000.

9 Q. So that's your only explanation is it should have
10 been four?

11 A. Should have been four. Probably just a mistake.
12 Confusion.

13 Q. Okay. When a meter's hooked up, it costs \$1,000--
14 the meter itself costs \$1,000.

15 A. No.

16 Q. According to the plumber that was called, or
17 whoever installed the meters, told us that it was \$1,000, and
18 \$1,000 to hook it up. So we're wondering what happens to the
19 other 2,000. Is it put in reserve or just wanted to clarify that.

20 A. Whatever isn't used is put into reserves to help
21 carry the company. Just like when Mrs. Orr had hers hooked up,
22 whatever was left over was put in there to pay bills, which we
23 did. So--yeah. And also helped repay capital improvements for
24 when we actually paid for the system. There's \$750,000 that we
25 put out for that system, along with the \$84,000 that we had to

1 pay on top of that to get it up to par even so it could qualify to be
2 a water system. So it was supposed to help take care of the
3 repayment of capital improvements.

4 MS. MONSON: That's all the questions I have.

5 THE HEARING OFFICER: Thank you, Ms. Monson.

6 MS. WORKMAN: Diane Workman--Phyllis Workman,
7 my legal name.

8 CROSS-EXAMINATION

9 BY-MS.WORKMAN:

10 Q. Mr. Olsen, weren't you present for the tariff hearing
11 back in August 2008?

12 A. Yes.

13 Q. And do you remember the testimony that was given
14 by Ms. Schmid at the time with regards to the shortfall?

15 A. No.

16 Q. She said, I believe that we have because it's my
17 understanding that the company is going to make up the
18 shortfall. You don't recall that?

19 A. No. Mr. Smith was taking care of that for me.

20 Q. And Mr. Smith was there also, and he also referred
21 to you about making up--supplementing the cost to run the
22 company? Do you recall that?

23 A. No.

24 Q. It's in the record.

25 A. That's okay.

1 Q. When you came out to meet--read the meters the
2 two times that you've read them so far since we've lived there for
3 three years, in December, you came out and you brought
4 insulation with you. And we thought it odd--several of us were
5 watching the process of what was going on when you would open
6 up a meter and you would read it and the insulation you brought
7 with you, you laid beside Mr. Richins' meter rather than put it in
8 inside the cavity where it needed the insulation. Do you recall
9 that?

10 A. It was extra insulation. And as I read the meters, if
11 it needed it, fine; if it didn't, I didn't put it in.

12 Q. I believe Mr. Richins had attested he knew it didn't
13 have any insulation?

14 A. Did it have it before?

15 Q. Not to our knowledge.

16 A. And it hasn't froze?

17 Q. And then we watched you go on up the road and
18 also do a similar practice where you cut a piece of insulation,
19 you laid it down on the street across--across the street from the
20 existing meter from the Youngs' house, and you left it lay there
21 for the wind to blow away.

22 A. I--I don't know what you're even talking about.

23 Q. You don't recall bringing the insulation out--

24 A. I remember--

25 Q. --in December?

1 A. --bringing the insulation out, yeah, for the ones that
2 needed it.

3 Q. Do you recall reading the meter on our next door
4 neighbors' house, the Butterfields?

5 A. Yes.

6 Q. Where you took the insulation out, you read the
7 meter, you closed it back up, and then you just left the insulation
8 lay?

9 A. It was wet.

10 Q. Oh, I see.

11 What would you do if a meter froze up when you--
12 when it stopped working? Whose responsibility--

13 A. Have to have Eric come out and fix it.

14 Q. And whose responsibility would it be to pay for that
15 meter?

16 A. I guess it's ours.

17 Q. You guess?

18 A. So far there hasn't anything froze other than the
19 original winter when they went around and covered the ones that
20 were in question.

21 Q. Okay. It just really seemed like odd, odd behavior
22 to lay insulation out and pat it on the ground and let it blow
23 away. You don't recall doing that?

24 A. No.

25 Q. Since there's only ten or eleven houses, where--why

1 are meters--why were meters never read until November and
2 December 2013 when you're there on a monthly basis to come
3 out and get samples for the water? You're there every month to
4 do that.

5 A. Back to the original statement that Gene talked
6 about when we decided to do level billing, we didn't read meters
7 after that. When I was told to start reading meters from Mr.
8 Smith, I started reading the meters.

9 Q. From Mr. Smith?

10 A. Craig Smith.

11 Q. Oh, I see.

12 A. To follow the tariff, read the meters.

13 Q. Okay. And you didn't think it was applicable for the
14 past three years to read the meters?

15 A. I'm trying to help the people.

16 Q. Oh, I see. I see.

17 A. Why would you need to read the meter if it's level
18 billing?

19 Q. Why would you not share the tariff--that the tariff
20 existed, and why would you not let us know that it was our choice
21 to pay the \$55 or 35, as the--as the tariff said? Why would you
22 not say that? It would be our choice, wouldn't it, since the tariff
23 states clearly--

24 A. If we followed the tariff, you would pay the tariff
25 plus the usage. Again, it was back when the other-- back when

1 Gene was at the tail end of trying to help the homeowners get a
2 level billing.

3 Q. Wouldn't you think that it would be possible, since
4 there's only ten homes, to either communicate that information in
5 the statement or a phone call or when you're there on-site your
6 monthly visits to get the samples to let those new people know?
7 Because we didn't all come in on one day. We've trickled in over
8 the past three years.

9 A. Uh-huh (Affirmative). So what are you asking?

10 Q. Wouldn't it be nice to give that customer service to
11 your customers to let them know the existence of the tariff and
12 the \$35 fee and your level billing that you chose to do?

13 A. When we were told to do exactly what the tariff said
14 is when we switched and started reading the meters.

15 Q. Okay.

16 A. Before that, I wasn't really aware.

17 Q. You weren't what?

18 A. Aware, because my other guys were reading the
19 meters.

20 Q. You weren't aware of what?

21 A. That is exactly what we had to do, that we couldn't
22 just do level billing, that we had to follow the tariff. I didn't know
23 that it was an exact rule. I was just trying to help the ones who
24 had higher water bills. But we'll stay with the tariff.

25 MS. WORKMAN: I don't have any more questions.

1 THE HEARING OFFICER: Thank you. Ms.
2 Workman, before you finish, I wanted to ask you for some
3 clarification about--you were referring to the 2008 CPCN--

4 MS. WORKMAN: Yes.

5 THE HEARING OFFICER: --hearing.

6 MS. WORKMAN: Yeah.

7 THE HEARING OFFICER: And it look like you were
8 reading from something. Were you reading from the hearing or--

9 MS. WORKMAN: The actual--actual transcript.

10 THE HEARING OFFICER: Okay. Okay. Would you--
11 -I don't have that with me, but I have access to it. Would you
12 mind, just for the record, reading the portion or portions that you
13 were referring to.

14 MS. WORKMAN: Page No. 4 starts off in--the first
15 full paragraph is by Ms. Schmid.

16 THE HEARING OFFICER: And who is she?

17 MS. WORKMAN: She's with the Division of Public
18 Utilities.

19 THE HEARING OFFICER: Oh, okay. Patricia
20 Schmid. Okay.

21 MS. WORKMAN: She said, "With regard to the short
22 fall, I believe that we have--because it is my understanding that
23 the company is going to make up any shortfall." Mr. Smith, who
24 was there, also says, "Yeah, that's correct. Right now, we only
25 have seven connections to the system, and obviously that's not

1 enough to support a water system of the size and scope of the
2 one that we have here. It's built for build-out of 95 connections
3 when it's fully"--"that area is fully developed. And so in the
4 interim, we will be, you know, obviously the developer who is
5 also the owner of the water company, Dave Olsen, who is also
6 here, will be supplementing the cost to run the company so that
7 it can continue to function without"--"even though it will not be
8 profitable in the short run until more homes are built, more
9 connections and more revenue is available through that."

10 THE HEARING OFFICER: Thank you. Thank you,
11 Ms. Workman.

12 You may be excused. Or if you wish, you continue--
13 you can continue to sit there.

14 Mr. Bates, are you still with me?

15 MR. BATES: Yes, I am.

16 THE HEARING OFFICER: Okay. Mr. Bates, you
17 are an incredibly patient person. I had no idea you were still
18 there--and frightened me a bit--but nevertheless, I'm happy
19 you're still there. And the floor is yours, sir.

20 CROSS-EXAMINATION

21 BY-MR.BATES:

22 Q. Dave, do you have record of the last time the water
23 meters were calibrated in Eagles Landing?

24 A. Calibrated? They come already preset.

25 Q. So how long are they good for before they wear out

1 and need calibrated?

2 A. I don't know.

3 Q. All right. My next question, changing subjects a
4 little bit, the house I bought, you said that there were several
5 houses there that were purchased as short sale. I'm sure there
6 was a fairly lengthy proceeding to get the houses sold where
7 they were sitting vacant. I'm sure that, I guess, you or
8 Hearthstone Development was making payments to Eagles
9 Landing Water Company while those houses were sitting vacant?

10 A. I'd have to look and see, but I--I doubt very
11 seriously that there was--it would have to be money that we just
12 paid to carry the company. There was more money paid into that
13 little water company than--than what the typical fees would be
14 from a meter usage each month.

15 Q. So do you think that would go on a standby fee or
16 would that be the regular--

17 A. No, the regular--

18 Q. --\$35 a month?

19 A. --the regular.

20 Q. So then it did--it did--I mean, Hearthstone
21 Development made the payments then or no?

22 A. Hearthstone Development injected money into that
23 little water company year after year on its shortfalls to keep it
24 afloat, more than what the meter costs are.

25 Q. Okay.

1 THE HEARING OFFICER: Mr. Bates, does that
2 answer your question?

3 MR. BATES: No, not really--

4 THE HEARING OFFICER: Do you--you're welcome--

5 MR. BATES: --(Garbled telephone connection)
6 question, I guess.

7 THE HEARING OFFICER: You can rephrase the
8 question if you like or you can move on. It's entirely up to you.

9 MR. BATES: Yeah, I'll just move on, I guess.

10 BY MR. BATES:

11 Q. Do you have an explanation of why the \$4,000 meter
12 install was not disclosed to the buyers, I mean to me, I guess, of
13 the house when I purchased it from you?

14 A. I don't know. Just missed it. Just like the others, I
15 missed them.

16 Q. But you said your record keeping is very good.

17 A. Well, in Hearthstone. There was no money there to
18 pay it. The banks wouldn't pay it.

19 Q. Okay. Have you--you stated that Eagles Landing
20 Water Company is in a financial crisis, basically. You have
21 \$220, I guess?

22 A. Yeah, whatever.

23 Q. Have you ever considered trying to sell the company
24 or partner with somebody else that could possibly maybe have a
25 different business scheme and turn the company around?

1 A. Well, the most logical would be the homeowners,
2 but they all have to pitch in all a portion of what it would cost. If
3 there's a utility company that wants to take it on, I'd sell it to
4 them at a discount just so I don't have to mess with it.

5 Q. Have you ever advertised it or anything like that to--

6 A. No.

7 Q. --sell it?

8 A. No.

9 Q. Okay. And my last question, I guess, is: Can you
10 explain why a copy of the tariff was never mailed out to--to new
11 customers? They can get--you can get the bill to them, but we're
12 not seeing the tariff. I was just kind of curious if you have an
13 explanation why.

14 A. I wasn't aware that I was supposed to, nor Joni was
15 supposed to mail a tariff every time there was a hookup or a
16 turn-on. If I knew I was supposed to, I would have sent it.

17 MR. BATES: Okay. I have no--

18 THE HEARING OFFICER: I'm sorry. Mr. Bates, is
19 that all?

20 MR. BATES: Yeah, that's all for me.

21 THE HEARING OFFICER: Okay. Thank you very
22 much.

23 MR. BATES: Thank you.

24 THE HEARING OFFICER: You, sir?

25 MR. GAVRILA: My name is John--John Gavrila.

1 And I live on Lariat Circle. I'd like to ask Mr. Olsen a couple of
2 questions that were sparked by comments that he made during
3 the previous testimony.

4 CROSS-EXAMINATION

5 BY-MR.GAVRILA:

6 Q. You called almost like--what is your interpretation of
7 reserve?

8 A. Reserve?

9 Q. Reserve monies.

10 A. Well, so far, there hasn't been any money to pay
11 back any capital investment. And the reserves take care of any
12 incidentals that may come up for repair or maintenance to the
13 system, when, in fact, this last summer there was a repair for
14 Delco Western that we were not prepared, and it was about
15 \$5,000. And there's no way to pay it. So that would be reserves
16 to be taking care of things that come up--maintain the system to
17 keep it going.

18 Q. Then what is your interpretation of cash flow?

19 A. Cash flow?

20 Q. Yeah. Because you've used those two terms
21 together or pretty close together almost like they were both one.

22 A. No. Reserves are for repair and maintenance, and
23 cash flow is to hopefully make the system maintain itself while
24 you're receiving your payments and you're paying off your
25 expenses. Even if it's a nonprofit break even, it's not cash

1 flowing, a zero balance.

2 Q. I want to know your interpretation, sir.

3 A. There's exactly what I'm telling you.

4 Q. Okay. I was questioning that because it sounded as
5 if they were both out of the same pocket.

6 A. No.

7 MR. GAVRILA: Okay. No more questions.

8 THE HEARING OFFICER: Thank you, Mr. Gavril.

9 And if I might add, similar to what I mentioned
10 earlier when there was a question that was more rate case-
11 related, you may get further clarification should the rate case
12 actually be filed formally. At this point, there's just an intent to
13 file, so we await that filing.

14 MR. GAVRILA: Okay.

15 THE HEARING OFFICER: Okay? Anything else?

16 Okay. Mr. Smith, do you wish to do any follow-up?

17 MR. SMITH: I've just got a few questions to follow
18 up, if that's okay.

19 THE HEARING OFFICER: Okay.

20 FURTHER EXAMINATION

21 BY-MR.SMITH:

22 Q. You were read some testimony from--at least some
23 part of the record from 2008 when this tariff was approved. Do
24 you recall that?

25 A. Yes.

1 Q. And were you the developer in 2008 of the Eagles
2 Landing subdivision?

3 A. Yes.

4 Q. Are you still the developer of that?

5 A. As of record.

6 Q. As far as being able to develop the subdivision?

7 A. Right, yes.

8 Q. Are you able to develop the subdivision?

9 A. No.

10 Q. And why not?

11 A. The bank has got a loan on there larger than what
12 the lots can afford to pay, and so it's a bust. So either the bank
13 has got to be willing to take less or they've got to take it over,
14 but they've got contingent liabilities if they take it over, because
15 they've got liability with the county that they need to resolve.

16 Q. And have you been supporting this system?

17 A. Yes.

18 Q. Do you have money to continue to support the
19 system?

20 A. No.

21 Q. Do you have any hopes that there'll be future profits
22 that you can pay yourself back if you can somehow find the
23 money to continue to support the system?

24 A. Not in this project.

25 Q. When you say--how big--just so we all understand,

1 you're saying there's more debt than there is--than there is value
2 is that what you're trying to say?

3 A. Yeah, the loan is 3.7 million and the value of those
4 lots if you sell them at present day is maybe five hundred.

5 Q. 500,000?

6 A. Yeah.

7 Q. So--

8 A. So if you're the bank, would you take that much of a
9 loss?

10 Q. And I take it the bank hasn't been willing to do that?

11 A. No, they're waiting. And I don't know why.

12 Q. As from a business standpoint, does it make any
13 sense for you to try to put more money into this development?

14 A. No, not one dollar.

15 Q. Does it make any sense for you to continue to
16 support the water company?

17 A. No.

18 Q. You were asked some questions about reserves. Do
19 water lines and wells last forever?

20 A. No. You have, from time to time, lines that crack,
21 break, and they've got to be repaired. So you've got to have an
22 excavator come and repair them. You have pumps that only last
23 so long before they have to be replaced. You have obviously
24 your ongoing expenses for testing. And then you have the things
25 like with the components like Delco Western that come up that

1 sometimes go bad. In this case, they needed to be corrected.
2 But even still, it's extra money that needed to be in reserve to
3 maintain it. And it wasn't there.

4 Q. And it's--is it there now?

5 A. No, we're still negative.

6 MR. SMITH: That's all the questions I have.

7 THE HEARING OFFICER: Thank you, Mr. Smith.

8 Thank you, Mr. Olsen.

9 I wanted to follow up a little bit. And Mr. Olsen, if I
10 need to ask any questions or your response is necessary, you're
11 welcome to do it from there.

12 I sense--and this is very clear--that the situation is--
13 is very dire with the water company and it sounds like they're
14 really caught between a rock and a hard place with respect to
15 getting their rate case filed. You know, on the other one hand
16 they need to get it filed because they need to have that issue
17 evaluated by the Division and then reviewed by the Commission,
18 but it sounds like they're really unable or having a difficult time
19 justifying the fee that they may have to pay to get some
20 assistance to put their records in order.

21 I just wanted to offer this as a suggestion. I'm not
22 making any declaration. I know the Division was here earlier.
23 They're not here now. But I would highly encourage Eagles
24 Landing to have a discussion with the Division to see if there is
25 any assistance that can be offered under the--under these

1 circumstances.

2 MR. SMITH: I think that's an excellent idea. We
3 will contact the Division and ask. It's our hope to get a rate case
4 filed as soon as possible, but I think the--you've just underscored
5 exactly the kind of conundrum that we're facing. It takes money
6 to prepare the--

7 THE HEARING OFFICER: Exactly.

8 MR. SMITH: --proper filing and we just don't have
9 any money. And we understand people are upset that live in that
10 area, but they're the source of--you know, that's who we're
11 looking to, not for money right now, but--you know, we're trying
12 to get rates in place so we can keep the company going.

13 THE HEARING OFFICER: Right.

14 Now, the other thing I wanted to raise: It seems to
15 me that this--this difficulty that the company is seeing itself faced
16 with is carrying over into the fees that they're now seeking to--to
17 collect well after the four-year period, well after the new meter
18 installations. I'm just wondering, is there anything salvageable
19 about that situation that--is that something that you want to have
20 an opportunity in the last few minutes here to talk with everyone
21 about while I'm not present?

22 I--I fully understand the situation with the company.
23 I--I think that Mr. Olsen has made it very clear that the reason
24 why they're doing what they're doing--aside from the direction
25 that they were advised--is that they simply didn't do it before.

1 And I think that that's very unfortunate. It's very unfortunate for
2 the company. It's very unfortunate for the customers who are
3 now asked to be responsible for something that may or may not
4 be their responsibility.

5 I just throw that out there. I'm just trying to help
6 everybody out. It really seems like this is a really tough situation
7 for everybody.

8 MR. SMITH: Yeah, I think it is a tough situation for
9 everybody. And I would love to have a chance to talk for a few
10 minutes to the complainants here. We don't feel like we have--
11 you know, we're in an adverse situation other than obviously they
12 filed a complaint, but frankly we need to work together in order
13 to keep this company going. The one thing you didn't hear any
14 complaints about Mr. Olsen has kept the water company going.
15 He's done the testing. There's a lot worse things than having
16 high fees.

17 THE HEARING OFFICER: I hear you, Mr. Smith.
18 And I heard that in the testimony, too, when I read it. And that's
19 clearly not at issue. I think what we have here is a very dire
20 situation. And, you know, just to go back on what I said earlier, I
21 can't--you know, I can't tell you what to do, but hopefully if you
22 wish to do so, the Division can--can offer some assistance in the
23 rate case. And I'm going to give you a few minutes. You tell me
24 what you'd like. And--and I'll come back. And if for some
25 reason, there's something that resolves itself in the mean-time,

1 please let me know and we'll--we'll--

2 MR. SMITH: Okay.

3 THE HEARING OFFICER: --discuss that when I
4 come back. I can come back in--I'm here for well beyond what
5 you normally would be here for, so don't worry about that.

6 MR. SMITH: Okay.

7 THE HEARING OFFICER: You tell me: How much
8 time would you like?

9 MR. SMITH: Can you give us 15 minutes right now?

10 THE HEARING OFFICER: Sure. I'll be back about
11 six after.

12 And we're off the record.

13 (Recess taken, 4:49-5:29 p.m.)

14 THE HEARING OFFICER: We're back on the
15 record.

16 MR. SMITH: We made some proposals to the
17 homeowners, just trying to have some sort of cooperative effort
18 to come up with rates and a budget, but their consensus--and I
19 don't want to put words in their mouth, but they just want a ruling
20 on this case.

21 THE HEARING OFFICER: Okay. Okay.

22 MR. RICHINS: I think that would be accurate.

23 THE HEARING OFFICER: Mr. Smith, I want to give
24 you one last shot on the \$4,000 charge, since I really focused on
25 Mr. Olsen on that issue before we closed for the day. Is there a

1 legal argument that you have to support asking for that fee?

2 MR. SMITH: Yeah, there are a couple I'd like to
3 take a minute and talk about. One is, I think it's the Monsons
4 who just installed a meter. It's a onetime charge when a meter's
5 installed. I think it's clear that that rate needs to be paid for that
6 property. They never paid it before. And they just had a meter
7 installed. That's all you get for that \$4,000 is a meter.

8 THE HEARING OFFICER: And refresh my
9 recollection: Are the Monsons challenging that point?

10 MR. SMITH: They were, yeah.

11 THE HEARING OFFICER: Okay.

12 MS. MONSON: No, wait.

13 MS. GAVRILA: They paid.

14 MR. RICHINS: They're the ones that paid.

15 MS. MONSON: We paid it.

16 MR. SMITH: I mixed up. Which one am I talking
17 about?

18 MR. RICHINS: You're talking about the same one,
19 but you already said that you would . . .

20 MR. SMITH: Duncans are the ones.

21 MR. OLSEN: Duncan was a new meter because the
22 old meter went bad.

23 MR. SMITH: Okay.

24 THE HEARING OFFICER: Okay. So I'm following
25 your theory.

1 MR. SMITH: Okay. Well, I get guess my facts
2 aren't too straight, and I apologize.

3 THE HEARING OFFICER: Are there any of the
4 complainants who do, in fact, have new meters other than the
5 one we've identified who's already paid?

6 MR. SMITH: Yeah, we also provided a new meter
7 for Duncans.

8 THE HEARING OFFICER: Was that a replacement
9 meter?

10 MR. SMITH: This was a replacement meter.

11 THE HEARING OFFICER: As a result of some
12 malfunction or something?

13 MR. SMITH: Yeah. The meter didn't work.

14 THE HEARING OFFICER: Okay. So is it your--is it
15 your contention that it should apply in that situation as well?

16 MR. SMITH: Well, yeah, I think--you know, my
17 contention is--is this, that--you know, these fees have never
18 been paid. They've never been charged before. Whether--you
19 know, that--we didn't feel like, as a company, we could kind of
20 pick and choose and forgive fees that should have been--that
21 were in the tariff. Some people have paid them; some people
22 haven't. We think that causes some kind of equitable problem
23 among the people that live there because some people that live--
24 you know, there's three or four people that paid them; the rest
25 haven't paid those. So we felt it was our responsibility to try to

1 collect those fees. If we can't legally collect them, I guess the
2 four-year thing is the issue.

3 THE HEARING OFFICER: Well, there's also the
4 language in the tariff itself, which--which says--refer to the new
5 meter installation.

6 MR. SMITH: Right. But all of these--all these did
7 have a new meter--they all have a meter. They all had a meter
8 installed, and none of them paid--the ones never paid this.

9 THE HEARING OFFICER: At some point in time,
10 right?

11 MR. SMITH: At some point in time.

12 THE HEARING OFFICER: Right. It may have
13 preceded their ownership, if I understand the testimony.

14 MR. SMITH: Right.

15 THE HEARING OFFICER: So--okay.

16 MR. SMITH: And if we don't collect this money,
17 we're going to collect it from the same people through a different
18 method. That's really what this is about.

19 THE HEARING OFFICER: Okay. Okay. Anything
20 else?

21 MR. SMITH: No, I don't have anything else.

22 THE HEARING OFFICER: I appreciate you
23 clarifying that.

24 And ladies and gentlemen, thank you for being so
25 patient and--and willing to spend your entire day here today. I

1 really appreciate all the testimony. And everything's--responses,
2 the questions--everything's been very helpful.

3 At this point, the Commission will take the matter
4 under advisement. And we'll issue a ruling and we will await the
5 transcript before we start doing that before we start issuing--
6 before we start drafting the order. So I'm not going to give you
7 an exact time frame, but we hope to have something for you in
8 the near future.

9 And in the meantime, as I mentioned, I do
10 encourage the company to communicate with the Division.
11 Hopefully, the Division can be of some assistance in the rate
12 matter.

13 MR. SMITH: Thank you. We'll do that.

14 THE HEARING OFFICER: And have a good evening
15 and drive carefully.

16 (Proceedings concluded at 5:38 p.m.)
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CERTIFICATE

This is to certify that the foregoing proceedings were taken before me, SCOTT M. KNIGHT, a Registered Professional Reporter and Notary Public in and for the State of Utah, residing at South Jordan, Utah;

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

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

Scott M. Knight, RPR

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