

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of the Application
Of Willow Creek Water Company for
A General Rate Increase,

Docket No. 13-2506-01

~~~~~  
SUPPLEMENTAL HEARING  
ADMINISTRATIVE LAW JUDGE REIF  
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TAKEN AT: Heber M. Wells
160 East 300 South
Salt Lake City, UT

DATE: August 20, 2013

TIME: 12:00 noon

REPORTED BY: Kellie Peterson, RPR

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APPEARANCES

FOR THE DIVISION:

Patricia Schmid, Esq.

DIVISION OF PUBLIC UTILITIES

160 E. 300 S.

Fourth Floor

Salt Lake City, UT 84111

ALSO APPEARING:

Mark Long

Beau Lewis

Steven Taylor

Alton Veibell

Keith Hanks

(Telephonically) Nathan Erickson

(Telephonically) Natalie Erickson

(Telephonically) Debra Carlson

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EXHIBITS

Ex. No.	Description	Page No.
Co. No. 1	Notice of Supplemental Hearing	12
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1

Supplemental Hearing

2

August 20, 2013

3

PROCEEDINGS

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ADMINISTRATIVE LAW JUDGE REIF: We will be

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on the record. Thank you everyone for joining in this hearing

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today. This is Docket 13-2506-01, entitled, "In the matter of the

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application of Willow Creek Water Company for a general rate

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increase," and this is the supplemental hearing that has been

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noticed in this matter regarding the general rate case.

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And we last convened in this matter on August 1st,

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where we held earlier in the morning the general rate increase

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hearing, and then in the afternoon, we heard from several

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customers who raised concerns about the pending application.

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And as a result of the concerns that have been raised in that

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application and, in part, to address the concerns that Ms.

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Schmid has raised just prior to us going on the record about the

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procedure that will be held today and the process, the

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Commission anticipates that, essentially, what's provided for in

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the notice will be what the Commission wishes to hear.

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And that is not to preclude if there are questions or

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other concerns, that those cannot be raised, but for the most

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part, I believe that the case in chief has been heard. We're not

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asking to rehash that issue. What we are asking is that the

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Division and the applicant both address concerns were raised at

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the public witness hearing, and we also are offering the

1 opportunity for those public witnesses to participate in this
2 hearing, inasmuch as they choose to do so.

3 And just to clarify, as stated in the notice, the
4 Commission wishes to hold a supplemental hearing to allow
5 interested parties, including any public participants, and public
6 participants we would anticipate would include the customers
7 who wish to participate in an opportunity to further address their
8 positions about customer concerns that their water shares are
9 allegedly affected by the proposed general rate increase, and
10 that came about as a result of the public witness hearing held
11 on August 1st, so we wish to take further input on that issue.

12 And next as listed later in the notice, the
13 Commission request the Division and Willow Creek, ie, the
14 Company, come prepared to address the current tariff, the tariff
15 which was approved by the Commission in 2009, and whether
16 the general rate increase proposed by the Company will have
17 any bearing on the shares of common stock in the Company,
18 and that particular statement is in quotes, owned by customers
19 as stated in the tariff.

20 Additionally, the Commission requests both the
21 Division and the Company address the commitments to fund the
22 water system stated in the originally hearing establishing the
23 basis for issuance of the Company's certificate of convenience
24 and public necessity, also known as CCPN, in Docket
25 09-2506-01 as follows, and this particular quote comes from the

1 actual order authorizing the CCPN and is from page 2 of that
2 order.

3 Wherein, it states that the Company stated that its
4 rates will not recoup capital costs of the water system, but were
5 only meant to recoup operational expenses. The Company
6 stated that the capital costs will be recovered through the sale
7 of lots in the subdivisions. The Company also stated that the
8 costs have been completely paid for and there is no debt
9 associated with the construction of the water system.

10 Ms. Schmid, does that help answer your question?

11 MS. SCHMID: It does, thank you.

12 ADMINISTRATIVE LAW JUDGE REIF: Any further
13 questions regarding the process?

14 MS. SCHMID: No further questions.

15 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
16 you. Any other questions before we begin this morning? Excuse
17 me, I seem to think we are in the morning but we are in the
18 afternoon. I am usually doing this in the morning. Thank you
19 again for being here today. We really appreciate it. The
20 Commission wants you all to know that it takes this proceeding,
21 as it does all proceedings, very seriously and wishes to make an
22 informed decision. And in doing so, felt that this supplemental
23 hearing was necessary to flush out the issues that the
24 customers raised at the last hearing.

25 So that being said, I am Melanie Reif. I serve as

1 the administrative law judge for the Utah Public Service
2 Commission and I will be conducting this hearing today. And at
3 this point, I would like to allow each participant to identify
4 themselves. We will start with the Company, and, Mr. Veibell, if
5 you would please make your appearance, listing your name and
6 the spelling of your name for the court reporter.

7 MR. VEIBELL: My name is J. Alton, Veibell, initial
8 J, A-L-T-O-N, V-E-I-B-E-L-L.

9 ADMINISTRATIVE LAW JUDGE REIF: And, sir,
10 could you identify your association with the Willow Creek Water
11 Company?

12 MR. VEIBELL: I am the vice president and also the
13 treasurer.

14 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
15 are you also the owner and developer?

16 MR. VEIBELL: Yes, uh-huh.

17 ADMINISTRATIVE LAW JUDGE REIF: Of the
18 Water Company or--

19 MR. VEIBELL: No, just my subdivision.

20 ADMINISTRATIVE LAW JUDGE REIF: Okay.

21 MR. VEIBELL: Peter-Borough Partnership, they
22 have 60 percent and I have 40 percent of the Water Company.

23 ADMINISTRATIVE LAW JUDGE REIF: Okay. So
24 as it pertains to the Water Company, you are the VP and the
25 treasurer?

1 MR. VEIBELL: Yes, uh-huh.

2 ADMINISTRATIVE LAW JUDGE REIF: Mr. Taylor?

3 MR. TAYLOR: Steven Taylor, S-T-E-V-E-N,
4 T-A-Y-L-O-R, and I am on the board of the Water Company. I
5 am the secretary for the Water Company and, also, a real estate
6 agent for Mr. Veibell.

7 ADMINISTRATIVE LAW JUDGE REIF: And you, sir,
8 Mr. Hanks?

9 MR HANKS: Kevin Hanks. I am the certified
10 operator of record for the system.

11 ADMINISTRATIVE LAW JUDGE REIF: And could
12 you help me understand what you mean by certified operator?

13 MR. HANKS: The State requires that every system
14 have a certified operator to verify the disinfection, to verify the
15 correct operation of the system, that safe water is being
16 provided to the downstream owner--or customers of the water
17 system.

18 ADMINISTRATIVE LAW JUDGE REIF: Thank you,
19 Mr. Hanks. And is your capacity as a contract employee?

20 MR. HANKS: I am under a contract with the Water
21 Company. They do not pay me. They are just paying some of
22 my expenses at this point in time. We will revisit that obligation
23 in a year or two from now.

24 ADMINISTRATIVE LAW JUDGE REIF: Okay. So
25 you are not an employee of the Water Company?

1 MR. HANKS: No.

2 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
3 you.

4 And, Mr. Veibell, just for clarification, you are
5 representing yourself today; is that correct?

6 MR. VEIBELL: Yes, ma'am.

7 ADMINISTRATIVE LAW JUDGE REIF: You are
8 doing so in a pro se status, meaning that you do not have legal
9 counsel here representing you?

10 MR. VEIBELL: That's right.

11 ADMINISTRATIVE LAW JUDGE REIF: And you
12 choose to proceed under those circumstances?

13 MR. VEIBELL: Yes.

14 MR. TAYLOR: Point of clarification; we do have
15 legal counsel and as a Water Company, we've chosen not to
16 bring them here for the hefty sum that we may have to pay. So
17 that is why we are representing ourselves.

18 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
19 you very much.

20 Mr. Veibell, I am going to ask you one other thing
21 before I move on to appearances from the other parties. It's
22 just a bit of clarification. The notice that was issued, on August
23 9th, requested that the Company provide notice--that, in fact,
24 provide a copy of the notice that the Commission issued to each
25 of its customer by Thursday, August 13, 2013.

1 MS. VEIBELL: Yes, uh-huh.

2 ADMINISTRATIVE LAW JUDGE REIF: Did the
3 Company, in fact, do that?

4 MR. VEIBELL: I hand delivered a few of them and
5 then I put the others in the mail, and that was a week from last--
6 a week from yesterday--no, a week from yesterday.

7 ADMINISTRATIVE LAW JUDGE REIF: Okay.

8 MR. TAYLOR: And we have copies for --

9 ADMINISTRATIVE LAW JUDGE REIF: So a week
10 from yesterday would have been the 12th? So that would have
11 been the day?

12 MR. VEIBELL: Yes.

13 ADMINISTRATIVE LAW JUDGE REIF: Very good. I
14 just wanted to make sure that we're fine on the notice issue.

15 And, Mr. Taylor, did you --

16 MR. TAYLOR: We do have copies for each of you
17 of what we delivered.

18 ADMINISTRATIVE LAW JUDGE REIF: Do you wish
19 to submit that as an exhibit.

20 MR TAYLOR: Yes, we would.

21 ADMINISTRATIVE LAW JUDGE REIF: Okay, sure.

22 MR. TAYLOR: We submitted an additional--we
23 submitted a tariff, attached to the proposed tariff, and we also
24 submitted the rate comparison sheet that was presented to us
25 by Mark Long.

1 ADMINISTRATIVE LAW JUDGE REIF: Okay. Now
2 when you refer to the rate, the tariff sheet, do you mean the
3 tariff sheet as recommended by the Division?

4 MR. TAYLOR: As recommended.

5 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
6 you. Okay. So I am marking this Company Exhibit No. 1.

7 Company Exhibit-1 marked

8 ADMINISTRATIVE LAW JUDGE REIF: And, Mr.
9 Veibell, it's your testimony that a copy of this document was
10 provided to each and every one of your customers on the 12th
11 of August?

12 MR. VEIBELL: Yes, uh-huh.

13 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
14 you very much for that. I really appreciate it. Ms. Schmid?

15 MS. SCHMID: Yes, Patricia E. Schmid,
16 S-C-H-M-I-D, with the Attorney General's Office, representing
17 the Division of Public Utilities. With me is Mark A. Long from
18 the Division.

19 ADMINISTRATIVE LAW JUDGE REIF: Thank you.
20 Mr. Lewis, could you kindly enter your appearance by stating
21 and spelling your name, please, for the record?

22 MR. LEWIS: Sure my name is Beau Lewis,
23 B-E-A-U, L-E-W-I-S, and I am a homeowner.

24 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
25 we have several individuals on the telephone. I am not exactly

1 sure who we have joining us but if we could, in some, in some
2 order, I don't know if you are all together or not, but if
3 somebody could go first and please identify yourself. State your
4 name and spell your name. Please. For the record.

5 MS. CARLSON: I am Debra Carlson D-E-B-R-A,
6 C-A-R-L-S-O-N, and I am a residential customer.

7 ADMINISTRATIVE LAW JUDGE REIF: Okay. Ms.
8 Carlson, if there is any possible--if you could speak up when
9 you do speak again, I think that would really help a lot.

10 MS. CARLSON: All right. I will yell.

11 ADMINISTRATIVE LAW JUDGE REIF: Please,
12 please.

13 MS. CARLSON: Or use a different phone.

14 ADMINISTRATIVE LAW JUDGE REIF: Okay, very
15 good. And next, please?

16 MRS. ERICKSON: My name is Natalie Erickson,
17 that is N-A-T-A-L-I-E, E-R-I-C-K-S-O-N, and I am a homeowner.

18 MR. ERICKSON: My name is Nathan Erickson,
19 N-A-T-H-A-N, E-R-I-C-K-S-O-N. I am also a homeowner.

20 ADMINISTRATIVE LAW JUDGE REIF: And do we
21 have anybody else on the line? Okay. For those customers
22 who just identified themselves for clarification on the record, is
23 it the Commission's correct understanding that you are each
24 representing yourself individually and that you do not have legal
25 representation today? Mr. Lewis, is that correct?

1 MR. LEWIS: That is correct.

2 ADMINISTRATIVE LAW JUDGE REIF: Ms, Carlson,
3 is that correct?

4 MS. CARLSON: Yes, that is correct.

5 ADMINISTRATIVE LAW JUDGE REIF: And, Ms.
6 Erickson, is that also correct?

7 MRS. ERICKSON: That is correct, though I have
8 conversed with legal counsel in the past. Yet, today--

9 ADMINISTRATIVE LAW JUDGE REIF: But you are
10 not appearing with legal counsel; is that correct?

11 MRS. ERICKSON: Correct.

12 ADMINISTRATIVE LAW JUDGE REIF: Okay. And,
13 Mr. Erickson, same question for you, please; are you appearing
14 without counsel today?

15 MR. ERICKSON: That's correct.

16 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
17 you. All right. Thank you again, everyone, and with the
18 appearances having been established and notice being
19 established by the Company, let's move forward with the issue
20 of addressing the water share issue and the other issues that
21 are--that are noticed in the notice.

22 I think that for purposes of making this as simple,
23 perhaps, as possible, I think it would be very beneficial if the
24 Division, in its presentation, could take an opportunity to explain
25 and, hopefully, allay some of the misunderstanding that I think

1 may exist in this case with respect to the water shares that were
2 mentioned in the August 1st hearing, and explain what the
3 Division's understanding is of what it is the customers actually
4 hold and how that relates to the pending application by Mr.
5 Veibell.

6 Mr. Veibell, I am going to give you the same
7 opportunity, and if you wish, since you are the applicant in this
8 case and I, typically, do call upon the applicant first, if you wish
9 to go first, you are welcome to do so, to address that issue.

10 MR. VEIBELL: I guess we will go first.

11 ADMINISTRATIVE LAW JUDGE REIF: Okay. So
12 you are welcome to respond.

13 MR. VEIBELL: Now in our corporation, maybe I
14 ought to have Steve--he can explain a little bit better than I can.

15 MR. TAYLOR: Let me share a couple things with
16 you. As we close each lot and someone purchases a lot, we
17 record to title--and I am going to present this as an exhibit--a
18 Willow Creek Water Company water agreement, and it is
19 specific to each lot. It runs with the land forever, and it reads
20 as follow: For High Country Estates, this happened to be on Lot
21 No. 22, "This agreement is granting the right to become a
22 shareholder in the water cooperative and that water cooperative
23 will establish from the exiting well and springs and other wells at
24 an initial impact fee of \$5,000."

25 And it says, "This water right guarantees a

1 minimum of .9 acre feed of culinary water annually, irrigation,
2 and livestock watering as available.

3 "This water right shall run with the land to the
4 benefits of the above buyers, their successors, assignees and or
5 their heirs and shall be binding upon the sellers, their
6 successors, assignees and or heirs."

7 ADMINISTRATIVE LAW JUDGE REIF: Mr. Taylor,
8 it would be highly beneficial if you could disperse that document
9 and then read from it.

10 MR. TAYLOR: Okay, I'll be glad to, sorry.

11 ADMINISTRATIVE LAW JUDGE REIF: So I'll mark
12 this Company Exhibit No. 2.

13 Company Exhibit-2 marked

14 MR. TAYLOR: And this--

15 ADMINISTRATIVE LAW JUDGE REIF: If we could
16 backup, please.

17 MR. TAYLOR: Go ahead.

18 ADMINISTRATIVE LAW JUDGE REIF: I am sorry to
19 make you go through this again, so let's just start from the very
20 beginning. So if I am understanding you correctly, this is
21 something that each and every buyer receives.

22 MR. TAYLOR: Right.

23 ADMINISTRATIVE LAW JUDGE REIF: Okay, so--

24 MR. TAYLOR: And it'S recorded in title.

25 ADMINISTRATIVE LAW JUDGE REIF: Okay.

1 MR. ERICKSON: Excuse me, sorry to interrupt;
2 what is the name of the document you are reading from?

3 Could you identify yourself, please?

4 MR. ERICKSON: Sorry, this is Nate Erickson.

5 MR. TAYLOR: It is the water agreement, Nate, that
6 was received in your title package when the land was
7 purchased. Now it could have been received initially by the
8 contractor that purchased the lot but the original water
9 agreement, it's recorded and in the county records as a matter
10 of title.

11 MR. ERICKSON: Okay, thank you.

12 ADMINISTRATIVE LAW JUDGE REIF: Okay. Mr.
13 Taylor, if you would, please, backup to wherever you want to
14 begin, but preferably at the beginning of the document.

15 MR. TAYLOR: Basically, what this is, is an
16 agreement between the Willow Creek Water Company and the
17 owner of the lot, to be a shareholder in the Water Company, and
18 to own certain shares. And, initially, and I am going to give
19 you a little history so we know everything, in the very beginning,
20 the Water Company was designed to be a cooperative type
21 water company. In other words, the initial developers
22 determined that once all lots had been sold, that they would turn
23 the Water Company over to all the shareholders of the Water
24 Company.

25 As we found it to be extremely cumbersome and

1 time consuming to run a water company, we became a public
2 water company. We actually modified our articles of
3 incorporation and went forward with a different route to maintain
4 it as a nonprofit water company and to be able to meet all of the
5 State requirements as in regards to quality of water, so on, and
6 making sure we had what was necessary to run the Water
7 Company and support those folks. So this was the initial
8 document.

9 ADMINISTRATIVE LAW JUDGE REIF: Okay. And,
10 Mr. Taylor, before you continue, please, who drafted this--

11 MR. TAYLOR: It was--

12 ADMINISTRATIVE LAW JUDGE REIF: --document?

13 MR. TAYLOR: The initial document--go ahead.

14 MR. VEIBELL: The initial document, I drafted that
15 myself originally.

16 ADMINISTRATIVE LAW JUDGE REIF: And did you
17 ever have an attorney review it?

18 MR. VEIBELL: No, unh-unh.

19 MR. TAYLOR: Gary Anderson never reviewed it?

20 MR. VEIBELL: I am not sure. Maybe he did.

21 MR. TAYLOR: I think Gary Anderson, his personal
22 counsel, reviewed it.

23 ADMINISTRATIVE LAW JUDGE REIF: And are
24 you--I realize I am ahead of myself here.

25 MR. TAYLOR: You are okay.

1 ADMINISTRATIVE LAW JUDGE REIF: Well,
2 actually, let's go ahead and put all three of you under oath all at
3 the same time. I apologize for getting ahead of myself by
4 asking you questions and not putting you under oath; although,
5 you are still technically still under oath pursuant to the last
6 hearing, so it's really is a matter of technicality, but I just want
7 to remind you that you are under oath.

8 MR. TAYLOR: That's fine.

9 ADMINISTRATIVE LAW JUDGE REIF: And you do
10 realize that you have made a sworn statement that your
11 testimony that you give in this docket is the truth. So, Mr.
12 Taylor, I also want to ask that you not give testimony on things
13 that you may not personally be aware of. So if you were not
14 personally aware that the gentleman you spoke of actually
15 reviewed this document, it is inappropriate for you to try to give
16 that testimony on Mr. Veibell's behalf; does that make sense?

17 MR. TAYLOR: That does make sense.

18 ADMINISTRATIVE LAW JUDGE REIF: Okay. So
19 just to backup, are you personally aware that this document
20 was, in fact, reviewed by legal counsel?

21 MR. VEIBELL: When we made that up --

22 ADMINISTRATIVE LAW JUDGE REIF: No, Mr.
23 Taylor.

24 MR. TAYLOR: I am not personally aware that Gary
25 Anderson reviewed it. I am personally aware that Matthew

1 Jensen, with Parr Brown, reviewed this document in detail when
2 we wrote the revised articles of incorporation.

3 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
4 you very much.

5 Mr. Veibell, did you have something more that you
6 wanted to add to that?

7 MR. VEIBELL: Well, when I originally made that
8 up, it was when--it was before Peter-Borough Partnership come
9 in and it was just both myself and Allen Burrous (sic) and we
10 only had six property owners on it. And so we made this here
11 up and then he and I went over it and figured that is the way we
12 would have it.

13 ADMINISTRATIVE LAW JUDGE REIF: Okay. So
14 this water agreement is still in use today?

15 MR. TAYLOR: It is.

16 ADMINISTRATIVE LAW JUDGE REIF: Okay. And,
17 Mr. Veibell, can you explain to me, in your own words, what you
18 believe this document transfers?

19 MR. VEIBELL: It transfers that 1.9 acre foot per
20 year and it also--if they ever sell their property, it goes with that
21 property to the new opener.

22 ADMINISTRATIVE LAW JUDGE REIF: So are you
23 conveying a water right through this document.

24 MR. VEIBELL: Yes, uh-huh.

25 ADMINISTRATIVE LAW JUDGE REIF: And are you

1 also conveying the right to become a shareholder in your, in
2 your water corporation?

3 MR. VEIBELL: Yes, uh-huh.

4 MS. SCHMID: May I have a chance to ask one
5 clarifying question and then to answer the question that you just
6 asked him about the meaning of the document? I have some
7 experience in water law and am more familiar with the impact of
8 these sorts of documents.

9 ADMINISTRATIVE LAW JUDGE REIF: So your
10 desire is to comment on Mr. Veibell's testimony or on clarifying
11 what you believe the document purports to accomplish?

12 MS. SCHMID: I would like the Division to be
13 allowed the opportunity to clarify what we believe the document
14 transfers and then to see if that is consistent with Mr. Veibell's
15 understanding.

16 ADMINISTRATIVE LAW JUDGE REIF: Okay.

17 MS. SCHMID: At the moment, I do not believe they
18 are consistent but I believe truly they are.

19 ADMINISTRATIVE LAW JUDGE REIF: Okay. Your
20 concern is well taken. Mr. Veibell had requested an opportunity
21 to go first, and, Mr. Veibell, the Division is offering to give an
22 explanation, and do you have any objection of us moving to the
23 Division at this point and then coming back to you?

24 MR. VEIBELL: No, that's fine.

25 ADMINISTRATIVE LAW JUDGE REIF: Okay. Ms.

1 Schmid, please.

2 MS. SCHMID: Thank you. What the document
3 represents--

4 ADMINISTRATIVE LAW JUDGE REIF: And are you
5 testifying or--

6 MS. SCHMID: No, I am giving a legal opinion but
7 not a true opinion, not as in a formal written opinion but I am
8 giving a legal interpretation of the document.

9 ADMINISTRATIVE LAW JUDGE REIF: Okay.

10 MS. SCHMID: As I believe the law would read it.
11 So it is a legal statement, not testimony.

12 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
13 help me understand your background. You said that you have
14 considerable water law background. Help me understand that
15 so the Commission can understand that, with respect to the
16 clarification you're providing.

17 MS. SCHMID: Yes. When I was in law school, I
18 clerked for a firm known as Clyde Pratt and Snow. I then
19 became an associate at Clyde Pratt and Snow and I did water
20 law during that time. That time, I believe, was about a total of,
21 approximately, three and a half years. Smith--not Smith, Snow,
22 the Snow--the Clyde, Pratt and Snow firm now has another
23 name but the firm had and continues to have an excellent
24 reputation as water lawyers.

25 ADMINISTRATIVE LAW JUDGE REIF: Okay, very

1 good.

2 MS. SCHMID: Okay. I believe that the document
3 does not transfer the right to own the water. That stays
4 elsewhere. It stays with the Company. What this transfers,
5 what this gives the lot buyer and its successor the right to buy a
6 share in the Water Company. So it is, they purchase a share
7 with an amount to use of water and they do not have an
8 individual water right. There is a distinction legally between a
9 share in a water company and a standalone water right.

10 ADMINISTRATIVE LAW JUDGE REIF: So the first
11 statement, where it states, "This agreement is granting the right
12 to become a shareholder," is that the part of the document that
13 you're interpreting as allowing a share to exist?

14 MS. SCHMID: Yes, and such a share is allowed by
15 the Company's bylaws.

16 ADMINISTRATIVE LAW JUDGE REIF: Okay. I am
17 not getting into that yet. We are just looking at the face of this
18 document, just the four corners of it. And that is by virtue of a
19 \$5,000 fee, it appears.

20 MS. SCHMID: Yes.

21 ADMINISTRATIVE LAW JUDGE REIF: Okay. Now
22 this next section says, "The water right guarantees a minimum
23 of .9," and then "Nine tenths, in parenthesis, feet of culinary
24 water annually."

25 So it your interpretation that that is a right to use,

1 which comes about from the share that is purchased for \$5,000?

2 MS. SCHMIDT: That is correct.

3 ADMINISTRATIVE LAW JUDGE REIF: Okay. One
4 of the complications, of course, is that Mr. Veibell is not
5 represented by legal counsel and the Division's interpretation is
6 noted.

7 MS. SCHMID: Perhaps at some point, it would be
8 appropriate to recess for a moment, and, perhaps, if Mr. Veibell
9 has the opportunity, he could seek clarification from his counsel
10 on the phone.

11 MR. TAYLOR: We already did on the way down.
12 We would be glad to share that.

13 ADMINISTRATIVE LAW JUDGE REIF: I think it
14 would be important for you to share that with us.

15 MS. SCHMID: Okay.

16 ADMINISTRATIVE LAW JUDGE REIF: Please do
17 so.

18 MR. TAYLOR: We spoke to Jeff Gittins, who is our-
19 -Matthew Jensen has left Smith Hartvigsen. Jeff Gittins is our
20 new attorney at Smith Hartvigsen. We actually spoke specifically
21 about the shares and the fact that we had revised our articles of
22 incorporation, and one of the concerns was this document was
23 used as a document entitled to record the fact that they had a
24 right to use an amount of water as a shareholder from Willow
25 Creek Water Company for a certain price.

1 The new document says that we need to issue,
2 reissue shares. We have been in the process, when we first
3 revised those articles of incorporation, and I am sure Mark Long
4 found this when he analyzed our books, we spent about \$9,000
5 in attorney fees to take care of that process. It was incumbent
6 upon us to go forward with some other share documents. We
7 have been determining whether we do that as an electronic
8 document or an actual paper document or what. We are in the
9 process of still working that out.

10 We are a small company and don't have major
11 resources, so we are in the process of still finalizing that portion
12 of it. And he told us this morning that this document solidifies
13 their right to use their shares as an owner of that share in the
14 Water Company, but the very last sentence says, "The buyer
15 shall be subject to the user fees and the bylaws as approved by
16 the board of directors of the Water Company."

17 So we are still in the process. The Company is
18 developing. We still have time to finish those documents. We
19 are not done with them yet, but that is where we are. We talked
20 to him about that this morning.

21 ADMINISTRATIVE LAW JUDGE REIF: Okay. Mr.
22 Veibell, have you heard the explanation that the Division has
23 suggested and have you heard what Mr. Taylor has represented
24 as the determination of your legal counsel regarding the status
25 of this document?

1 MR. VEIBELL: Yes, Mr. Taylor mentioned that
2 \$9,000. At that time, we were working here, getting all this here
3 together, and, boy, when I seen that attorney fee of \$9,000
4 come up, I said, "We've got to do something. We just don't
5 have the money to keep that up."

6 And we decided, decided, well, what should we do.
7 I think it was Brent Ventura said that, and I said, "Well, maybe
8 we better just go with this here for now until we can get to a
9 point where we can issue the stocks certificates."

10 ADMINISTRATIVE LAW JUDGE REIF: Okay. So
11 what my questioning is geared at is, what was conveyed; is it
12 your understanding, as Ms. Schmid has suggested based on her
13 experience in water law, and as Mr. Taylor as suggested as a
14 result of communication with your lawyer, that this document
15 conveys only the ability to acquire shares, or a share in the
16 Water Company, and that that results in the ability to use water
17 as opposed to a water right?

18 MR. VEIBELL: Well, like I said, the certificate
19 shows that we figured that this here would suffice for the water
20 right.

21 MR. TAYLOR: What she is asking you, just to
22 clarify--can I point of clarification?

23 ADMINISTRATIVE LAW JUDGE REIF: Mr. Taylor,
24 let me ask the question, if you would, please.

25 MR. TAYLOR: Go ahead.

1 ADMINISTRATIVE LAW JUDGE REIF: Mr. Veibell,
2 do you understand that there is a different between water
3 shares and water rights?

4 MR. VEIBELL: Really not. I figure they have a
5 share, well, they have the water right, they are the same.

6 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
7 you are not an attorney. Right?

8 MR. VEIBELL: Oh, no.

9 ADMINISTRATIVE LAW JUDGE REIF: And you
10 don't have any background in water law or the kind of
11 experience that Ms. Schmid expressed that she has?

12 MR. VEIBELL: No, that's right.

13 ADMINISTRATIVE LAW JUDGE REIF: And you
14 have, at least through your member secretary and real estate
15 agent, Mr. Taylor, heard that there at least hearsay testimony
16 from your lawyer representing that this is not a convenience of a
17 water right but of a water share, and that that share is for the
18 right to use.

19 MR. VEIBELL: That's right.

20 ADMINISTRATIVE LAW JUDGE REIF: Okay. So I
21 think that you may have a general misunderstanding of some
22 basic elements of water law, and inasmuch as your counsel isn't
23 here, I think it is very unfortunate, I am very sympathetic and
24 very understanding to the fact that having counsel is an
25 additional expense, but in this case, I think it would be very

1 beneficial to you because water law is a very complicated issue
2 and it's an issue that is highly litigated and very complicated,
3 and we recommended it in the notice that all parties be
4 represented by counsel.

5 We certainly respect your decision not to have
6 counsel, but based on the testimony that's been presented, I
7 believe you have a general misunderstanding of what may be at
8 issue here, and it may be helpful to you to talk to your legal
9 counsel to get clarification about that, and I think that that may
10 also crossover into what the customers understand that they
11 have.

12 And it's not the Commission's role to determine
13 water rights or water shares, but I mention these things because
14 I know that you, and as far as I can tell, have done some really
15 nice things for your community, and your community seems to
16 be very respectful and appreciative of the things that you have
17 done and I think it would be beneficial for all of you to
18 understand the difference between a water share, the right to
19 use, and a water right.

20 So with that being said, I would like to turn now
21 again to Ms. Schmid to address the other issues that the
22 Commission would like to hear from, specifically the issue of
23 tariff. And I know that that issue was not raised at the first
24 hearing, and I think that inasmuch as some of the comments
25 from the public went to that issue and raised concerns about

1 how the new rate structure was being implemented, it would be
2 helpful to hear from the Division about that.

3 And I think, likewise, it would be helpful to hear
4 from the applicant. And, again, I don't want to supercede Mr.
5 Veibell's testimony with the Division's testimony, so I really
6 would like to give you both the opportunity to decide which one
7 of you, which one of you speaks. We intend to hear from both
8 of you, so whichever you would prefer.

9 MS. SCHMID: Can we have just one moment?

10 ADMINISTRATIVE LAW JUDGE REIF: Absolutely.

11 (Discussion was held off the record.)

12 ADMINISTRATIVE LAW JUDGE REIF: Okay. Do
13 you have a proposal on who goes first, Ms. Schmid?

14 MS. SCHMID: Yes, the Division would like to go
15 first and it's acceptable to the applicant.

16 ADMINISTRATIVE LAW JUDGE REIF: Mr. Veibell,
17 is that accented to you?

18 MR. VEIBELL: Yes, that is.

19 ADMINISTRATIVE LAW JUDGE REIF: Okay, very
20 good. Thank you. Ms. Schmid?

21 MS. SCHMID: Both Mr. Long and I are prepared to
22 answer the questions that were put in the notice. Would you
23 like Mr. Long or me to answer that? I can give the legal
24 interpretation.

25 ADMINISTRATIVE LAW JUDGE REIF: I think we

1 would like to hear from both of you, and so why don't we start
2 with the legal interpretation, and then to the extent that Mr.
3 Long needs to supplement that, we will do that, as well.

4 And, Mr. Long, just to remind you as I did our other
5 participants, you were placed under oath during the first
6 proceeding, and you are still under oath to give truthful
7 testimony.

8 MR. LONG: Okay.

9 ADMINISTRATIVE LAW JUDGE REIF: So thank
10 you very much. Ms. Schmid?

11 MS. SCHMID: From a legal prospective, the
12 current tariff provides the rates that the Company is allowed to
13 charge for the water used. The amount of water that a customer
14 may use is determined by the share of stock in the Company
15 that the customer has. The rate is independent of the right to
16 use an amount as stated in the share certificate held by the
17 user, and a rate will not have any bearing on the nature of the
18 shares of common stock except for changing the rate paid for
19 the use of the water. It does--just one moment, it does not
20 dilute the shares of common stock, which was a concern
21 expressed at the public hearing previously held.

22 ADMINISTRATIVE LAW JUDGE REIF: Thank you,
23 Ms. Schmid. So I am looking at the tariff No. 1, which was
24 approved by the Commission in 2009, and, specifically, if you
25 have a copy of that, specifically on page 4 of that document,

1 which is identified as T-4, the very top, it says, "Water use per
2 customer." Are you able to follow along with me?

3 MS. SCHMID: Yes, I am. I have that information in
4 front of me.

5 ADMINISTRATIVE LAW JUDGE REIF: Very good.
6 It states as follows: as stated in the Company's articles of
7 incorporation, each user will own one or more shares of common
8 stock in the Company. Each user will be entitled to use not
9 more than 100,046,637 gallons of water per year for the shares.
10 And then it goes on to say for the amount of B shares, C shares
11 and D shares.

12 If I am understanding you correctly, this particular
13 tariff, which is a little unusual because it does actually go into--
14 well, it's at least unusual in what I have seen. It goes into the
15 issues of the shares and how they are dispersed. But is it your
16 legal interpretation that the shares themselves are not affected
17 by the rate change. It's the delivery of the water that the
18 shares, in short, that is changed?

19 MS. SCHMID: Yes.

20 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
21 the delivery of the water is the rate that Mr. Veibell and his
22 Company are requesting, and it's not that they are changing the
23 water shares. It's just that they are changing the amount that it
24 purportedly costs to deliver the water to the customer?

25 MS. SCHMID: That is my legal interpretation.

1 ADMINISTRATIVE LAW JUDGE REIF: Okay. I
2 don't have any other questions for you. I think it would be
3 helpful to hear--oh, Mr. Lewis?

4 MR. LEWIS: Would now be a time that I could ask
5 a question to Ms. Schmid?

6 ADMINISTRATIVE LAW JUDGE REIF: Let's hear
7 from Mr. Long first, and then if you still have a question, let's
8 address that then. Mr. Long?

9 MR. LONG: Well, Ms. Schmid took most of the
10 wind out of my sails, but she is right, or you are right. It is not
11 commonly in most of tariffs, although most of tariffs usually do
12 have an amount of water that the customer is entitled to use. I
13 also got the sense that some of the customers were worried that
14 because the 293,000 gallons, and some odd, was in there, that
15 once they reached that, their water would be cut off. And I've
16 spoken with the Water Company and that is not their intention at
17 all. In fact, they--I believe they have water rights for up to 85
18 customers.

19 ADMINISTRATIVE LAW JUDGE REIF: Is there
20 anything further you wish to add, Mr. Long?

21 MR. LONG: No.

22 ADMINISTRATIVE LAW JUDGE REIF: Okay. So,
23 Ms. Schmid, did you have any other questions for Mr. Long?

24 MS. SCHMID: No.

25 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank

1 you. Mr. Long, you mentioned a particular figure; was it the
2 12,000 gallons or was it another number that you just
3 mentioned?

4 MR. LONG: I believe it was 293,000.

5 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
6 where does that come from?

7 MR. LONG: Earlier, that was in the rate schedule, I
8 believe, of the original tariff.

9 ADMINISTRATIVE LAW JUDGE REIF: Okay.

10 MR. LONG: Which is really the 146,637 times two,
11 so that's for the A share and the B share.

12 ADMINISTRATIVE LAW JUDGE REIF: Okay.

13 MR. LONG: But then to further complicate things,
14 some of the purchase agreements, I believe some of the
15 purchase agreements, I believe, also have a share 65,000 per
16 stock and water irrigation, that maybe was sold in one of the
17 different subdivisions.

18 MR. TAYLOR: That is correct.

19 ADMINISTRATIVE LAW JUDGE REIF: That is part
20 of this rate increase.

21 MR. LONG: Yes.

22 ADMINISTRATIVE LAW JUDGE REIF: And is that
23 reflected in the recommended rate that is in your rebuttal
24 testimony, or is it at all affected?

25 MR. LONG: No, it--the amount still work out the

1 same. And just to clarify one other thing, the 293,274 is
2 actually the .9 acre feed of water, just so we can kind of have
3 all the numbers the same in here.

4 ADMINISTRATIVE LAW JUDGE REIF: Okay. And I
5 had asked Ms. Schmid, based on her legal expertise, her legal
6 analysis of this particular situation, whether the shares
7 themselves were being affected or whether it was the delivery,
8 ie, the cost that was being changed through the rate case that is
9 pending before the Commission, and it was my understanding
10 that she agreed that the shares themselves were not being
11 changed, that the customers still had those shares. It was just
12 that the cost of delivery was being changed to deliver that water
13 that the customers have the right to use; is that your
14 understanding, as well?

15 MR. LONG: Yes, that is my understanding as well,
16 and that is consistent with the other Commission approved
17 tariffs in the past, as well.

18 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
19 you. Mr. Taylor, Mr. Veibell, do you wish to respond to any of
20 what has been presented?

21 MR. TAYLOR: I think what has been presented is
22 accurate. I would like one point of clarification.

23 ADMINISTRATIVE LAW JUDGE REIF: Certainly.

24 MR. TAYLOR: As we had that discussion earlier
25 before we switched to the Division, Mr. Veibell, I think, fully

1 understands water rights versus water shares. It may be
2 perceived differently. In the questions that were asked, he is
3 confusing a couple of points. The State Division of Drinking
4 Water did an assessment where they said that we have enough
5 fire suppression plus 83 homes that--but we could only service
6 54 homes with our current infrastructure. And so when he give--
7 when a share is issued to a lot, he perceives that part of his
8 water right goes away. It doesn't goes away. It is owned by the
9 Water Company. All water rights are in the name of Willow
10 Creek Water Company.

11 ADMINISTRATIVE LAW JUDGE REIF: So, Mr.
12 Taylor, I am not sure if you are adding anything to what has
13 already been said.

14 MR. TAYLOR: I just wanted to preface that
15 because the water right--the State water certificates are owned
16 by Willow Creek Water Company. Mr. Veibell understands that
17 he donated them to the Water Company as part of his 40
18 percent ownership of the Water Company. And so my point is, in
19 the document that I presented as an Exhibit 2, on the back
20 page, which we didn't get that far, it very fully defines that
21 shares are issued for the right to use that water, and I just want
22 that to be a point. And that is a document that Mr. Veibell,
23 himself, has reviewed and that he understands and accepted as
24 a document in the Water Company.

25 ADMINISTRATIVE LAW JUDGE REIF: Okay.

1 There's a little bit of a difficulty in the way that you are
2 presenting your testimony as Mr. Veibell's testimony.

3 MR. TAYLOR: Understand.

4 ADMINISTRATIVE LAW JUDGE REIF: And so I
5 don't think that we would be here today if there wasn't a general
6 misunderstanding.

7 MR. TAYLOR: Sure.

8 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
9 if it your belief that Mr. Veibell completely understands this, and
10 that is your opinion of the situation, the Commission takes that
11 as your opinion. Mr. Veibell, however, has not testified to that,
12 but I don't see that as being problematic, per se. That is the
13 whole reason why we are here today is to try to talk this matter
14 through so that we can come to an understanding and better
15 understand the positions of the parties, and, also, so that the
16 public, ie, the customers, feel that their concerns are being
17 absolutely, 100 percent heard, and that action is not being taken
18 on this without a full examination of what is at issue.

19 MR. TAYLOR: I agree. It was only offered as
20 clarification.

21 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
22 you very much. And just for clarification, your input is very
23 much appreciated. I would just like to note that Mr. Veibell is
24 fully capable of testifying for himself.

25 MR. TAYLOR: I agree.

1 ADMINISTRATIVE LAW JUDGE REIF: And so he
2 has done so and we will move on. Thank you, Mr. Taylor.

3 Mr. Lewis, you had expressed that you may have a
4 concern or a question? And, notably, you are not an intervener
5 in this matter, but the way that this has come about, we are the
6 Commission is giving you the full opportunity to participate in
7 this hearing, as the individuals on the telephone.

8 And, again, we wish that--we want to make sure
9 that you know that the Commission is here listening, we're very
10 concerned about this issue. We want to make sure that any
11 misunderstanding is hopefully clarified, and that in the event
12 that you have questions, that you have an opportunity to raise
13 them.

14 So is there something that you wish to get
15 clarification on, either from the Commission or from the
16 Division's point of view, or from the Company's point of view as
17 it its been presented thus far?

18 MR. LEWIS: Absolutely. And thank you for the
19 consideration, by the way. We really appreciate it as a whole
20 and I speak for those that are not here. It's been interesting to
21 learn that we aren't shareholders of the Company. Most people
22 were not aware of that. Understandably so, it is a small
23 company and Alton has done a great job with the resources that
24 he has had. We are excited to find that resolution.

25 One of the questions directly regarding to the rights

1 that we do own that we would like to seek a little bit of
2 clarification on, I believe in the bylaws, it suggested that we
3 have B and C shares rights, yet in the tariff, it references A and
4 B. So as homeowners, I think we just would like a little bit of
5 clarification as to exactly what exact rights we do own.

6 ADMINISTRATIVE LAW JUDGE REIF: Mr. Lewis,
7 let's backup just a couple of steps.

8 MR. LEWIS: Okay, great.

9 ADMINISTRATIVE LAW JUDGE REIF: First of all
10 going back to what I was talking to Mr. Veibell about earlier, and
11 I think what Ms. Schmid did so eloquently to explain initially, is
12 that there is a clearer delineation between being a shareholder
13 and having a water right. I don't want to give you legal advice
14 but I can tell you that this issue is a complex issue. You can
15 certainly obtain legal advice, but it appears from what has been
16 presented and what has been discussed that--and, again, this is
17 not to preclude you from seeking a second opinion because I am
18 not your lawyer, but it appears that what the customers have is
19 a share in the Water Company, okay, which is different than a
20 water right.

21 MR. LEWIS: Understood.

22 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
23 let's go off the record.

24 (A discussion was held off the record.)

25 THE COURT: So we are back on the record, and,

1 Mr. Lewis, I was in the process of attempting to explain some
2 things to you. And, again, I want to emphasize that by no
3 means is the Commission entering this as your legal counsel.
4 We're just trying to help because there appears to be a lot of
5 misunderstanding.

6 And I also wish to note that in the event that you
7 wish to get legal counsel, or if the other customers on the line
8 wish to do the same thing, that is entirely your prerogative. I
9 know that there was a suggestion or comment at the last hearing
10 that the customers didn't want to go that direction, and it's not
11 the Commission's role at all to be suggesting that you do or you
12 don't.

13 So please don't take my--what I hope to be helpful
14 comments, I hope you don't misinterpret them, but the long and
15 the short of it is, is that there is a difference between having a
16 water share and a water right and having--giving you a little bit
17 of background about that, I want to address your concern about
18 the different kinds of shares being addressed.

19 And I don't know if you have access to the tariff
20 that was approved by the Commission, in 2009, but on page 4 of
21 that tariff, it does identify the different shares. It identifies the
22 A share, the B share, the C share, and the D share. And for
23 conversation's sake, there are different amounts listed. The A
24 share is listed at 146,637 gallons of water per share; the B
25 share is also listed at that same amount; and the C and D

1 shares are listed at 65,172 gallons per year. So does that help
2 answer your question?

3 MR. LEWIS: Yes, it does.

4 ADMINISTRATIVE LAW JUDGE REIF: Okay. Now,
5 again, it's not typical that this kind of language would appear in
6 a tariff. It is not necessary. But in as such as your relationship
7 is really between you and the Water Company, and your shares
8 are--come about from that relationship, it is not so much that it
9 arises from the tariff itself. That, you know, maybe be
10 something that you want to look at your documentation, make
11 sure that you're comfortable, and to the extent necessary,
12 perhaps, seek clarification with the Water Company.

13 MR. LEWIS: Okay.

14 ADMINISTRATIVE LAW JUDGE REIF: Any further
15 questions?

16 MR. ERICKSON: Your Honor, I have a question.
17 This is Nate Erickson.

18 ADMINISTRATIVE LAW JUDGE REIF: Okay, Mr.
19 Erickson, please go ahead.

20 MR. ERICKSON: I have heard from several of my
21 neighbors that they actually, on their Warranty Deed that came
22 with their property, have .91 acre feet water right associated
23 with their Warranty Deed and their property. And the term runs
24 with the land means that those water rights are intended to
25 remain with the land even after they have been--the land has

1 been sold.

2 And if that is consistent with what I was told and
3 what I remember from when I purchased my property that I
4 actually had water rights and that the shares were kind of
5 complementary to the water right, but that I did, in fact, own
6 water rights and that was something that was important to me
7 when I purchased my property.

8 And so I wondering if you can comment on how the
9 .91 acre feet that several people have in their Warranty Deed on
10 their property relates to water rights and if that has any
11 additional bearing on this determination of the Court.

12 ADMINISTRATIVE LAW JUDGE REIF: Mr.
13 Erickson, you raise a good question, and really, what I can add
14 to that is probably not a whole lot. This is outside of the scope
15 of what the Commission is reviewing. Our hope in this matter
16 was to help alleviate misunderstandings and there may be, by
17 virtue of the document that you--that was presented earlier, the
18 water agreement and by virtue of your statement and apparently
19 statements through your neighbors, this may be something that--
20 the Commission is not going to be able to resolve this for you.

21 This is not an issue for the Commission to resolve.
22 The issue that you raise may, in fact, be something that you
23 have to litigate through the court system, if, in fact, you believe
24 you have a water right and you believe that water right is
25 somehow jeopardized through this proceeding or other actions

1 that are being taken. I simply cannot tell you, you don't have a
2 water right.

3 The position of the parties has been established,
4 and anything beyond that, again, going to what the notice
5 emphasized and this is couched in the fact that water rights are
6 extremely complicated and the whole area of water law is
7 extremely complicated and it's an area that is highly litigated,
8 and so asking the parties to be represented by counsel today
9 was an encouragement that the Commission felt was something
10 that, you know, of course you could exercise or not.

11 But regarding your question, I am going to have to
12 suggest that if you need or want further clarification on that
13 issue, you may decide that you need to talk to a private attorney
14 about that because the Commission is not going to be resolving
15 that as part of this docket.

16 MR. ERICKSON: Okay. Thank you very much. I
17 appreciate it.

18 ADMINISTRATIVE LAW JUDGE REIF: And I hope
19 that that helps you in some way. I just want to make it clear
20 that the Commission can't resolve that, but to the extent that
21 you and/or others need further clarification, it is probably going
22 to have to come from somebody who can help you in a legal
23 capacity.

24 MR. ERICKSON: Okay, thank you.

25 ADMINISTRATIVE LAW JUDGE REIF: Did you

1 have any other questions, Mr. Erickson?

2 MR. ERICKSON: No, but I do have some points
3 that I would like to make when it is my turn.

4 ADMINISTRATIVE LAW JUDGE REIF: Okay.

5 MR. LEWIS: I, likewise, have a point that I would
6 like to make when it is convenient.

7 ADMINISTRATIVE LAW JUDGE REIF: Okay.

8 MR. LEWIS: It's a consideration to--now that I
9 understand fully the 293,000 gallon allotment, just something
10 they would like the Commission to consider.

11 MS. CARLSON: We can't hear what is being said.

12 ADMINISTRATIVE LAW JUDGE REIF: Could you
13 repeat what you said? The people on the phone couldn't hear
14 you.

15 MR. LEWIS: In regards to 293,274 gallons of water
16 that each person is allotted, I would just like to, I guess, bring
17 some items to the table that the--for the Commission to consider
18 moving forward. Would now be the time for that?

19 ADMINISTRATIVE LAW JUDGE REIF: Go ahead,
20 Mr. Erickson.

21 MR. LEWIS: Lewis.

22 ADMINISTRATIVE LAW JUDGE REIF: I am sorry,
23 Mr. Lewis.

24 MR. LEWIS: So the homeowner, it is clear that
25 they own stock shares that allow them access to the water,

1 which is 293,274 gallons, and my understanding, additional fees
2 on water already owned by these individuals, I think interfere
3 were existing state laws. If we reference the section A, item 3,
4 the bylaws, article 6, class C, irrigation shares--

5 ADMINISTRATIVE LAW JUDGE REIF: Do you have
6 a copy of that document?

7 MR. LEWIS: I do not. It is referenced on the state
8 site, I believe.

9 ADMINISTRATIVE LAW JUDGE REIF: If you have
10 a copy of that--I don't have a copy of that in my record.

11 MR. LEWIS: I do apologize. I don't have a copy of
12 that but I do have a statement out of that document; is that
13 something that I can state or --

14 ADMINISTRATIVE LAW JUDGE REIF: Why don't
15 you backup again and tell me where you are getting your
16 information so that if the Commission needs to take judicial
17 notice of it and look at that further, we will have it available to
18 do that.

19 MR. LEWIS: It is my understanding that the state
20 bylaws, the section A, item 3, article 6.

21 ADMINISTRATIVE LAW JUDGE REIF: When you
22 say state bylaws, do you mean the bylaws of this particular
23 company?

24 MR. LEWIS: I am not actually sure. I apologize.

25 ADMINISTRATIVE LAW JUDGE REIF: Can you

1 repeat the section again that you are reading from?

2 MR. LEWIS: Yes, article 6, section A, item 3. I
3 guess really the point that I would like to bring to the table is
4 the idea that the overage charges, they shouldn't apply to the
5 maximums that have been exceeded. If we reference past PSC
6 hearings, from what the homeowners understand, if we have
7 been granted 293,274 gallons, I believe that there would--that it
8 would be over and above that, which we would receive an
9 overage charge.

10 I am referencing an April 13, 2009 hearing. It was
11 actually Patricia Schmid made a statement in that hearing. She
12 said, "And so I believe that there would need to be clarification
13 to the tariff, so the tariff would read anything over 156,000
14 gallons."

15 So she was referencing the tariff would need to be
16 modified to be able to charge an overage charge on anything
17 above and beyond the allotted amount that those shareholders
18 were granted.

19 So I have hope that that makes my point clear, that
20 the homeowners feel that it would be appropriate, if need be, to
21 increase the fixed rate, to be able that we understand that we
22 have an issue here that needs to be taken care of. The \$4.50
23 overage charge we feel is extremely steep and is going to
24 drastically increase, and there are a lot of expenses in that
25 overage charge that we feel technically are fixed expenses, to

1 which we could go into more detail and elaborate if you would
2 like, but the we feel, the overage charge should be started after
3 the 24,000 gallons per month, that the 293 divided by 12 would
4 be, before it starts --

5 ADMINISTRATIVE LAW JUDGE REIF: Mr.
6 Erickson, I have a couple of questions for you.

7 MR. LEWIS: Lewis, sorry.

8 ADMINISTRATIVE LAW JUDGE REIF: Lewis, I am
9 terribly sorry.

10 MR. LEWIS: That is okay.

11 ADMINISTRATIVE LAW JUDGE REIF: A couple of
12 question for you, please, just as a follow up; with respect to the
13 statement that you were referring to in 2009, are you referring to
14 a tariff hearing that was before the Commission?

15 MR. LEWIS: Yes, on April 13, 2009, there was a
16 hearing. I don't have the exact details behind that hearing.

17 ADMINISTRATIVE LAW JUDGE REIF: Okay.

18 MR. LEWIS: I was given some information from
19 another homeowner that he asked me to share, and he was
20 referencing that the situation was very similar to that of the
21 situation that we are facing now.

22 ADMINISTRATIVE LAW JUDGE REIF: And is that
23 in this particular document?

24 MR. LEWIS: I don't believe so, and, Patricia
25 Schmid, it was her statement, so she would probably know a

1 little more.

2 ADMINISTRATIVE LAW JUDGE REIF: 2009 is a
3 long time ago. I am not sure I would remember everything I said
4 in 2009.

5 MR. LEWIS: I agree.

6 ADMINISTRATIVE LAW JUDGE REIF: Okay.

7 MR. LEWIS: But I guess the point is from our
8 understanding of the result of that hearing and the statements
9 that were made and proposed by the, Division that was her
10 recommendation, also, in a situation similar, and I don't have all
11 the details. I am just trying to bring in all the considerations.

12 ADMINISTRATIVE LAW JUDGE REIF: Okay. It is
13 well taken that the customers are concerned about the overage
14 charge, and I am just wondering, this is not certainly by any
15 means a requirement, but I am just wondering, since we last met
16 in early August, has there been any discussions with the
17 customers and the Water Company to propose any alternatives
18 that would be amendable to the customers and the Water
19 Company?

20 MR. LEWIS: We have not met as with them. We
21 would love to have that opportunity because I know that there is
22 a win-win to this situation. And having been granted that
23 opportunity, we would love to. I guess one of our main concerns
24 or issues coming into all of this has been the lack of an
25 understanding of our role, No. 1, and also the platform under

1 which we are supposed to get with the Water Company and help
2 propose those things. So we would love that opportunity.

3 ADMINISTRATIVE LAW JUDGE REIF: Okay. Well,
4 just so you know, we--the Commission doesn't say you have the
5 authority to meet with the Water Company. I mean, you are the
6 customer. You can propose a meeting. You can act on your own
7 interest.

8 And inasmuch as this docket has been pending for
9 quite some time, there's also a scheduling order that was
10 established in this case which allows interested parties, such as
11 yourself, to make a Motion to Intervene, and, essentially, you
12 become a formal party, so you're informed of everything that
13 comes about in the docket. So that may be something that you
14 want to think about for the future, and inasmuch as this was
15 initially heard as an interim rate hearing, that would have also
16 been a good opportunity to bring forward your concerns.

17 And so I realize that we're on a very short time fuse
18 because statutorily, the Commission has to act within a certain
19 number of days once a filing has been made and the filing is
20 complete. So it is a bit unusual that we would have additional
21 hearings, but we wanted to do so to make it absolutely certain
22 that everybody's interest and concerns were heard.

23 I am curious, however, what you meant by you
24 believe that there is a win-win --

25 MR. LEWIS: To further clarify that thought, I am a

1 CFO by training. In fact, I am late for an appointment to go do
2 some CFO consulting, under which I feel that I have a strength
3 in being able to understand a balance sheet, a profit and loss
4 statement, and how they work together for the long-term stability
5 of a company.

6 And I think it would be fantastic to be able to have
7 access to some of the numbers maybe have access to the
8 spreadsheet that the Division has put together and come up
9 with, the homeowners, a proposal as to what we think would be
10 a viable understanding that --

11 ADMINISTRATIVE LAW JUDGE REIF: So you don't
12 really have a proposal; you have a desire to have a proposal?

13 MR. LEWIS: That is a true statement under which
14 we can rapidly act, I believe.

15 ADMINISTRATIVE LAW JUDGE REIF: And have
16 you proposed to Mr. Veibell--have you proposed this idea to Mr.
17 Veibell?

18 MR. LEWIS: I have not.

19 ADMINISTRATIVE LAW JUDGE REIF: Okay.

20 MR. LEWIS: I have not. I didn't--I guess I thought
21 that that would need to happen here.

22 MR. TAYLOR: Can I offer a point of clarification?

23 ADMINISTRATIVE LAW JUDGE REIF: Just one
24 moment, please, Mr. Taylor.

25 Mr. Lewis, just so there is no misunderstanding, the

1 Commission does not have any authority in that regard. You are
2 free to communicate with Mr. Veibell and the Water Company as
3 much as you choose to do so. You are the customer, and
4 inasmuch as you believe that there may be an alternative that
5 hasn't been considered, or the potential for an alternative that
6 hasn't been considered, you are--we have no, we have no say in
7 your ability to communicate so.

8 MR. LEWIS: We appreciate your patience with our
9 ignorance, to be quite blunt.

10 ADMINISTRATIVE LAW JUDGE REIF: You are very
11 kind, and my only hope is that we can be of some assistance.
12 And so go forth and talk to Mr. Veibell, if you choose to do so.

13 MR. LEWIS: We will do.

14 ADMINISTRATIVE LAW JUDGE REIF: Okay. Any
15 other questions from you?

16 MR. LEWIS: No.

17 SPEAKER: (Inaudible.)

18 ADMINISTRATIVE LAW JUDGE REIF: Please hold
19 on the line and we will be with you in just a moment. And by the
20 way, whoever it is that is speaking, I can barely hear you.

21 Mr. Taylor, you wish to comment?

22 MR. TAYLOR: I just want to give one point of
23 clarification. Mr. Long made a trip up to meet with our rate
24 board. In fact, unfortunately, Beau had a previous commitment
25 and he was out of town. Three members of the rate board were

1 present in that meeting. He proposed the initial--and I don't
2 have the tariff in front of me, but the initial proposal that came
3 down first of \$106 a month and the \$4.50, at which time we did
4 have a meeting with the rate board members, which are our
5 community representation, those folks came back and said, "We
6 really have to review things and look at things." We did that,
7 and presented information back to Mr. Long, from the rate
8 board, and a determination was made to adjust--right before he
9 made his presentation, to adjust those numbers because we had
10 some changes in our operational numbers and we made that
11 change.

12 So there have been some interfaces, not by the
13 community as a whole, but there are some very competent
14 people that are on the telephone that have produced some
15 testimony that we wanted to read into the record for the
16 Commission because they come with some very good insight,
17 and I thought it was important that we share that, if you are
18 willing. And they may share it themselves. If they do, we don't
19 need to share it, but that's it. I just wanted to clarify that we
20 had had a customer interface with three rate board members.

21 ADMINISTRATIVE LAW JUDGE REIF: Okay.

22 MR. TAYLOR: And so in an attempt to evaluate
23 where our position was--now can that be done further, I think it
24 can split this seven ways from Sunday and go ten different
25 ways, and I am not saying which way is right or wrong. I think

1 there are a lot of good input that has come to light. We don't
2 want to elongate this process out for several months. It is not
3 meant to do that.

4 ADMINISTRATIVE LAW JUDGE REIF: We don't
5 have several months to do that.

6 MR. TAYLOR: I understand.

7 ADMINISTRATIVE LAW JUDGE REIF: We are on a
8 very short timeframe.

9 MR. TAYLOR: I understand. So I wanted to clarify
10 that it was not as if we didn't have conversation.

11 ADMINISTRATIVE LAW JUDGE REIF: Okay. We
12 are going to move along. Before we do so, I just want to
13 mention that one of the very first water cases that I was
14 involved in, it was a very small community like your's, and they,
15 in essence, held town meetings and talked about issues, and I
16 am wondering if that might be helpful for you in the future. So
17 that rather than having the rate board making a decision, then
18 the customers becoming aware of it after the fact, since you are
19 a close nit community and I genuinely feel that people really
20 care about one another and want what is best for the
21 community, if that might be helpful to you in the future so that
22 you can take input ahead of time and know what is coming and
23 you are not surprised when we have a public input hearing and
24 then customers raise concerns, and so just note that as a
25 possibility.

1 Okay. So we have some callers on the line. And do
2 I want to make sure that we get to the final issue that is on the
3 notice, which is the issue of how the certificate was originally
4 issued and statements that were made supporting how that was
5 issued. The callers on the phone, do your issues go to things
6 that have already been addressed, and if so, could you please
7 identify yourself by name, speak very loudly and clearly, and we
8 will do our best to address your concerns.

9 MRS. ERICKSON: My name is Natalie Erickson.
10 Can you clarify, when you say your questions or comments have
11 anything to do with what has already been addressed, clarify
12 what you mean by that.

13 ADMINISTRATIVE LAW JUDGE REIF: Inasmuch as
14 the issue that we have addressed thus far, the water share
15 issue, the tariff issue.

16 MRS. ERICKSON: My concerns are with regard to
17 the--

18 ADMINISTRATIVE LAW JUDGE REIF: Mrs.
19 Erickson, the people in the hearing room--I am able to hear you
20 but just barely. I am very close to the phone. You will need to
21 speak very loudly, if not yell.

22 MRS. ERICKSON: Okay. Can you hear me now? Is
23 that better.

24 ADMINISTRATIVE LAW JUDGE REIF: It's a little
25 bit better.

1 MRS. ERICKSON: That's yelling as loud as I can.
2 My concerns are regarding the rate, the water rate, so I am
3 happy to address them as they come. I have spoken with Mr.
4 Veibell and he believes that the rate increase proposed by the
5 State is excessive, so we have been in contact with the Water
6 Company. We are on the phone with you--or I am on the phone
7 with you because it was my understanding that it was the
8 Commission that ruled on this regard with the Water Company
9 versus the State.

10 ADMINISTRATIVE LAW JUDGE REIF: Okay. Let's
11 backup one second. Now when you say the State, do you mean
12 the Division or Public Utilities?

13 MRS. ERICKSON: Yes, ma'am, the Division.

14 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
15 you're asserting that you had a conversation with Mr. Veibell
16 and that Mr. Veibell asserted that the rates that were being
17 proposed by the Division were excessive?

18 MRS. ERICKSON: Yes, ma'am, the overage rates.

19 ADMINISTRATIVE LAW JUDGE REIF: And when
20 did that conversation occur?

21 MRS. ERICKSON: Sunday evening, so that would
22 have been, I believe, the 18th or the 17th.

23 ADMINISTRATIVE LAW JUDGE REIF: And did Mr.
24 Veibell have an alternative to the overage rates that were being
25 proposed?

1 MRS. ERICKSON: He did not specifically have an
2 alternative. I have been working--many of us have been
3 working, crunching the numbers, trying to help give an
4 alternative, and I have that to present today, and my arguments,
5 as to why the rate, the proposed rate, is inaccurate in using
6 arbitrary figures that are not applicable to our situation.

7 ADMINISTRATIVE LAW JUDGE REIF: Okay. Mrs.
8 Erickson, are you speaking specifically to the overage rate?

9 MRS. ERICKSON: Yes, yes, the monthly overage
10 fees.

11 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
12 that is the only rate that you wish to address; is that correct?

13 MRS. ERICKSON: No, no, there are some other--I
14 should say no to that. There are some other rates or figures
15 that are in the base rate that many of us question; whether or
16 not we want to argue them is another matter. I was not going to
17 necessarily argue those points but I know that others here were.

18 ADMINISTRATIVE LAW JUDGE REIF: Okay. Mrs.
19 Erickson, did you participate in the initial public witness
20 hearing?

21 MRS. ERICKSON: No, ma'am.

22 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
23 did you receive a copy of the notice from Mr. Veibell concerning
24 this particular hearing?

25 MRS. ERICKSON: Yes, ma'am, and I have been

1 working like mad ever since then to get everything put together
2 in order to present our argument to you today.

3 ADMINISTRATIVE LAW JUDGE REIF: Okay. The
4 problem that I see with what you're proposing is, in part, what I
5 discussed with Mr. Lewis a little bit earlier, which is that this
6 particular hearing is very limited in scope.

7 I am not going to necessarily preclude you from
8 giving your testimony but I do want to clarify that this docket
9 has been pending for quite some time, and the first opportunity
10 that you could have asserted yourself would have been quite
11 some time ago as an intervening party. And you could have
12 also given your testimony during the hearing in that matter and
13 also at the public witness hearing.

14 It was a result of that public witness hearing that
15 we are holding the supplemental hearing. This is really a fluke
16 that this has happened. This is not at all something that
17 happens as a matter of course, and I am going to let you give
18 your explanation.

19 And I would like to very much hear from Mr. Veibell,
20 also, in response to what you have alleged regarding his
21 statement about the overage fee because it was clear to me, in
22 our prior hearing, that Mr. Veibell agreed with the overage fee
23 as a recommendation of the Division. So if you are putting that
24 testimony into question, I think that is relevant.

25 I do wish, however, to take a few moments. I think

1 we need a break here and then reconvene and I thank you for
2 holding the line.

3 (Whereupon, a break was taken.)

4 THE COURT: We are back on the record. And
5 while we are waiting for Mrs. Erickson to call back in, I do have
6 a couple of questions I want to ask Mr. Veibell as clarification,
7 just for background really on the Company.

8 Mr. Veibell, you identify yourself as the vice
9 president and treasurer of your water company; is that correct?

10 MR. VEIBELL: Yes.

11 ADMINISTRATIVE LAW JUDGE REIF: Who is the
12 president of the Water Company?

13 MR. VEIBELL: The president is Brent Ventura.

14 ADMINISTRATIVE LAW JUDGE REIF: Could you
15 please spell that name for me, please?

16 MR. TAYLOR: V-E-N-T-U-R-A, Brent Ventura.

17 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
18 is the attorney who you identified earlier in the proceeding?

19 MR. VEIBELL: No, he is not the attorney. He is just
20 the president of the--that was appointed, Brent.

21 MR. TAYLOR: Gary Anderson, that is who we
22 talked about earlier.

23 ADMINISTRATIVE LAW JUDGE REIF: Okay. Mr.
24 Veibell, I am going to ask you another question, and, Mr. Taylor,
25 just--please, if I am not directing a question to you, please don't

1 offer to answer a question when I am directing it to Mr. Veibell.

2 Mr. Veibell, I believe your testimony earlier was that
3 you own a certain percentage of the Water Company.

4 MR. VEIBELL: Yes.

5 ADMINISTRATIVE LAW JUDGE REIF: And, again,
6 that percentage--

7 MR. VEIBELL: I have 40 percent and
8 Peter-Borough Partnership has 60.

9 ADMINISTRATIVE LAW JUDGE REIF: Can you say
10 that a little more clearly? I didn't understand you.

11 MR. VEIBELL: I have 40 percent and the
12 Peter-Borough Partnership has 60 percent.

13 ADMINISTRATIVE LAW JUDGE REIF: And who is
14 Peter-Borough Partnership.

15 MR. VEIBELL: They are the ones that have the
16 Sea Ridge Subdivision.

17 ADMINISTRATIVE LAW JUDGE REIF: They are the
18 developers?

19 MR. VEIBELL: Yes, they are our developers,
20 uh-huh.

21 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
22 are you also a developer of that subdivision?

23 MR. VEIBELL: No, I'm High Country Estates.

24 ADMINISTRATIVE LAW JUDGE REIF: Mrs.
25 Erickson, have you joined us? Mrs. Erickson has not joined us.

1 Mr. Veibell, I don't know when or if Mrs. Erickson is
2 going to be joining us but I do wish to address a concern that
3 she raised. She claimed that she had a conversation with you
4 this past Sunday about the overage rate.

5 MR. VEIBELL: Yes, uh-huh.

6 ADMINISTRATIVE LAW JUDGE REIF: Do you
7 recall that conversation?

8 MR. VEIBELL: Yes, uh-huh.

9 ADMINISTRATIVE LAW JUDGE REIF: And she
10 indicated that you thought that the rates that the Division had
11 set regarding the overage rate were too high, or I believe her
12 word was, excessive; is that--

13 MR. VEIBELL: Well, I told her that I am one of the
14 users, also, and I told her that it was really was too high for me,
15 and I can understand everyone else's situation. It is high.
16 Now--

17 ADMINISTRATIVE LAW JUDGE REIF: Did you use
18 the word excessive or do you remember?

19 MR. VEIBELL: Well, I can't remember just how I
20 said it.

21 ADMINISTRATIVE LAW JUDGE REIF: Okay. Now
22 when we had our hearing, I believe it was on the first of August,
23 and you were under oath as you are today.

24 MR. VEIBELL: That's right.

25 ADMINISTRATIVE LAW JUDGE REIF: And the

1 Division gave their presentation, and you were asked whether
2 you supported the rates that they proposed, your response was
3 in the affirmative, and today, it appears that you don't believe
4 that the overage rate is--

5 MR. VEIBELL: I remember that time when you
6 asked me that question.

7 ADMINISTRATIVE LAW JUDGE REIF: Yes, sir.

8 MR. VEIBELL: I wanted to kind of explain things a
9 little bit and then you put it off, that I had to say either a "Yes"
10 or a "No" and I did agree with everything that he has done, but
11 when I said yes, I still felt that, you know, it was high for
12 everyone.

13 ADMINISTRATIVE LAW JUDGE REIF: So you
14 think--would it be fair then to say that you agree with the
15 Division's recommendation, but with the overage rate, you don't
16 necessarily agree with the overage rate?

17 MR. VEIBELL: Well, one, I am one of the users. It
18 is high for me.

19 ADMINISTRATIVE LAW JUDGE REIF: Okay. So
20 do you agree with the overage rate, or don't you?

21 MR. VEIBELL: Well, I feel that the study that Mark
22 has done on it, if he feels like it has to be there, well, then I am
23 in favor with it.

24 ADMINISTRATIVE LAW JUDGE REIF: Okay. So
25 how do you square that with your conversation with Mrs.

1 Erickson, who indicated that you expressed that the rate was
2 excessive and that doesn't sound like you're supporting the
3 Division's recommendation?

4 MR. VEIBELL: I don't hardly know how to explain
5 that. It's--

6 MR. TAYLOR: Can I give you a point of
7 clarification? I am not answering his testimony.

8 ADMINISTRATIVE LAW JUDGE REIF: Just a
9 moment, please, Mr. Taylor.

10 MR. VEIBELL: I don't hardly know how to answer
11 that, but, you know, we were talking about it, and I--you see, I
12 had to quit watering my north lawn and back lawn to keep the
13 overage--and I still--on the overage and I live alone, but, you
14 know, I kind of explained things like that. And--but I agree with
15 Mark that if it has to be that high. It's going to have to be that,
16 and we will all have to live with it.

17 ADMINISTRATIVE LAW JUDGE REIF: So would it
18 be, would it be correct to say that when you were talking to Mrs.
19 Erickson about the overage rate that the Division had
20 recommended, that you, as a paying customer, felt that the rate
21 was high, you understood how customers could feel that way,
22 but at the same time as part of the Company, you also realized
23 that there is a justification for having it that high; is that a good
24 explanation?

25 MR. VEIBELL: Yes, we all have to live with it.

1 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
2 did you explain that to Mrs. Erickson that you understand where
3 the customers are coming from but that that is the rate that has
4 to be set in order for the Company to exist?

5 MR. VEIBELL: I felt like I did but she may think
6 that I didn't make it clear enough.

7 ADMINISTRATIVE LAW JUDGE REIF: Okay, okay.
8 So just for clarification, your testimony is on behalf of the
9 Company, that you do support the rates that are being proposed
10 in Mr. Long's surrebuttal testimony and that includes the \$4.50?

11 MR. VEIBELL: Yes, if it has to be that,
12 I--it has to be.

13 ADMINISTRATIVE LAW JUDGE REIF: And you
14 support it being that high?

15 MR. VEIBELL: Yes.

16 ADMINISTRATIVE LAW JUDGE REIF: Okay.
17 Thank you, Mr. Veibell. I understand that this is a difficult
18 situation, especially when you live in the community, and so
19 thank you for your clarification.

20 Mr. Taylor, was there a point of clarification?

21 MR. TAYLOR: Just a point of clarification; through
22 this entire process from the beginning, Mr. Veibell made a
23 developer contribution, and to this day going forward, he would
24 beg the Commission to say, "Let me just continue to make that
25 developer contribution," but it is not wise and prudent in

1 formulating the rates to carry the Water Company on past the
2 point of development.

3 And so he has a lot of empathy for everyone up
4 there. Beau Lewis and everybody will tell you, everybody on the
5 that phone will tell you, that he would just as soon cover it
6 himself and do it himself rather than put a burden on his
7 neighbor. And so--I don't want you to misunderstand his intent
8 or his opinion. I really feel that it is more of an empathetic
9 concern for his neighbor.

10 ADMINISTRATIVE LAW JUDGE REIF: Well taken,
11 Mr. Taylor. Thank you. Okay.

12 Mrs. Erickson, have you joined us on the phone?

13 MRS. ERICKSON: Well, I am here. Can you hear
14 me better?

15 ADMINISTRATIVE LAW JUDGE REIF: Yes, I can
16 hear you much better, thank you. All right. So when we took
17 our break, I had indicated that when we come back on, I would
18 give you the opportunity to give your explanation about the rate
19 structure and I would like to give you that opportunity now.
20 When we actually did go back on the record, you weren't with
21 us, so we proceeded with the hearing, and now that I know that
22 you are there, I think this is a good opportunity for you to
23 address your concerns.

24 Please keep in mind that there is one other aspect
25 that we do intend to get to in this hearing, which is the last

1 issue with respect to the representations that were made during
2 the issuance of the CCPN and I just mentioned that for
3 everybody's reference so we don't lose track.

4 MRS. ERICKSON: I missed that last sentence.
5 What is it that you want to address?

6 ADMINISTRATIVE LAW JUDGE REIF: Well, I just
7 want to make sure that everyone knows that there is one final
8 issue that we will be addressing that is the final issue listed in
9 the notice with respect to the CCPN, the certificate of
10 convenience and public necessity of representations that were
11 made during that particular hearing.

12 MRS. ERICKSON: Correct, the capital costs versus
13 the other; is that what you are referencing?

14 ADMINISTRATIVE LAW JUDGE REIF: Correct,
15 correct. And we will get to that, so I don't intend to take
16 customer questions or input regarding that right now, but I
17 understand you have some specific concerns about the water
18 rate.

19 And, again, you know, I think I have given you my
20 spiel about the opportunity to intervene came along time ago,
21 etc., etc., so just for future reference, because this is bound to
22 come up again in your experience with the Water Company and
23 your experience with the neighborhood, that the sooner you can
24 let your concerns known, all the better because the way that this
25 turned out was--I mean, it was really at the final last bit of the

1 hearing that the customers came forward and which resulted in
2 this supplemental hearing.

3 So I just encourage you to participate to the extent
4 that you wish, and you can do that in a number of ways,
5 including actually intervening in the docket early on, and/or
6 giving your comments early on. So with that being said, please
7 feel free to continue from where you left off earlier.

8 MRS. ERICKSON: Okay. Okay, first of all, I want
9 to say thank you for listening. I appreciate that. I feel that new
10 information has come to light. As you said we should have
11 contested the spreadsheet presented by Mr. Long much longer--
12 sooner. I guess it was presented in, in early June or July. I
13 went off the assumption, as did many of us, that it was correct
14 and those were the numbers and that is what we are going to
15 use.

16 But it's just been recently that we found out that
17 many of these numbers are arbitrary and so they should not be
18 applied in our case. So let me--

19 ADMINISTRATIVE LAW JUDGE REIF: Mrs.
20 Erickson, sorry to interrupt you, but when you say spreadsheet--

21 MRS. ERICKSON: I will get to that specific sheet
22 that I am addressing.

23 ADMINISTRATIVE LAW JUDGE REIF: Okay. Can
24 you tell me what you mean by spreadsheet so when you do get
25 to it, I know what you are talking about?

1 MRS. ERICKSON: Okay. It is an exhibit. Let me
2 find it exactly on the website. It is Exhibit A from direct
3 testimony of Mark A. Long that was submitted June 14th. It is a
4 spreadsheet that he has used to determine the rate, and he has
5 been very kind with his time in explaining where these numbers
6 came from. I know that he is doing his best to try to protect the
7 people, so I don't want his testimony to be held in animosity
8 against him. That is not at all where I am coming from.

9 ADMINISTRATIVE LAW JUDGE REIF: Okay, well
10 taken. Now just to avoid any confusion, Mr. Long's direct
11 testimony was followed by his surrebuttal testimony, so have
12 you had an opportunity to review his surrebuttal testimony?

13 MRS. ERICKSON: I have not reviewed the
14 surrebuttal testimony. I am looking specifically at the
15 spreadsheet that he uses, and still uses, to backup his
16 argument for what the rates should be.

17 ADMINISTRATIVE LAW JUDGE REIF: If you
18 haven't reviewed the surrebuttal testimony, how do you know he
19 is using the same?

20 MRS. ERICKSON: Because I have spoken with him
21 regarding this.

22 ADMINISTRATIVE LAW JUDGE REIF: Okay, all
23 right. So please proceed.

24 MRS. ERICKSON: So I hope you guys are able to
25 have this there in front of you. I am assuming that maybe you

1 don't. Like I said, it was Exhibit A from June 14th. I believe I
2 am looking at the second tab over. It is titled Willow Creek
3 Water Company general rate increase cost of providing water
4 and rates calculation, amended Exhibit 1.2 SR. So that is what
5 I am referencing in terms of the spreadsheet.

6 Background on me, I am hydrogeologist. I am one--
7 ADMINISTRATIVE LAW JUDGE REIF: Mrs.
8 Erickson, please talk louder and a little more slowly.

9 MRS. ERICKSON: Yes, okay. First and foremost,
10 legal counsel has been given to me by attorney Chris Beins of
11 Evans, Grover and Beins, PC, and he questions the State's right
12 to dictate the water rates of a privately owned company,
13 especially to the point of raising the rates above and beyond the
14 actual cost of the dispersing water to the users. He recognizes
15 that the State may be involved in overseeing the rates but not
16 necessarily dictating them. He has offered to represent us
17 should we need to appeal the process.

18 ADMINISTRATIVE LAW JUDGE REIF: Mrs.
19 Erickson, Mrs. Erickson--

20 MRS. ERICKSON: From what I understand, Willow
21 Creek Company is a nonprofit--

22 ADMINISTRATIVE LAW JUDGE REIF: Mrs.
23 Erickson, just for clarification, are you appearing pro se today?

24 MRS. ERICKSON: I am appearing without legal
25 counsel today.

1 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
2 you. And inasmuch as you have raised concerns about
3 conversations you have had with an attorney, that attorney is
4 not a part of this proceeding; is that correct?

5 MRS. ERICKSON: Yes, ma'am.

6 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
7 just for background, because I believe you were not at the
8 public witness hearing that was held in early August; is that
9 correct?

10 MRS. ERICKSON: That's correct. My husband was
11 there. We have children so we could not both be there.

12 ADMINISTRATIVE LAW JUDGE REIF: Okay. Now
13 just for clarification, the State is not dictating rates. What has
14 happened in this case is that Mr. Veibell brought forward an
15 application, which was reviewed by the Division, and the
16 Division analyzed that application and came up with a
17 recommendation. That recommendation was then reviewed by
18 Mr. Alton Veibell, and as he has confirmed today, he approves
19 that recommendation. So he is seeking the changes that have
20 been recommended by the Division.

21 The Division, in no way, is dictating anything, nor is
22 the Commission. The Commission is here to review the case.
23 So I just want to clarify that so that there is no
24 misunderstanding or mischaracterization of what is occurring
25 here.

1 So I am not sure what your getting at exactly but if
2 you wish to challenge this issue, you certainly have the ability to
3 do that. We have talked about that a little bit, and if you have
4 obtained legal counsel, your legal counsel can direct you in that
5 regard.

6 MRS. ERICKSON: Okay. Question regarding that;
7 so you are saying that the State Division that Mark Long's
8 division where he is involved is not in charge of telling Willow
9 Creek Water Company what the rates are, that Willow Creek
10 Water Company can divide of themselves what the rate will be;
11 is that correct?

12 ADMINISTRATIVE LAW JUDGE REIF: It is exactly
13 how I explained it, which is that Mr. Veibell came forward with
14 an application, that application was then reviewed by the
15 Division, the Division gave a recommendation, and the
16 recommendation was agreed to by Mr. Veibell. So the Division,
17 in no way, is dictating. If the Division was dictating, that would
18 mean that the Commission would be completely unnecessary.

19 MRS. ERICKSON: Okay. So if we disagree with
20 the water rates that Mr. Veibell is approving, does the
21 Commission listen to those arguments or is that just something
22 that the Water Company is able to decide in and of themselves?

23 ADMINISTRATIVE LAW JUDGE REIF: Well, first of
24 all, it is not Mr. Veibell who is approving the rates. It is the
25 Commission that is approving the rates, and that is why this

1 hearing is being held because there were some concerns that
2 the Commission wished to have fleshed out further, so we are
3 holding the supplemental hearing today.

4 And inasmuch as your concerns are really related
5 to earlier matters that have already been heard, you know, I am
6 certainly not preventing you from expressing yourself, and I
7 think that--I made that clear over and over again, that the concerns
8 regarding the rating probably should have been raised much
9 earlier in the process.

10 But having said that, you're free to continue with
11 what your concerns are, but it is not Mr. Veibell who is setting
12 the rates. It is Mr. Veibell who initiated this process by making
13 an application, and then the Division, as matter of course,
14 reviews the application and reviews a lot of things with respect
15 to the Company, and makes a recommendation, and Mr. Veibell
16 has agreed that--he agrees to the recommendation.

17 And at this point, the Commission--the matter is
18 pending before the Commission and this is the supplemental
19 hearing to address some issues that were noticed in the
20 hearing, not necessarily the issue of challenging the rates that
21 are proposed. But you're welcome to proceed and give your
22 input on that issue.

23 MRS. ERICKSON: Thank you. And I do
24 understand what you are saying now and I would hope that the
25 Commission--I do understand that we are late in bringing this

1 information. I am not the only one that has worked to put this
2 together. I am one of the ones that is presenting it. There are
3 many of us homeowners. Yes, we should have done this sooner
4 but we hope the Commission will take this into consideration on
5 whether or not they approve these rates as presented by Willow
6 Creek Water Company and Mr. Veibell.

7 If it's all right, I would like to proceed with the point
8 of why these rates and figures, using a spreadsheet provided by
9 Mark Long of Utah Division of Public Utilities. According to my
10 information, Willow crease Water Company is nonprofit
11 Company. They should not be earning or making money off of
12 customers. From what Mark Long has said, if too much money
13 is collected for the water system, than an audit will be done
14 again to determine a more correct rate schedule. With this
15 information, I deduce that water users should pay for what it
16 costs to get them their water, no more and no less, but this
17 does include having a reserve account that is to be used for
18 mayor system repairs and emergencies.

19 Now Mark Long has, as I've said, a spreadsheet
20 used to determine these rates. I have referenced it as Exhibit A
21 from the hearing on June 14th. The data put into the system
22 uses fixed and variable costs that includes percentages of the
23 following: There are accounting, legal fees, lab fees, system
24 maintenance, repairs, operational expenses, loan payment on
25 the new well--you guys will be addressing that later--commission

1 fees, insurance, office supplies and postage. Now a percentage
2 of that data is used to figure in a monthly payment for all the
3 water hookup. It goes to 39.85 that all water customers pay for,
4 whether or not they are actually using water. That figure is
5 named as a fixed cost.

6 Now the electrical costs and chemical costs are
7 then added with these data and the figures are then used to
8 determine a monthly rate, a variable cost for the actual water
9 users. They total \$31.95 per month. These are variable costs.
10 The total fee per month for water users is figured to be \$71.80.
11 That is the base monthly fee. Overage fees are then calculated
12 on top of this.

13 In order to determine the overage fee, I questioned
14 Mr. Long on where he determined this overage rate of \$4.50 for
15 thousand gallons used, and this is his formula. He uses as
16 12,000 gallon per month allotment, which is an arbitrary figure,
17 along with a variable cost of \$31.95 per month to determine
18 what the price per thousand gallons would be. So \$31.95
19 divided by 12 is \$2.66 per thousand gallon. He then takes this
20 figure and multiplies it by 170 percent to figure in an overage
21 rate of \$4.50. So that is a rate increase of 70 percent per
22 thousand gallon.

23 Per my conversation with Mr. Long on August 14th,
24 the 70 percent increase is done in the name of increase in
25 electrical cost due to using electricity during peak electrical

1 hours, increase taxing on the system and water conservation.
2 Now I will now explain that the number that he uses is incorrect
3 and, therefore, the rates are incorrect.

4 The figure of 12,000 per month is an arbitration
5 number that is used to calculate our monthly water rates. To
6 figure out what it actually costs to get the water to the
7 customers, one needs to use the real data, and I have taken this
8 data and I have figured it out. That is coming. According to my
9 conversation yesterday on August 19th with Georgia of Rocky
10 Mountain Power Company, Willow Creek Water Company is on
11 an electrical service schedule No. 23. I will mail this in as an
12 attachment to this letter.

13 This schedule gives the following rate of electricity.
14 In the interest of time, it is a set rate from May through
15 September, and after the first 1500 kilowatt hours, the rate
16 actually goes down. So for increase water usage, we are
17 actually paying less for electricity rather than needing to pay
18 more as Mr. Long suggests. To go through April, it is a slightly
19 lower rate. The same thing; there are no peak hours of
20 electrical use on this schedule that Willow Creek Water
21 Company is on.

22 So having an overage fee based on using electricity
23 during peak hours of operation is unfounded as the electrical
24 costs are the same whether the system is running during the
25 daytime or the nighttime, and as I said, the electrical cost goes

1 down with the use of more electricity. I have obtained the
2 electrical bill for the month of February through August, which
3 would apply to actual usage of January--

4 ADMINISTRATIVE LAW JUDGE REIF: Mrs.
5 Erickson?

6 MRS. ERICKSON: Yes, ma'am?

7 ADMINISTRATIVE LAW JUDGE REIF: You
8 obtained bills of the Water Company?

9 MRS. ERICKSON: Yes. Mr. Veibell, I sat down
10 with Mr. Veibell and he got out his data and he gave me the
11 data for these electrical bills, from February through August of
12 this year.

13 ADMINISTRATIVE LAW JUDGE REIF: Okay. So
14 you obtained it through Mr. Veibell, not through, say, Rocky
15 Mountain Power?

16 MRS. ERICKSON: Yes, ma'am. They--I didn't even
17 ask. They wouldn't have a right to talk to me.

18 ADMINISTRATIVE LAW JUDGE REIF: Yes, that is
19 what alarmed me. Okay, please go ahead.

20 MRS. ERICKSON: Okay, all right. So I also
21 obtained the gallon pump out of the water system from the
22 month of January through July. I got that from Kevin Hanks,
23 who is sitting there in the room. I use these two figures to
24 determine the utility cost of extracting water from the well and I
25 am using the actual number of gallons pumped so far this year,

1 plus electrical costs, I figure that it costs 0.375709 dollars for
2 thousand gallons of water and that includes running the pump
3 and heating the pump house during winter months.

4 Okay. Third point; there are fixed costs on the
5 spreadsheet that are use to determine the monthly cost of
6 water. Some of these costs do not increase with the use of
7 water, so we need to take them out of the equation that Mr.
8 Long has used to give us our 70 percent overage.

9 So we need to take out the accounting fees, the
10 legal fees, the regulatory commission expense, office supply
11 and postage, testing and lab fees, and I took that one out
12 because according to Alton Veibell, that testing and lab fee is a
13 monthly fee and does not increase based on water consumption.
14 So our overage fee should not have these underlying costs
15 figured into the equation.

16 I left him the cost of system maintenance, etc., so
17 that the extra tasking on the system that is maintained so by Mr.
18 Long is still included in my new proposed water rate fees. Now
19 the rates need to incorporate the amount of water actually
20 drawn from the system, but we only have data from January
21 through July this year.

22 In order to get an accurate idea of the water used
23 in 2012 to correlate a fee associated with the maintenance and
24 system cost for which we have documentation, we need to
25 estimate the water use in 2012. In order to do that, we have to

1 subtract some overage fees that have been placed on the two
2 additional yards that were added this year. Much water has
3 been used for development of a new road and water systems,
4 plus water has been also sold to Autonomous Solutions.

5 To estimate water usage, I subtracted the amount
6 of overage that the Erickson's had in June and July of this year
7 and multiplied it by two to account for the Holden's yard, as
8 well. They are both new yards put in this year and would
9 account for much of the water use, and I did not subtract out
10 water that was used for the new road, as I do not have the
11 correct data on that.

12 Since we only have data for seven months, I got an
13 average usage per month, then multiplied it by 12 to get an
14 estimate of the water usage of last year. Again, this does not
15 include much water that was used per development of a road
16 and pipeline up here. So using my equations, we use about
17 4,154,229 gallon last year. This figure is then used to
18 determine the chemical amount and maintenance fee per
19 thousand gallons of water.

20 Next year, the system will run on a different pump.
21 USU hydrogeologist Tom Lachmar suggests this new 20
22 horsepower pump will run about twice the amount of electricity
23 as the current seven-and-a-half horsepower pump. And even
24 though the much of electrical cost during the winter months are
25 used to heat the pump house and not to run the pump, I will use

1 twice the rate of electricity in order to be conservative.

2 Can you still hear me?

3 ADMINISTRATIVE LAW JUDGE REIF: Yes, I can,
4 but you're fading in and out, so if there is anything you can do
5 to improve that, that would be helpful.

6 MRS. ERICKSON: I am on the best phone. Our
7 internet is not good up here. I will try to speak slower and
8 louder.

9 ADMINISTRATIVE LAW JUDGE REIF: Thank you.

10 MRS. ERICKSON: So what I am saying, I doubled--
11 I used twice the rate of electricity in my calculation in order to
12 be conservative, in order of a new pump that is coming on in the
13 system. So the estimated cost that I can get using these new
14 numbers is an estimated cost of--extracting and delivering water
15 is \$1.75 per thousand gallons.

16 Now we need to keep in mind that this data is not
17 exact. We don't have exact water usage, but it is much better
18 than using an arbitrary figure of 12,000 gallons per month and
19 figuring out a fee from our \$71.80 that our bill is going to be.
20 Those are arbitrary numbers. You cannot use them to
21 determine what it costs to run the system. It doesn't work.

22 I also mentioned the new well pump with the
23 different capacities. There is no way to know how much
24 electricity it will cost to run the new well because a pump test
25 had not been done on the well. That is something that you do

1 geologically for the water system, so we can only guess and
2 hope that it runs at the same rate and capacity as the old well.

3 I still I argue that these figures are much better
4 than what is in that spreadsheet currently. So Mark Long's base
5 rate of \$2.66 per thousand gallons is incorrect and his
6 reasoning for the 70 percent increase is also inaccurate, as I
7 have already accounted for taxing on the system and the
8 electrical rates that do not rise with water usage.

9 The only reasoning left in his reasoning for the 70
10 percent increase is for water conservation. Now presented in
11 your notice for this meeting, the average water usage fee in
12 Utah is 61¢ per thousand gallons, not \$4.50. I would like to
13 argue that the base rate that we are currently on at \$71.80--or a
14 proposed base rate, is already 2.86 times higher than the
15 average fees of other systems.

16 We have a much smaller system with maintenance
17 and overhead costs to be shared by fewer customers. Our base
18 rate is already high enough to promote water conservation.
19 Most, if not all, of the homeowners up here came from larger,
20 rural areas with much larger water systems, and, therefore,
21 much smaller costs per customer. Jumping into an area for the
22 Willow Creek Water Company area with such a high base rate is
23 a wide enough gap in costs and rates to drive water
24 conversation efforts that are desired by the State.

25 Our area is also still in development phase. From

1 what I understand by law, the State cannot do anything to inhibit
2 the sale of lots in our area. Raising water rates with an overage
3 fee of \$4.50 per thousand gallons will greatly inhibit the
4 development of this area. This fee is not necessarily to run the
5 system which is a nonprofit.

6 If the proposed rate of \$4.50 is enforced, Willow
7 Creek Water Company will collect more money than is needed to
8 run the water system and you guys will find yourself involved
9 with another series of rate hearings. Water is also not the
10 intention, as stated earlier in this meeting today by Mr. Long,
11 and, therefore, there is no reason to apply an excessive overage
12 fee for extra water use.

13 Most of the homeowners are very concerned in
14 trying to conserve water. Increasing rates to proposed rates is
15 not only inaccurate and unfounded, based on my estimations
16 above, but it will be risking default by customers and, therefore,
17 risking the Company. Conserving on 43 customers is a drop in
18 the bucket to the water conservation goal of the State.
19 Increasing overage rates to promote water conversation in such
20 a small area with such a small company does not provide the
21 State with much water conversation. It is going to hurt the
22 development more than it will promote conversation.

23 Again, since this is a nonprofit company, I hold the
24 argument that the water shareholders and the Water Company
25 with the overseeing capabilities and expertise of the State

1 should determine the cost of dispersing water to the Company
2 and that we pay what it cost to get the water to us, not some
3 arbitration overage rate. We need to further scrutinize the base
4 rate data as I have calculated to make it as accurate as possible
5 and then change the rates schedule to reflect those values.

6 I have been in conversation with Mr. Veibell. He
7 has thanked me many, many, times for the times that I have,
8 and others have, put into trying to break apart this spreadsheet,
9 and if I can figure out what he has told me, he is giving his
10 approval of the rate increase because that is what was
11 presented by the Division to him but he has thanked me for
12 trying to bring the rates down. That is all I have to say.

13 ADMINISTRATIVE LAW JUDGE REIF: Thank you,
14 Mrs. Erickson. Mrs. Erickson, have you had any conversations
15 with Mr. Long about your detailed analysis and all the various
16 points that you just went through?

17 MRS. ERICKSON: Not, not as of late. I spoke with
18 him last Wednesday. He was very helpful in showing me where
19 the numbers came from. He said to me, in effect, of wow, you
20 are the first person that has ever called me to ask about this.
21 Thank you for calling in. This is a fairly new spreadsheet. I
22 appreciate the input.

23 I pointed out that the calculation of \$4.50 overage
24 fee is not accounted for in the spreadsheet. He doesn't show
25 how it got there. And he was kind enough to send me an email

1 with another spreadsheet showing how he determined that rate,
2 and as I said, it was by taking our base rate of 12,000 gallons
3 per month, we are paying \$71, divided that out, that is \$2.66 per
4 thousand gallons and then increasing it by 70 percent. So that
5 is what we have discussed.

6 We were up until midnight. I was up at 6:30 trying
7 to crunch the rest of the numbers. It has just been a race
8 against time to try and get these numbers in order to present
9 today to you.

10 ADMINISTRATIVE LAW JUDGE REIF: Mrs.
11 Erickson, I very much appreciate the information that you
12 submitted, and I realize that you put a lot of effort into this. I
13 am just wondering, why did you do it at the last minute?

14 MRS. ERICKSON: I left myself over, hoping and
15 trusting that everything was correct. I hoped that those that
16 presented at the meeting last week, they are very--I don't want
17 to say high profile but very knowledgeable people in our area,
18 and they did their best to pose the arguments and I hoped that it
19 would carry. When I discovered, and my husband discovered,
20 that the arguments were probably not going to carry over, that is
21 when we started really, really digging into the spreadsheets and
22 why the rate change. So, again, I sincerely apologize, I should
23 have been involved from the beginning, but I did not realize all
24 that was involved in this rate increase.

25 ADMINISTRATIVE LAW JUDGE REIF: Okay. Just

1 to backup, there was an interim rate case hearing in this docket
2 in March, and there was also an intervention deadline in May, all
3 giving opportunity to become very much involved, which sounds
4 like you have done at a very late date, but, nevertheless, the
5 Commission very much appreciates the level of detail and
6 analysis that you have provided.

7 You mentioned that Mr. Veibell has appreciated
8 your help in trying to, and I am paraphrasing, possibly bring a
9 resolution to this that might be amendable to all parties; is that
10 a correct--

11 MRS. ERICKSON: Yes, I spoke with him this
12 morning twice. He was giving me information on whether or not
13 the chemical fees, whether or not that was determined by water
14 usage of if that was just a straight monthly cost. He answered
15 many questions and he reiterated it twice this morning; thank
16 you so much for the time that you are putting into this to help us
17 and to get the rates appropriate. And he said that just this
18 morning, so I believe, it is my feeling from what he has shared
19 with me that he is trying to help keep both parties happy but
20 that he really feels that this \$4.50 overage rate is very
21 excessive, but he does not have the tools to fight it. He feels
22 that he needs to follow the State on this. Now that is my
23 opinion from what I get from having spoken to him.

24 ADMINISTRATIVE LAW JUDGE REIF: Okay. Mrs.
25 Erickson, I neglected to swear you in and I would like to do so.

1 Do you have any objection to me swearing you in after the fact?

2 MRS. ERICKSON: No, ma'am, no, ma'am, please.

3 ADMINISTRATIVE LAW JUDGE REIF: Okay. This
4 is a little awkward because you are not here but, nevertheless,
5 would you kindly raise your right hand?

6 MRS. ERICKSON: Yes.

7 ADMINISTRATIVE LAW JUDGE REIF: And do you
8 swear that the testimony you've provided, and that you may
9 continue to provide in this case, is the truth?

10 MRS. ERICKSON: Yes, ma'am, to best of my
11 ability. I might need--we might need to double check the
12 numbers but it is the truth to the best of my ability at this time.

13 ADMINISTRATIVE LAW JUDGE REIF: Okay.

14 MR. ERICKSON: Do you mean to the best of your
15 understanding?

16 MRS. ERICKSON: Yes, yes.

17 ADMINISTRATIVE LAW JUDGE REIF: Mrs.
18 Erickson, I gather that what you presented today may have been
19 in the form of a written document that you may have been
20 referring to or reading from; have you provided that to the
21 Division?

22 MRS. ERICKSON: I sure tried. I got up at 6:30
23 this morning to try and finish it and I didn't get it done in time,
24 so I was going to try and have it faxed in so that you would have
25 it in front of you with pictures of the spreadsheet, where I am

1 getting my numbers, so you could see it. I plan on either faxing
2 it or mailing in hard copies today, tomorrow, sometime soon.

3 ADMINISTRATIVE LAW JUDGE REIF: Is there any
4 reason why you couldn't do that right this very moment?

5 MRS. ERICKSON: Possibly the fact that I have
6 three little kids and I am on the phone.

7 ADMINISTRATIVE LAW JUDGE REIF: Well, is it
8 possible that you could email it despite that fact that you have
9 three little kids and you are on the phone?

10 MRS. ERICKSON: Yes, I can send an email. If you
11 will understand that it is a rough draft, I can certainly send it in.
12 I would like the opportunity to finalize it, but if you would like it
13 right now, I can attach it to the an email and get that in right
14 now.

15 ADMINISTRATIVE LAW JUDGE REIF: Well, I don't
16 know that there is going to be much opportunity here for you to
17 file beyond the hearing. Once this matter adjourns, I don't know
18 that the Commission is going to be amendable to reviewing
19 additional documents. I just simply can't confirm or deny that,
20 but it is entirely up to you. It could be helpful to have what you
21 are referring to and it could be helpful so that while we are here
22 in the hearing room, we can address it with Mr. Veibell and we
23 can address it with the Division and see what the response is
24 with respect to the various dissection that you've provided.

25 MRS. ERICKSON: I'll certainly get that in. I will

1 add in a few things extra that I have spoken that are not written
2 there, and I will have that emailed in. Do you mind giving me the
3 email address one more time? Isn't it PCS something?

4 ADMINISTRATIVE LAW JUDGE REIF: At Utah.gov.

5 MRS. ERICKSON: Is it PCS or PSC?

6 ADMINISTRATIVE LAW JUDGE REIF: Public
7 Service Commission. And is there a problem with you doing that
8 immediately and such, that we could take a break and we could
9 have it in our hands and mark it as an exhibit and discuss it
10 further at this hearing?

11 MRS. ERICKSON: No, ma'am, there is no reason.
12 If you can give me one minute, two minutes, then I will get that
13 emailed out. Will you say the email address one more time,
14 please?

15 ADMINISTRATIVE LAW JUDGE REIF:
16 PSC@utah.gov.

17 MRS. ERICKSON: Okay, thank you. Do I need to
18 inclose copies of the spreadsheet that I am referencing?

19 ADMINISTRATIVE LAW JUDGE REIF: Yes, you do.

20 MRS. ERICKSON: Okay, I will do that.

21 ADMINISTRATIVE LAW JUDGE REIF: Well, if you
22 are referencing the Division spreadsheet, no. If you are
23 referencing a spreadsheet that you have developed, yes, you
24 do.

25 MRS. ERICKSON: Okay.

1 MR. ERICKSON: So you may want to introduce it
2 as a second spreadsheet that Mark Long gave you as an exhibit,
3 as well, that discusses that.

4 ADMINISTRATIVE LAW JUDGE REIF: I would
5 prefer no communication amongst the participants, as I have
6 already indicated. We will be off the record and in recess for
7 five minutes, and, Mrs. Erickson, we will be awaiting your
8 document.

9 MRS. ERICKSON: Thank you. I will get it in.

10 ADMINISTRATIVE LAW JUDGE REIF: Thank you.

11 (A discussion was held off the record.)

12 ADMINISTRATIVE LAW JUDGE REIF: Thank you,
13 ladies and gentlemen, for the short recess. We are back on the
14 record now, and on the phone is Mrs. Natalie Erickson. Mrs.
15 Erickson, before we went on the break, I have requested that
16 you forward via email a copy of your presentation, and what we
17 received was an email from a Nathan Erickson, attaching a
18 document that was purportedly prepared by a Richard Croft.

19 MR. ERICKSON: Your Honor, that is something
20 separate.

21 ADMINISTRATIVE LAW JUDGE REIF: Okay. So
22 Mrs. Erickson, we have not received your submission.

23 MRS. ERICKSON: I emailed it. Let me check my
24 email, double check my address, and PSC@utah.gov sent at
25 2:58 p.m., three attachments to it, all right.

1 ADMINISTRATIVE LAW JUDGE REIF: All right. We
2 will be in recess for another five minutes, maybe shorter than
3 that. I just need to double check on whether other not we have
4 another email. Thank you.

5 (A discussion was held off the record.)

6 Natalie Erickson Exhibit-1 marked

7 ADMINISTRATIVE LAW JUDGE REIF: We will be
8 back on the record. Thank you, everyone, for allowing us to
9 take that break and obtain the email from Mrs. Natalie Erickson.
10 That email has been distributed and I have marked it as Natalie
11 Erickson Exhibit No. 1.

12 Mrs. Erickson, I understand you are on the line.
13 Thank you very much for sending this to us, and I realize that
14 you are not looking specifically at what we have, but it is exactly
15 what you sent in to us. Are you with me, Mrs. Erickson?

16 MRS. ERICKSON: Yes, can I double check that
17 you have all three tabs from that spreadsheet that I sent in?

18 ADMINISTRATIVE LAW JUDGE REIF: Are you
19 talking about the excel spreadsheet?

20 MRS. ERICKSON: Yes, there's excel spreadsheet,
21 and as I addressed in the email, there are three tabs on that
22 spreadsheet and I used three of them, so you have three
23 printouts of three different spreadsheets.

24 ADMINISTRATIVE LAW JUDGE REIF: We just
25 have one and it may be an issue that we can resolve here in

1 short order. We will see if we can get that taken care of. So
2 the first one says, "Willow Creek Water Company general rate
3 increase," on the first page, and it says, "Amended Exhibit 1.2
4 SR." Is that the first tab you are referring to?

5 MRS. ERICKSON: I believe so. I mean, there is a
6 big, red area that says, "Calculation of Natalie Erickson."

7 ADMINISTRATIVE LAW JUDGE REIF: Yes.

8 MRS. ERICKSON: Okay. There are two more tabs.
9 The next tab that you should be getting--hopefully they will print
10 them out--was what was sent to me by Mr. Long last Wednesday
11 of how he figured out the 70 percent overage fee, and then my
12 note to the side of that.

13 ADMINISTRATIVE LAW JUDGE REIF: Was this all
14 part of your spreadsheet that you submitted in your email?

15 MRS. ERICKSON: Yes, ma'am. At the bottom of
16 the spreadsheet, it shows sheet one, sheet two, sheet three. I
17 used all three of those sheets.

18 ADMINISTRATIVE LAW JUDGE REIF: Okay. I
19 think we are just waiting for the two other sheets, so let's be off
20 the record for a few minutes here and I'll let you know when we
21 have the other documents.

22 (A discussion was held off the record.)

23 THE COURT: Mrs. Erickson, we now have a
24 complete copy of your email, including all three tabs from your
25 excel spreadsheet.

1 MRS. ERICKSON: Wonderful.

2 ADMINISTRATIVE LAW JUDGE REIF: And thank
3 you again for sending this. Our copy is a little bit small, so a
4 little bit challenging to read, but nevertheless, it certainly is
5 much easier to follow than to try to guess at what you said
6 during your testimony.

7 Would you mind just for--just going through on the
8 spreadsheet itself, then we will turn to the Division for their
9 response to this, exactly where you made the adjustments, and
10 if you can briefly explain your reasoning for doing that?

11 MRS. ERICKSON: Sure. The spreadsheet, it says
12 at the top, "Water, 2013." That will show you the electrical cost
13 that I obtained from Mr. Veibell Sunday evening.

14 ADMINISTRATIVE LAW JUDGE REIF: I want to
15 make sure I am on the right tab, so you are looking at one of
16 your excel tabs. Right?

17 MRS. ERICKSON: Yes, ma'am. It's water, 2013 at
18 the top, and, again, I apologize. These aren't in a very
19 presentable fashion. These are my personal notes and I just
20 rushed to get a copy to you.

21 ADMINISTRATIVE LAW JUDGE REIF: Okay. We
22 are looking at the third tab?

23 MRS. ERICKSON: Yes.

24 ADMINISTRATIVE LAW JUDGE REIF: Okay, go
25 ahead, please.

1 MRS. ERICKSON: Okay. You will see on there the
2 electrical costs that I obtained from Alton Veibell. There are
3 eight months of electrical bills there. Technically, the March bill
4 was for \$372, which included February's price in it. I am sorry,
5 are you saying something?

6 ADMINISTRATIVE LAW JUDGE REIF: I am not
7 saying anything.

8 MRS. ERICKSON: Okay, sorry. So you will see the
9 adjusted, the next column over says adjusted for March and
10 February's one bill water usage. January has been highlighted.
11 I left that out of the equation just because we had eight months
12 of electricity and I only had seven months of water usage, so I
13 left out January.

14 Then next to that, you will see water usage. The
15 top number says 63,800, the next number is 64,200, and that
16 goes down. So you have total of the electrical costs and the
17 water usage.

18 ADMINISTRATIVE LAW JUDGE REIF: And remind
19 me, Mrs. Erickson, water usage was based on--is that total
20 water usage? Is that water usage of a particular customer?

21 MRS. ERICKSON: This is water usage on the
22 entire system. These are numbers that Kevin Hanks read from
23 the system meters in the--and I believe in the pump house, so
24 this is all of the water pumped out of the ground so that we can
25 determine what the electrical costs are to get water out.

1 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
2 you.

3 MRS. ERICKSON: Okay. So as you go over to the
4 right, you will see my electrical price per gallon. I just take the
5 total of my electrical costs from February to August, and I
6 divided that, got my total water usage, which was from January
7 to July, because electrical is, obviously, off by one month by the
8 water usage, from what I understand.

9 ADMINISTRATIVE LAW JUDGE REIF: Excuse me,
10 your electrical pricing, is that based on the tariff that you
11 submitted?

12 MRS. ERICKSON: The electrical pricing was based
13 on the numbers that were submitted to me by Mr. Veibell, the
14 actual check that we wrote out to the electric company.

15 ADMINISTRATIVE LAW JUDGE REIF: Okay.

16 MRS. ERICKSON: So our electrical price per
17 gallon is about 37.66, and then we have water usage for 2012,
18 this is where we have to get into estimating. As I mentioned in
19 my testimony, there are two homes that have been added to the
20 system in 2012, and so I wanted to subtract much of the
21 overage that has been used for those two homes. I did the best
22 that I could at 6:30 this morning, and I took my bills water usage
23 and I timed it by two to account for the Holden's, who have also
24 added their yard, so you can see the total water amount of
25 285,000--

1 ADMINISTRATIVE LAW JUDGE REIF: Mrs.
2 Erickson?

3 MRS. ERICKSON: Yes, ma'am.

4 ADMINISTRATIVE LAW JUDGE REIF: I am
5 wondering, so were you not able to get these figures from Mr.
6 Veibell; is that why you were estimating based on your own
7 household?

8 MRS. ERICKSON: Yes, as I mentioned before, we
9 have been in a crunch for time. You know, many of us have
10 jobs, we have children, and we have been doing everything that
11 we can. I was with Mr. Croft at Mr. Veibell's house on Sunday
12 night until 11:00 p.m. getting the numbers that I can from him,
13 but he does not have specific numbers for household use. I got
14 the numbers that I could from Mr. Hanks this morning and in an
15 interest of time, we just got totalled water usage on the system.

16 ADMINISTRATIVE LAW JUDGE REIF: Who is Mr.
17 Croft, Mrs. Erickson?

18 MR. ERICKSON: What was that?

19 ADMINISTRATIVE LAW JUDGE REIF: You
20 mentioned someone named Mr. Croft; who is that?

21 MRS. ERICKSON: Mr. Croft was--he was--he is a
22 water user up in our area. He was mentioned earlier in the
23 testimony of Beau Lewis regarding a document that he has
24 spent all night writing that has been submitted. I believe he
25 emailed it in to submit it to you guys.

1 ADMINISTRATIVE LAW JUDGE REIF: Okay, all
2 right. Go ahead, please.

3 MRS. ERICKSON: That is Mr. Croft and we have
4 been there at Mr. Veibell's looking over these numbers.

5 So in the interest of time, I estimated an--I believe
6 it would be much more effective to get the actual numbers. So
7 as I said, I subtracted out the usage of my home and I believe
8 the Holden's probably used about --

9 ADMINISTRATIVE LAW JUDGE REIF: We're
10 having a hard time hearing you. It sounds like you are maybe
11 moving away from the phone or the connection is going in and
12 out. I realize that you may have other things going on, but I
13 really need to have you focus and speak clearly, and if you can,
14 just a little bit more slowly so the court reporter can catch
15 everything you are saying, Okay?

16 MRS. ERICKSON: Okay, I apologize. I am sorry.
17 So you see the gallons that I've estimated is 240--243,300, and
18 that is the gallons used for January through July, minus my
19 household times two, and the excess of about 12,000 gallons
20 per month for two months. I took that figure--you cannot see the
21 formula in your spreadsheet but I took that figure, I divided it by
22 seven to get an average monthly usage, and that gives you the
23 346,185.7, and then the next line down, I multiplied that number
24 by 12 to give us, looks like, 4,154,229 gallons as an
25 approximate water usage for 2012.

1 So that is where I get the figures, that 4 million
2 figure right there, and then the electrical costs of one thousand
3 up above, and the electrical section of about one thousand
4 dollars, I use those two figures in other spreadsheets. So if you
5 will now turn to sheet--the second sheet, Willow Creek Water
6 Company general rate increase. It has a yellow box entitled,
7 "Rate summary," at the top. This was sent to me by Mr. Mark
8 Long to explain how he developed the \$4.50 overage charge.

9 He did this getting our--underneath that yellow box,
10 you will see his usage fee of variable expenses are \$31.95, and
11 then he is taking the 12,000 gallon per customer, per month,
12 causing the usage fee. That is an extremely arbitrary number.
13 We have no idea specifically without looking at numbers what
14 the actual household use is. So he is dividing that out and
15 getting the cost per gallon, that \$2.66 and then adding 70
16 percent to that to get us out at \$4.50 per thousand gallons.

17 The numbers to the right in red, I don't think they
18 apply in this situation. Those are --

19 ADMINISTRATIVE LAW JUDGE REIF: What are
20 the numbers in red? Are those your number or Mr. Long's
21 numbers?

22 MRS. ERICKSON: The note in red--sorry, I thought
23 the title of my email explained that's the big, red box is all notes
24 from me.

25 ADMINISTRATIVE LAW JUDGE REIF: Okay.

1 MRS. ERICKSON: So that you would have that
2 documented what that is and not have to question in the future,
3 not that I mind on the phone but just in the future that should be
4 documented, those are my questions and my notes.

5 Now if you will turn to sheet one, general rate
6 increase, this is the basic spreadsheet submitted by Mark Long.
7 He does have in his actual exhibit many more tabs and pages to
8 this information but this has the actual rates in it. The box to
9 the right that is in red, again, those are my numbers.

10 So if you look at the green column on the left, that
11 shows all of the expense categories, and you will see what Mr.
12 Veibell and Mr. Taylor have spent hours doing, trying to get our
13 base rate down from the hundred and something dollars as
14 recommended by the Division down to, oh, the very bottom of
15 this, there is a total 71 dollars and something.

16 You add--let's see, where is it, Mark? There is a
17 \$39.85, the middle column at the very bottom, that \$39.85 is the
18 base month rate for every customer whether they use water or
19 not. The \$31.95 to the right of that, very bottom of this sheet in
20 blue, \$31.95, those are considered the variable costs. Now if
21 you follow that up, you will see what was used in determining
22 these variable costs.

23 First we have \$2,800 of electricity. I argue that we
24 shouldn't be charging--or using this \$2,800 figure in electricity.
25 We should be using a figure that is how much electricity per

1 thousand gallon, not just some arbitrary figure of \$2,800 and we
2 will assume that customers use 12,000 a month and divide that
3 out. That is not mathematically sound.

4 So if you use a figure that I have proposed of
5 4,154,000 gallons--I apologize, I am going to the right in the red
6 column now, to the right of the electrical line, so we have got
7 our estimated water and then you will see under that figure
8 0.756, that figure is our estimated cost of electricity, times one
9 thousand so we can get price per thousand gallons, and then I
10 am multiplying it by two to account for a 20 horsepower pump
11 versus a seven-and-a-half horsepower pump. I cannot
12 mathematically explain why I am multiplying it by two. That is just a
13 recommendation from Tom Lachmar, Dr. Tom Lachmar of Utah
14 State University. He is a hydrogeologist. He knows his stuff.
15 He is referenced many times and sought out for his information
16 but we would need to check that figure.

17 So as you go down from the electrical line, the next
18 thing that we are paying for is chemicals. Now chemicals are
19 used depending on how much water you use because you have
20 to treat the water. So using my figure 4 million gallons and the
21 figure that Alton Veibell has of \$550 in chemicals last year, we
22 have a rate of .136 per thousand gallons.

23 Now it would be better to know the cost of the
24 actual chemical per how much water it treats, but I was not able
25 to get in touch with Kevin Hanks again this morning. He must

1 have been driving and not wanting to talk while driving. Good
2 job. So I apologize but I didn't get that number accurately. I
3 should have done it sooner. Sorry, Kevin, for not asking you
4 earlier today.

5 Let's see, as you continue down in that third
6 section over, we have contractual service accounting,
7 underneath that legal, and keep going down, there are \$1,330
8 for testing and lab fees, those rates are figured into Mark Long's
9 number to give us our monthly overage fee but these rates do
10 not increase as we use more water. They should not be in our
11 calculation to determine what it costs us to get our water. They
12 are flat fees.

13 I will continue down, system maintenance, system
14 repairs, and others, those are fees that, yes, are going to
15 increase with water usage, so, again, in my red section, I have
16 determined cost per thousand gallons. You will see that in there
17 .411 for the maintenance, .3466 for repairs, .1155 for
18 operations.

19 ADMINISTRATIVE LAW JUDGE REIF: Mrs.
20 Erickson, so just to backup, so the water maintenance, what is
21 your proposed corrected amount, based on your calculation?

22 MRS. ERICKSON: Water maintenance, all I am
23 doing is taking Mr. Veibell's number of--or, actually, I am taking
24 the 1,710 figure, since variable fees are estimated to be 95
25 percent of the total, I am taking that 1,710 number and I am

1 divided it by the estimated amount of water usage 2012, and
2 that gives us 0.411628 dollars per thousand gallons used is
3 what it costs for maintenance.

4 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
5 so you don't, you don't have an actual final figure? It is just
6 that is what you believe is the proper calculation?

7 MRS. ERICKSON: Yes, yes, Your Honor, and I am
8 doing that based on the Division's actual assumption on the
9 same thing. If they are going to charge us rates using this
10 figure and give us a percentage of it and then charge us
11 overage fees based on using that figure, and knowing system
12 maintenance, it is going to be a fairly linear relationship to how
13 much water is actually getting pulled out of the system. You
14 have wear and tear on the size of your pipes, on all of your
15 manifolds and the gauges, and I imagine that is going to be a
16 somewhat directly linear equation. So it's certainly open for,
17 you know, debate.

18 Would you like me to continue down?

19 MRS. ERICKSON: Yes, please.

20 MR. TAYLOR: Can I ask for point of clarification?

21 ADMINISTRATIVE LAW JUDGE REIF: When she is
22 finished, please.

23 MRS. ERICKSON: Okay. So water system repairs,
24 same thing, and to operate, the operator, I am assuming that,
25 you know, when we use more water, than, yes, they need to go

1 in there and put more chemicals in and that takes more time.
2 So I am not assuming that I know that it does take more time.
3 So I used those figure.

4 I have cut out--as you continue down that third new
5 column over, you will see the figure \$1,620 for general liability
6 insurance. I don't believe our insure costs increase with
7 increase water usage, so that should not be used in our
8 calculations. The regulatory Commission expense, I don't think
9 you guys are going to charge more depending on how much
10 water we get out of our system. Correct me if I am wrong.
11 Same with office and postage, we have the same amount of
12 customers despite how much water they use. So those fees
13 should not be included in our calculation.

14 I believe there also was a loan payment in here
15 somewhere. Yes, that number, it's line 26, interest free loan
16 payment, that payment is a set rate of, I believe--is it \$7 million
17 per year or \$8 million per year? I don't know but regardless, it
18 is a set rate. It does not increase with our water usage. That
19 number should not be calculated into our fees to obtaining
20 water.

21 So I have come up with--and this is after doubling
22 the cost of electricity and, again, using the estimated water
23 usage for 2012, I come up with a rate of \$1.76 that it costs to
24 get water out of the system. And so I propose that the
25 customers have a fair monthly rate of 71--no, excuse me, I

1 propose that the monthly rate of \$39.85 and that--and then we
2 are charged \$1.76 per thousand gallons used each month. Now
3 during the winter months, I understand you cannot read the
4 meters, they are covered by snow, so maybe we would just pay
5 the \$39.85 in the winter months and make good of what we used
6 once we can read the meter again in the spring.

7 ADMINISTRATIVE LAW JUDGE REIF: Thank you,
8 Mrs. Erickson. So just to recap, the base rate, you agree with,
9 it is just the overage rate that you have gone through and
10 analyzed and based on a number of explanations that you have
11 given, you believe that should be closer to \$1.76 per one
12 thousand gallons used?

13 MRS. ERICKSON: Yes, ma'am. And, of course, if
14 we are not going to be including that expense in our rates, then
15 we need would need to adjust for the liability insurance would
16 need to be moved over, but what I just said, some of that
17 equation does not work. Maybe give us a base rate of \$71 and
18 then we pay an overage of \$1.76 per every gallon--every
19 thousand gallon used.

20 You know, again, this needs to be talked about.
21 The information that has been given from the Division and from
22 the Water Company is not enough to determine an accurate
23 rate. From my conversations with Mr. Alton Veibell, let me see,
24 I wrote it down here, I believe that Willow Creek Water Company
25 and specifically Alton Veibell, would approve and, in fact, rather

1 charge a base rate monthly fee and then a cost per thousand
2 gallons for what the customers actually use and what it actually
3 costs to get the water dispersed rather than having this overage
4 rate of \$4.50 after an arbitrary amount of 12,000 gallons.

5 ADMINISTRATIVE LAW JUDGE REIF: And so--

6 MRS. ERICKSON: And my point remains that the
7 Commission should relook at approving the proposed rate, or
8 not approving them, because they do not reflect what it costs to
9 get the water to the customers.

10 ADMINISTRATIVE LAW JUDGE REIF: Okay. So,
11 Mrs. Erickson, you will be subject to questions here in just a
12 moment, but just so I am understanding what you just said,
13 there was an a point at which you referred to as \$71.80 charge;
14 are you suggesting that the base rate should be amended to
15 that amount and then the overage should be as you have stated,
16 \$1.76? Please help me understand what you are saying.

17 MRS. ERICKSON: Okay. It's going to be hard to
18 say exactly what I propose it to be at. If you will look at the
19 spreadsheet, as I mentioned, there is a base fee, a monthly fee,
20 charged to every customer regardless of water usage of \$39.85.
21 Now that does not include 100 percent of the accounting fees, it
22 does not include 100 percent of the legal fees or the
23 management fees that I have taken out of the equation, so we
24 need to refigure this spreadsheet.

25 You know, I would actually be okay and say yes, we

1 can pay the \$71.80 per month if that will make everybody happy.
2 I still don't think it's absolutely correct, and then pay per
3 thousand above the 12, but it's a lot better than the proposed
4 rate of \$4.50 overage fee.

5 So I propose the Commission look at this and just
6 rethinks it and if you really want to know what I think a fair rate
7 would be, I would need some more time to look at this.

8 ADMINISTRATIVE LAW JUDGE REIF: Okay. Well,
9 as you know, we are running against a very short timeframe on
10 this. So as it stands right now, you are proposing that the base
11 monthly fee be amended to \$71.80 and that the per one
12 thousand gallons used be amended from \$4.50 to \$1.76?

13 MRS. ERICKSON: Yes, that \$1.76 above, I guess
14 for the sake of lack of time, above the 12,000 gallon a month
15 limit.

16 ADMINISTRATIVE LAW JUDGE REIF: Right.

17 MRS. ERICKSON: And that way we are paying
18 what it costs to get us that water rather than some arbitrary
19 figure.

20 ADMINISTRATIVE LAW JUDGE REIF: Okay. Mrs.
21 Erickson, is there anything further that you wish to add to your
22 testimony? I know there are question for you, so --

23 MRS. ERICKSON: Just that I believe that Willow
24 Creek Water Company would rather see it this way. From
25 everything that they have said, I believe they are trying to

1 comply with the State--or the Division and make them happy. I
2 feel that Willow Creek Water Company feels that their hands are
3 tied and they need to have the \$4.50 overage rate and that they
4 are grateful that I have, and others have, put in the time to show
5 that is inaccurate. That is what I have gleaned from working
6 with Mr. Veibell for two weeks on this--or for one week.

7 ADMINISTRATIVE LAW JUDGE REIF: Thank you,
8 Mrs. Erickson. I am going to give the parties an opportunity to
9 ask you questions and I may have some follow up questions, as
10 well, but why don't we ask Mr. Veibell right now how we feels
11 about this.

12 Mr. Veibell, you've heard the testimony; do you
13 support what Mrs. Erickson is proposing?

14 MR. VEIBELL: I haven't gone over it just the way
15 she has, but, you know, my feeling, especially you know --

16 ADMINISTRATIVE LAW JUDGE REIF: Speak up
17 right into your microphone. The people on the phone cannot
18 hear you.

19 MR. VEIBELL: Okay. Is that better?

20 ADMINISTRATIVE LAW JUDGE REIF: Much better,
21 thank you.

22 MR. VEIBELL: Okay. I was visiting with Natalie.
23 You know, I mentioned to her that I am one of the water users
24 and for me, you know, \$4.50 is quite high, but all the water
25 users, I felt, that that \$4.50 was, you know, quite high. But

1 Mark Long, you know, done all those figures and I hadn't figured
2 as close as he did or as close as Natalie has done, and so Mark
3 Long, I told him I was obviously--if that is what it has to be, then
4 that is what it should be.

5 MRS. ERICKSON: I am sorry, I didn't catch most of
6 that. Can somebody recap for me, please?

7 ADMINISTRATIVE LAW JUDGE REIF: Mrs.
8 Erickson, Mr. Veibell was responding to the question of whether
9 he supported what you were proposing, and, in essence, he said
10 that he is a customer and recognizing that other customers have
11 to pay the overage, he felt like it was high, but he hasn't had an
12 opportunity to fully evaluate what your proposal is. But it seems
13 to me, and am I correct, Mr. Veibell, that you--

14 MR. VEIBELL: Yes, that is right.

15 ADMINISTRATIVE LAW JUDGE REIF: --that you
16 support what the Division is recommending?

17 MR. VEIBELL: Yes, if that is what it has to be
18 because I haven't, you know, gone over the figures as much as
19 Mark has done or as much as Natalie has done.

20 ADMINISTRATIVE LAW JUDGE REIF: Okay. So is
21 it safe to say that you really don't have a position either way
22 because if you haven't gone over the position that Mark has
23 done, how could you have a position on his analysis, and if you
24 haven't gone over the figures that Mrs. Erickson has proposed,
25 how can you have a position on that?

1 MR. VEIBELL: You see these figures that Natalie
2 has put up. I just received them just a few minutes ago and I
3 really haven't had time to go over them.

4 ADMINISTRATIVE LAW JUDGE REIF: But you
5 have had the figures from the Division for weeks and you say
6 you haven't had a chance to go over those but you are just--I
7 am trying to get a better understanding of what your position is.

8 MR. VEIBELL: Well, my position is that I want--that
9 it is going to be--all the property owners, the shareholders, and
10 like I mentioned before, we have got these here figures that
11 Natalie has put together now, and Mark Long has said that we
12 have to have extra money in there if a pump goes out or
13 whatever. Now Natalie figures doesn't show all of that, and to
14 get that excess in the account, if it has to be \$4.50, well, then I
15 agree with Mark, but if we can get by with less, well, then that
16 might be a little too high.

17 MRS. ERICKSON: Your Honor, may I expound?

18 ADMINISTRATIVE LAW JUDGE REIF: Yes, please,
19 Mrs. Erickson.

20 MR. VEIBELL: The Division has been concerned
21 that we have not had a reserve in account for emergencies and
22 maintenance. That is figured into the fixed expenses here that
23 account for, I believe, the \$39.85 and that will--the rate for
24 every customer has to pay that \$39.85 per month and that will
25 put in an estimated \$20,690 into this reserve account per year.

1 So that reserve that Mr. Veibell has mentioned, in order for big
2 emergencies, is accounted for in that \$39.85 or the total for
3 water users in the \$71.80 that we would already be paying per
4 month. So I am proposing that we only--

5 ADMINISTRATIVE LAW JUDGE REIF: Mrs.
6 Erickson, you cut out. Mrs. Erickson, I am going to ask you to
7 repeat yourself. You cut out at the very last couple of
8 statements I think you were making. You made the point that
9 the reserve account is accounted for in the base monthly fee,
10 whether it's \$39.85 or \$71.80 but then it went fuzzy. We
11 couldn't hear you.

12 MRS. ERICKSON: Okay. I am sorry, our service
13 up here isn't great. So we are already paying into that reserve
14 of about \$20,000 per year, so there is no reason for us to have
15 to be paying more into it and for that calculation to be a part of
16 our overage fees.

17 As Mr. Veibell has mentioned, he wants to make
18 sure that he complies with the State regulations, that we are
19 paying into that reserve account, that is already addressed. It
20 is underlying. It is already there. I would like to know whether
21 Mr. Veibell thinks that it is appropriate to pay more than what it
22 actually costs to get the water because I think he is kind of
23 stuck between a rock and a hard place of, well, do you approve
24 the State rate. Well, yes, if they are accurate, if that is what it
25 costs in order to cover the system, then yes, I approve. But

1 what he doesn't know is that the \$4.50 of overage fee proposed
2 by Mark Long has absolutely nothing to do with this money that
3 needs to go into the reserve account. It is all in the name of
4 water conservation and it is using figures, these arbitrary
5 figures, that do not need to be there.

6 So in answer to Mr. Veibell, your reserve account is
7 met, we are covering \$20,697 per year and then above and
8 beyond that, we would be paying a rate per thousand gallons of
9 water of what it actually costs to get the water to the customers
10 and that account for maintenance, electrical, chemicals, etc.

11 ADMINISTRATIVE LAW JUDGE REIF: Thank you,
12 Mrs. Erickson. Anymore question for Mrs. Erickson?

13 MR. VEIBELL: I don't believe so.

14 MRS. ERICKSON: I am curious to Mr. Veibell's
15 response to that, if he thinks that it is right to be paying more
16 than what it costs to get us the water, if we do need to be
17 paying an average fee in the name of water conversation more
18 than what it is costing us on the system.

19 ADMINISTRATIVE LAW JUDGE REIF: Mr. Veibell,
20 do you wish to respond?

21 MR. VEIBELL: I was just thinking, you know, our
22 attorney fees are so much now, when we went down to sign this
23 here on that 225,000 to get this here--well, put the pumps down
24 in the well and everything, we got a bill for \$4,000 and I just got
25 that last Saturday. And, you know, this extra things that go into

1 that, too, so that is not going to happen every year, and, you
2 know, something like that should get into --

3 ADMINISTRATIVE LAW JUDGE REIF: Mr. Veibell,
4 I believe what Mrs. Erickson was asking is, in part, she is
5 making a distinction, which is on this sheet, on line 39, and --

6 MR. VEIBELL: I can't even read any of those.

7 ADMINISTRATIVE LAW JUDGE REIF: It is a little
8 too small. Okay. Mrs. Erickson, I am afraid Mr. Veibell is not in
9 a position to answer your question. The type on this printout is
10 extremely small and if you wish to address that issue with him
11 outside of the hearing, that is your prerogative, but I don't think
12 he has the ability to assess the information in front of him at
13 this time. And so we are going to pursue any other questions
14 for Mrs. Erickson. Any other questions for Mrs. Erickson?
15 Okay. Mrs. Erickson, thank you for your testimony today.

16 MRS. ERICKSON: Thank you. Is that it, then?

17 ADMINISTRATIVE LAW JUDGE REIF: Well, that is
18 it for your testimony, and I do wish to make a note, while you
19 are on the line, that the Commission has made a note that your
20 exhibit is marked as Natalie Erickson Exhibit No. 1 and it is the
21 admitted into the docket and will be known as such.

22 MRS. ERICKSON: Okay, thank you.

23 ADMINISTRATIVE LAW JUDGE REIF: Please, I
24 didn't mean to cut you off.

25 MRS. ERICKSON: I was going to say thank you

1 very much for taking the time to listen to me. I know you all
2 have very busy schedules and I am asking for your permission
3 to leave this conversation so that I can attend to my children.

4 ADMINISTRATIVE LAW JUDGE REIF: You are
5 excused, Mrs. Erickson. Again, thank you for your time today
6 and I know that the Commission very much appreciates your
7 input, as it does everyone in this docket.

8 MRS. ERICKSON: Thank you very much for your
9 time, Your Honor, for everybody's there.

10 ADMINISTRATIVE LAW JUDGE REIF: Okay. I
11 wish to note for the record that Mr. Beau Lewis did leave. He is
12 no longer present. He had an obligation to attend to.

13 And are there other issues that either Mr. Nathan
14 Erickson or Debra Carlson wish to address before we move on
15 to the final issue regarding the issuance of the CCPN?

16 MR. ERICKSON: Yes, this is Nate Erickson. I
17 would like to just make a few other statement as --

18 ADMINISTRATIVE LAW JUDGE REIF: Sure, Mr.
19 Erickson, and while I have you on the line because it does
20 cause some confusion a little bit earlier, we do have an email
21 from you, and if you--if you wish, does this pertain to what you
22 intend to address right now?

23 MR. ERICKSON: It's kind of half of what I would
24 like to talk about, yes.

25 Nate Erickson Exhibit-1 marked

1 ADMINISTRATIVE LAW JUDGE REIF: Okay. Then
2 I wish to note that the Commission marks your exhibit Nate
3 Erickson Exhibit No. 1, and just keep in mind that you should
4 address what has been already presented before the
5 Commission, and there is one outstanding issue, so feel free to
6 continue.

7 MS. SCHMID: If I may?

8 MR. ERICKSON: So the email that I sent was
9 actually a letter writ by Mr. Rich Croft that Beau Lewis
10 referenced earlier in his testimony, and since Beau had to leave
11 and I hadn't had a chance to speak yet, I submitted that as an
12 exhibit to--for consideration of the Commission.

13 ADMINISTRATIVE LAW JUDGE REIF: Thank you,
14 Mr. Erickson. Is there anything further that you wish to address
15 regarding that submission?

16 MR. ERICKSON: No, not specifically. I think it
17 stands alone. It is very well written, and I think that Rich Croft
18 brings up some very good points and concerns that should
19 probably be considered by the Commission.

20 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
21 you, Mr. Erickson. Is there any objection to the admission of
22 Mr. Nate Erickson's exhibit?

23 MS. SCHMID: None, but I will note that I trust the
24 Commission will give it the appropriate weight and
25 consideration.

1 ADMINISTRATIVE LAW JUDGE REIF: Thank you,
2 Ms. Schmid.

3 Okay. Is there anything else, Mr. Erickson?

4 MR. ERICKSON: Yes, I would just like to make a
5 few other points. I will forego the majority of my testimony
6 regarding the rates and things because I think my wife did an
7 excellent job of helping everybody understand how the rates
8 were developed and how the spreadsheet was used. I actually
9 was with her, you know, hand in hand, as we evaluated the
10 spreadsheet, and I think that it's worth noting that part of the
11 reason why Alton is supporting the rate proposed by Mr. Long is
12 because he doesn't understand how they were all developed,
13 and that is evidenced by not understanding that the reserve
14 amounts that is being required by the Division is already
15 contained in the base rate. And so I think that given time, if we
16 are able to meet with Alton and help explain, you know, how all
17 of these things were developed, it might be a lot more--he might
18 be more amenable to accepting a lower overage rate.

19 One exception that I will make to my wife's
20 testimony is that she was acceptable to having an overage rate
21 apply after 12,000 gallons per month. In my opinion, that is still
22 an arbitrary number. So what I would like to do is just read a
23 short portion of my testimony.

24 If the proposed rate takes affect without any
25 changes, my bill would have been approximately \$600. In an

1 urge to conserve, I have foregone my dreams of having a
2 vegetable garden and parts of my lawn are brown and crunchy.
3 I have tried to reduce water days in time and in effort to get a
4 handle on what my long-term consumption needs will be for my
5 current landscape plan.

6 Let me be clear that it is my understanding, at least
7 it was at the time that I wrote this, that as a homeowner in High
8 Country Estates, I own .91 acre feet of water per year, which
9 equates to a total allotment of 293,274 gallons per year. This is
10 my water. I own it. I pay Willow Creek Water Company to pump
11 it out of the ground and deliver it to me but the actual water is
12 my property.

13 After having spoken to an attorney, it is my
14 understanding that to take something that is owned by someone
15 else and charge them again for it, or to sell it at a higher rate, is
16 illegal and it carries both criminal and civil liabilities. It is my
17 understanding that to charge me in an additional tariff for water
18 that is already mine fits into this category. No one should be
19 able to force me to conserve water that is already mine.

20 So these efforts may be done under the guise of
21 conservation, the proposed 12,000 gallons limit and overage
22 rate amounts, it is illegal. I have referred to tariff no. 1
23 previously, which includes provisions for an overage rate that
24 applies to water usage beyond 293,274 gallons per year that I
25 own, and because this water is already mine, unless there is an

1 emergency, water shortage, which I, as I understand, is not
2 currently the case, any future rate structure should be
3 structured in a similar manner with overage rate taking affect
4 after the 293,274 gallons annual limit has been exceeded.

5 I understand that, you know, based on Natalie's
6 figures, she says that the cost to
7 produce--to deliver the water to us is \$1,76, and one alternate
8 proposal may be to eliminate the 12,000 gallon limit all together
9 and just charge a base rate of \$31.90 and then charge \$1.76
10 per thousand gallon starting at zero, and that would be, you
11 know, able to keep the Company solvent, which I think is what,
12 what we all agree on.

13 If it costs that much money to get us the water,
14 then I don't think there is anybody that would argue that we
15 shouldn't pay that. What I do argue is that the numbers that
16 were used to produce the \$4.50 overage fee are completely
17 arbitrary and they have nothing to do with how much the water
18 actually costs to deliver.

19 The 70 percent conversation surcharge, or
20 whatever you call it, I, in my opinion, should not be charged
21 until we have exceeded the 293,274 gallon allotment, not a
22 12,000 gallon a month limit. You know, if it happens that in
23 order to make things work on monthly basis, you need to divide
24 293,274 by 12 and then cause an overage after the 23,000
25 gallons a month is exceeded, that would still be better than

1 charging an overage after an arbitrary 12,000 gallons has
2 exceeded.

3 I understand the 12,000 gallon is a common number
4 but given the state of our lots, our lots aren't common sized.
5 You know, mine is over an acre, and they are many of the
6 neighbors who are also over an acre, and a 12,000 gallon
7 maximum during, during the summer is hardly able to keep even
8 a small percentage of our lots landscaped and able to abide by
9 the covenants that we have as a homeowners association.

10 ADMINISTRATIVE LAW JUDGE REIF: Mr.
11 Erickson--

12 MR. ERICKSON: So with that, I would like to
13 forego--I have a couple of plans as far as different numbers that
14 I have put together that I could propose, that I think in light of
15 Natalie's testimony, I will forego the majority of that.

16 The only other thing I would like to say is that for
17 those of us who do have our landscaping in place already, if this
18 tariff is put in place, it will probably cause the other
19 homeowners in the neighborhood to either hold off or drastically
20 modify the type of landscaping they put in just to conserve
21 water, you know, so that they aren't the ones that are going
22 over. And I question, you know, if there are a few of us who are
23 paying these extreme overages because we have already put
24 our lots in place based on a different set of rules, is there any
25 sort of exception that you can make for us based on the initial

1 set of rules that we were playing by.

2 ADMINISTRATIVE LAW JUDGE REIF: Thank you,
3 Mr. Erickson. Mr. Erickson, you were at our initial hearing, the
4 public witness hearing. Right? And you gave testimony at that
5 hearing?

6 MR. ERICKSON: That's correct. I am actually the
7 one that read the tariff No. 1 that talks about the A shares and
8 B shares and so on.

9 ADMINISTRATIVE LAW JUDGE REIF: And you
10 were sworn in. Correct?

11 MR. ERICKSON: That is correct.

12 ADMINISTRATIVE LAW JUDGE REIF: Okay. So
13 just to remind you, and just for the record, your testimony today
14 is a continuation of that testimony; is that correct?

15 MR. ERICKSON: Sure, yes.

16 ADMINISTRATIVE LAW JUDGE REIF: And you do
17 acknowledge that being that it is a continuation of your
18 testimony, that what you said today, or what you may continue
19 to say, represents the truth in this matter; is that correct?

20 MR. ERICKSON: Yes, to the best of my
21 understanding.

22 ADMINISTRATIVE LAW JUDGE REIF: Very good.
23 At the very end, I believe you posed a question, and I am not
24 sure who you were posing that to but do you want to clarify what
25 you were --

1 MR. ERICKSON: Yes, my question is to whoever
2 has the final say of what our water
3 rights--or what our rates will be. Is there any opportunity for
4 those of us who have already put in our landscaping under tariff
5 A to receive some sort of allowance or exception to the overage
6 fee based on the fact that we are moving to a new set of rules,
7 essentially, because we no longer will be down by 293,000
8 gallons a year. It will be based on a--if the rates are
9 unchanged, it will be based on a 12,000 gallon a month limit.

10 ADMINISTRATIVE LAW JUDGE REIF: Mr.
11 Erickson, you are representing yourself today. Correct? In other
12 words, you don't have legal counsel present with you?

13 MR. ERICKSON: That is correct. I have spoken to
14 an attorney but he is not representing me today and I am
15 representing myself.

16 ADMINISTRATIVE LAW JUDGE REIF: Okay. I
17 would suggest that if you have a concern about that issue, that
18 you raise it with your legal counsel. That is not an issue that
19 the Commission would be addressing, and so your concern is
20 noted. And I know you have raised a number of legal concerns,
21 and with that in mind, I would suggest that you, to the extent
22 that you wish to, seek additional counsel and resolve your
23 concerns in the matter in which you choose or deem
24 appropriate.

25 MR. ERICKSON: Okay, thank you.

1 ADMINISTRATIVE LAW JUDGE REIF: You are
2 welcome. Thank you for your time today, Mr. Erickson, and will
3 you be staying on the line with us?

4 MR. ERICKSON: I may for a little while. I did want
5 to make one other point. I am trying to remember exactly what
6 it was but it escaped my mind.

7 ADMINISTRATIVE LAW JUDGE REIF: Okay.

8 MR. ERICKSON: For the time being.

9 ADMINISTRATIVE LAW JUDGE REIF: I did note
10 that there was a lot of duplicity in what you--you did raise a lot
11 of the same concerns in your initial testimony. It is not really
12 the purpose of this to rehash what we've already discussed, so
13 if you remember what it was and it is something that you haven't
14 already raised, please feel free to jump in. But we are going to
15 continue here, and, again, we very much appreciate your
16 participation and your input, and thank you very much for
17 participating this afternoon.

18 MR. ERICKSON: Thank you very much, and I
19 apologize for any duplicity in my testimony and I hope the best.

20 ADMINISTRATIVE LAW JUDGE REIF: Thank you,
21 Mr. Erickson. Is Ms. Carlson on the line?

22 MS. CARLSON: Yes, I am here.

23 ADMINISTRATIVE LAW JUDGE REIF: Ms. Carlson,
24 do you wish to speak now or do you want to wait until the final
25 issue is addressed?

1 MS. CARLSON: Before we leave this issue, I am
2 just curious about Mark Long's opinion or comments on Natalie's
3 analyses.

4 ADMINISTRATIVE LAW JUDGE REIF: We will be
5 getting to that and now would not be a bad idea to do that. Ms.
6 Schmid, do you have a preference?

7 MS. SCHMID: That would be fine. I would request,
8 however, that Ms. Carlson speak up as I am having difficulty
9 hearing here.

10 ADMINISTRATIVE LAW JUDGE REIF: Yes, Ms.
11 Carlson, it's very difficult to hear you. Do you have the ability
12 to, perhaps, turn the volume up or speak a little more loudly?

13 MS. CARLSON: I am sorry. I have done that and I
14 am having difficulty hearing anyone but you, as well.

15 ADMINISTRATIVE LAW JUDGE REIF: Okay.

16 MS. CARLSON: So we will all begin shouting.

17 ADMINISTRATIVE LAW JUDGE REIF: Well, begin
18 now, please.

19 MS. CARLSON: Well, that was, that was it as far
20 as being on point with the discussion at hand right now.

21 ADMINISTRATIVE LAW JUDGE REIF: Okay. So
22 what your concern is, is that you are hoping to hear a response
23 from the Division on Mrs. Erickson's presentation; is that where
24 you are coming from?

25 MS. CARLSON: Yes, because I think many of us

1 have been--including the Commission, are depending on the
2 statistical analysis of this Division and now it has been
3 countered with an alternate analysis.

4 ADMINISTRATIVE LAW JUDGE REIF: Correct.

5 MS. CARLSON: So I am curious about how the
6 discrepancy will be resolved.

7 ADMINISTRATIVE LAW JUDGE REIF: Well, I can't
8 tell you exactly how it will be resolved until the Commission
9 examines the issue but I think we can address your concern that
10 the Division have an opportunity to respond to Mrs. Erickson's
11 proposal and analysis and I believe that Ms. Schmid is in the
12 process of getting to that right now?

13 MS. CARLSON: Excellent.

14 MS. SCHMID: Judge, right would now be an
15 appropriate time for Mr. Long to state comments concerning
16 Mrs. Erickson's proposal?

17 ADMINISTRATIVE LAW JUDGE REIF: I think that
18 would be excellent, thank you.

19 MS. SCHMID: Mr. Long?

20 MR. LONG: Yes. I jotted down a few notes as she
21 was testifying, and I would like to start out by saying rate
22 making is not an exact sign and the Division base its
23 calculations on the best information available, including
24 financial statements, water company personnel, as well as
25 Division's past experience in other rate cases.

1 ADMINISTRATIVE LAW JUDGE REIF: Mr. Long,
2 can I ask you a favor, please; can you speak directly into your
3 microphone? I can hear you fairly well but I am concerned that
4 Ms. Carlson may not be able to hear you as clearly.

5 MR. LONG: Okay, I apologize.

6 ADMINISTRATIVE LAW JUDGE REIF: Thank you.

7 MR. LONG: And the Division appreciates all the
8 work done by Mrs. Erickson and we wish we could have had
9 these conversations back in April, May, June, July, and we
10 would have had a chance to go over all the numbers in detail
11 and who knows what the end result would have been.

12 MR. ERICKSON: Your Honor, this is Nate, may I
13 interject?

14 ADMINISTRATIVE LAW JUDGE REIF: Actually, no,
15 if you could please hold the line, and Mr. Long is continuing.

16 MR. ERICKSON: Okay.

17 ADMINISTRATIVE LAW JUDGE REIF: When he is
18 finished, there will be an opportunity for questions.

19 MR. ERICKSON: Okay.

20 MR. LONG: And, likewise, similar to the Division's
21 procedures and going through and trying to calculate the
22 ratings, it appeared as though Mrs. Erickson made estimations
23 and forecasts similar to the way the Division did the rates, but
24 without really looking into her numbers in detail, it is hard to tell
25 exactly what she is proposing.

1 I did--in the email that I sent to her earlier, I made
2 a comment that said, if after a period of time it appears as
3 though the rates need to be adjusted because of a relatively
4 significant number of customers are added, or estimates of--or
5 estimates of costs prove to be materially different than using
6 this analysis, a rate case may be requested. And, you know,
7 that is probably the best way--if there is going to be a different--
8 to let this run for a while.

9 And these rates are calculated in accordance with
10 ratemaking principals, the Division's recommended rates are
11 calculated in accordance with ratemaking principals and are just
12 and reasonable.

13 ADMINISTRATIVE LAW JUDGE REIF: Anything
14 further, Mr. Long?

15 MR. LONG: No.

16 ADMINISTRATIVE LAW JUDGE REIF: Okay.
17 Before we get to questions from the parties, I would like to ask
18 you a few questions. If you would, please, look at the first tab
19 that Mrs. Erickson presented, and I would like to start with the
20 line 17, starting on line 17, and going pretty consistently through
21 the rest of that table.

22 MS. SCHMID: Pardon me, we need one moment.

23 ADMINISTRATIVE LAW JUDGE REIF: Do you need
24 an extra copy?

25 MS. SCHMID: We have one here somewhere.

1 ADMINISTRATIVE LAW JUDGE REIF: It the
2 document that says Willow Creek Water Company, general rate
3 case increase on the left-hand side. So if you are following
4 along, my questions begin on line 17. Just to paraphrase, Mrs.
5 Erickson raised the concern that when the base rate is
6 considered, that the accounting does not go up based on use.
7 So based on that analysis, would it be the Division's position
8 that that amount, the \$1,260 should be adjusted and/or omitted
9 from the table?

10 MR. LONG: I believe it should stay in this table but
11 it should be adjusted out of the amount used to calculate the
12 overage rates.

13 MRS. ERICKSON: Yes, that is exactly what I am
14 asking. I am sorry if I am not making myself clear.

15 ADMINISTRATIVE LAW JUDGE REIF: So, Mrs.
16 Erickson, can you kindly mute your line, would you please.

17 MRS. ERICKSON: I apologize, I thought I was on
18 mute.

19 ADMINISTRATIVE LAW JUDGE REIF: Okay. We
20 will continue on mute now, okay.

21 So, Mr. Long, I am sorry if I didn't make myself
22 clear. So the line that I am referring to is the line under the
23 usage expense, which I am trying to follow what Mrs. Erickson
24 was proposing. So Mrs. Erickson is proposing that should be
25 eliminated or some how reduced in a way because rates do not

1 increase--or excuse me, the accounting rates do not increase
2 based on when usage increases. So if I am understanding you
3 correctly in response, you believe that that amount should not
4 be there, should be zeroed out?

5 MR. LONG: Should be zeroed out in the overage
6 calculations.

7 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
8 then--okay, so if it zeroed out in the overage calculation, would
9 you make an alteration elsewhere in the table?

10 MR. LONG: Well, I believe there's other areas, as
11 she brought up. I can hardly read this so I am trying to --

12 ADMINISTRATIVE LAW JUDGE REIF: Yes, I can
13 hardly read it, too.

14 MR. LONG: I guess such as legal fees, they are
15 not going to increase as more water is used.

16 ADMINISTRATIVE LAW JUDGE REIF: Right, so
17 would you also delete that?

18 MR. LONG: In calculating the overage rates.

19 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
20 would you also delete the--I believe it's the management fees,
21 the \$1,330?

22 MR. LONG: Yes.

23 ADMINISTRATIVE LAW JUDGE REIF: Excuse me,
24 I think I misspoke. I think that is the testing and lab fees.

25 MR. LONG: Based on the Water Company, I

1 believe that is a set amount, so that wouldn't increase, either.

2 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
3 then on line 22, the water system maintenance is set at \$1,710;
4 should that be eliminated, as well?

5 MR. LONG: Not necessarily. The more water that
6 is used, potentially, the more maintenance it is going to require
7 to account for the extra wear and tear on the pumps and the
8 infrastructure.

9 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
10 what about the water system repairs, the \$1,440?

11 MR. LONG: And that would be the same theory
12 behind that, as well.

13 ADMINISTRATIVE LAW JUDGE REIF: Okay. So
14 you believe that those numbers should remain in the amounts
15 that they are listed at on your spreadsheet?

16 MR. LONG: Yes.

17 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
18 other, the line below that, line 24, other, and then in parens,
19 equipment operator; does that --

20 MR. LONG: That would probably fall under the
21 same as the other two.

22 ADMINISTRATIVE LAW JUDGE REIF: So you
23 would leave that?

24 MR. LONG: I would leave that.

25 ADMINISTRATIVE LAW JUDGE REIF: In place,

1 okay. So the next issue is line 26, the interest free loan
2 payment for arsonic project, isn't that a set rate?

3 MR. LONG: It is. I would eliminate that.

4 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
5 how about the general liability--isn't that a set rate also?

6 MR. LONG: It is.

7 ADMINISTRATIVE LAW JUDGE REIF: So that
8 would be zeroed out, as well; would that be correct?

9 MR. LONG: Yes.

10 ADMINISTRATIVE LAW JUDGE REIF: Okay. The
11 Regulatory Commission expense of \$25, should there be an
12 adjustment there?

13 MR. LONG: Yes, that I guess theoretically could
14 increase but not likely.

15 ADMINISTRATIVE LAW JUDGE REIF: I am sorry, I
16 thought you were going to go the other way. So would you
17 leave the \$25 or would you--or should it be zero?

18 MR. LONG: No, it should be zero for the--

19 ADMINISTRATIVE LAW JUDGE REIF: Okay.

20 MR. LONG: Likewise probably with the office
21 supplies and postage.

22 ADMINISTRATIVE LAW JUDGE REIF: Okay, all
23 right. So it looks like there is quite a lot of difference between
24 what was originally proposed and where we are today. Do you
25 have any idea what this overage rate would look like, based on

1 those adjustments?

2 MR. LONG: Well, if we were to look at the
3 schedule and I could actually --

4 ADMINISTRATIVE LAW JUDGE REIF: And if you
5 need if you need a few minutes, we can take a short recess.

6 MR. LONG: Yes.

7 ADMINISTRATIVE LAW JUDGE REIF: Let's take a
8 few minutes. We will be off the record.

9 (Whereupon, a break was taken.)

10 THE COURT: Ladies and gentlemen, we are back
11 on the record. And, Mr. Long, you are welcome to continue.

12 MR. LONG: Okay. I went and ran the numbers
13 based on eliminating those amounts under the variable expense
14 column and calculating the overage rates, and in doing that, he
15 came out that the variable costs for thousand gallons is actually
16 \$1.13 a gallon--I am sorry, per thousand gallons. And so based
17 on that, in my opinion, the overage rate needs to be at least
18 \$1.13. That will cover the variable expenses to produce that
19 water, plus whatever percentage increase the Commission
20 wishes to add as a conservation rate.

21 ADMINISTRATIVE LAW JUDGE REIF: Is there a
22 recommended amount that you suggest for such purpose?

23 MR. LONG: You know, based on everything I have
24 seen here, as well as looking at several other companies' rates
25 and past rates that we have done, I would say that \$2.50, based

1 on this new information, would be a fair and just rate for
2 overage.

3 MR. ERICKSON: Could you repeat that, please?

4 ADMINISTRATIVE LAW JUDGE REIF: Mr.
5 Erickson, if you could kind not interrupt and hold your questions,
6 we will get to any clarifications once Mr. Long continues and
7 finishes his testimony.

8 MR. ERICKSON: I am sorry, I just didn't hear the
9 number.

10 ADMINISTRATIVE LAW JUDGE REIF: Mr. Long,
11 could you repeat what you just said and speak real clearly and
12 right into the microphone?

13 MR. LONG: Okay. Earlier I said anything over
14 \$1.13 is going to cover the variable expenses per thousand
15 gallons. In my opinion and based on other water companies I
16 have seen, as well as other rate cases I have done and to
17 encourage conservation, I would recommend setting the overage
18 rate at \$2,50 per thousand gallons.

19 ADMINISTRATIVE LAW JUDGE REIF: Thank you,
20 Mr. Long. So if I am understanding correctly, so the surrebuttal
21 exhibit, which previously identified the \$4.50--can you help me
22 with the page number on that?

23 MR. LONG: Yes, I believe it is page 2.

24 ADMINISTRATIVE LAW JUDGE REIF: Page 2.

25 MR. LONG: And, really, the only thing on here that

1 changes--

2 ADMINISTRATIVE LAW JUDGE REIF: Well,
3 actually it's couldn't be page 2.

4 MR. LONG: Sorry, I have it as page 2 as the
5 exhibit. It is the amended Exhibit 1.2 SR. It's entitled, "Cost of
6 providing water and rate calculations."

7 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
8 the line number that currently--where is the \$4.50?

9 MR. LONG: It is line No. 5.

10 ADMINISTRATIVE LAW JUDGE REIF: Line No. 5,
11 okay. So based on what you have testified to, in part due to
12 Mrs. Erickson's analysis and you rehashing some numbers,
13 you're suggesting that the overage, in parens, conservation rate,
14 be amended from \$4.50 to \$2,50 per one thousand gallons?

15 MR. LONG: That's correct.

16 ADMINISTRATIVE LAW JUDGE REIF: So it will not
17 be an average--will it be per one thousand gallons, period, or
18 will it be after the 12,000?

19 MR. LONG: It will be after the 12,000 gallon
20 minimum for the base rate for each month.

21 ADMINISTRATIVE LAW JUDGE REIF: Okay, all
22 right.

23 MR. LONG: And all the other numbers there will
24 stay the same. It was just the calculation of the overage rate
25 that changed.

1 ADMINISTRATIVE LAW JUDGE REIF: So no
2 change in the base rate?

3 MR. LONG: No, that stays the same. That is
4 correct.

5 ADMINISTRATIVE LAW JUDGE REIF: So the
6 accounting, the legal, all of those things that we adjusted out
7 aren't going back in somewhere else?

8 MR. LONG: No, and the reason being is we tried--I
9 tried to assign percentages of the actual use of these various
10 expenses. And so, for example, this would be accounting line
11 17, they are estimating annual expense of \$1,400; the standby
12 people should probably pay a small percentage of that, in this
13 case, ten percent, but the people that are actually using the
14 water, using the system, incurring most of the use, I assign 90
15 percent to that, so that they will be paying a little bit more in
16 their base rate than, say, the standby customers would.

17 ADMINISTRATIVE LAW JUDGE REIF: Maybe I am
18 misunderstanding this but I --

19 MR. LONG: We took these numbers out only to get
20 the pure variable expenses of producing a thousand gallons of
21 water, which was \$1.13, and those amounts were used only in
22 calculating the overage rates.

23 ADMINISTRATIVE LAW JUDGE REIF: Okay. So
24 when we last met, there was unanimity that the rates, I believe
25 on page 10 of your surrebuttal testimony --

1 MR. LONG: Oh, the verbal --

2 ADMINISTRATIVE LAW JUDGE REIF: Can you
3 look at that real quickly? I just want to make sure that any
4 correction is noted.

5 MR. LONG: Okay, I have that. These comparison
6 amounts are hard to look at in light of the new proposed standby
7 rate because of the fact that--well, maybe--let me restate that.
8 If you look at the fourth column where it talks about overage for
9 connective customers, those amounts will change, starting at
10 the \$223.91.

11 ADMINISTRATIVE LAW JUDGE REIF: And help me
12 understand how you come to that conclusion.

13 MR. LONG: Because those were based on having
14 the overage rate be \$4.50 per thousand gallons.

15 ADMINISTRATIVE LAW JUDGE REIF: Okay. Ms.
16 Schmid, would it be helpful, perhaps, to have an amended
17 recommendation, slash, maybe even stipulation, submitted post
18 hearing?

19 MS. SCHMID: I would suggest an amended exhibit
20 for the Commission's consideration in order to and I think that
21 the amendment will help clarify what has changed and how, so
22 that would be my request, if we may do that.

23 ADMINISTRATIVE LAW JUDGE REIF: Okay. And I
24 think that is a good idea. I think it would also be important,
25 from the prospective of the Company because I am honestly not

1 getting a clear message from the Company as to what their
2 aligning themselves with, I clearly hear that they want what is
3 best.

4 Mr. Veibell, what we are discussing is that the
5 Division is going to submit a revised exhibit showing the
6 recommended rates.

7 MR. VEIBELL: I am in favor of the figures that
8 Mark Long just figured out now and he is a lot more of a
9 professional than I am.

10 ADMINISTRATIVE LAW JUDGE REIF: Okay, very
11 good. I think that is all I need to know.

12 And, Mr. Long, so at the end of the day, all that is
13 going to be affected in your analysis is the overage rate;
14 everything else will remain the same the base rate?

15 MR. LONG: That is correct.

16 ADMINISTRATIVE LAW JUDGE REIF: Okay.

17 MS. SCHMID: Can we have just a moment?

18 ADMINISTRATIVE LAW JUDGE REIF: Sure.

19 MS. SCHMID: Thank you.

20 ADMINISTRATIVE LAW JUDGE REIF: Is that
21 indeed correct?

22 MR. LONG: Yes, that's correct.

23 ADMINISTRATIVE LAW JUDGE REIF: That there is
24 just one change?

25 MR. LONG: That's correct.

1 ADMINISTRATIVE LAW JUDGE REIF: Okay. Mr.
2 Long, I want to ask you a couple of other questions, just to
3 make sure that the Commission has a clear understanding of the
4 analysis that took place in this particular docket.

5 MR. LONG: Okay.

6 ADMINISTRATIVE LAW JUDGE REIF: So please
7 bear with me in trying to better understand how the Division
8 goes about what it does. In recommending the rates that the
9 Division has recommended in this docket, did the Division
10 calculate a total Company revenue requirement?

11 MR. LONG: Yes. Let me see if I can find it here
12 really quick.

13 ADMINISTRATIVE LAW JUDGE REIF: And while
14 you are looking for that, as a followup question, when you
15 considered the customers' expected usage, will the rates result
16 in the Company collecting the revenue requirements?

17 MR. LONG: These rates are based on--the base
18 rates are based on covering the fixed expenses, as well as the
19 variable expenses to produce 12,000 gallons for the base rate.
20 The overage rate will cover the variable expenses, plus
21 whatever addition is put in there will be excess revenue to the
22 Company, which is how we've done pretty much most of the
23 other rate cases because we can't depend on companies having
24 an overage rate, especially a young company like this that
25 doesn't have a lot of history, doesn't have these customers

1 consuming water for a longer period of time, and that is why we
2 generally say, you know, we will do the best we can and let's go
3 back in a couple of years and make adjustments as needed.

4 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
5 that is what you're proposing in this particular docket; is that
6 correct?

7 MR. LONG: Right.

8 ADMINISTRATIVE LAW JUDGE REIF: Okay. I
9 think you were maybe going to refer me to some place in the
10 docket where the revenue requirement was set forth; is that
11 something that you can direct me to?

12 MR. LONG: And I don't know if it is specifically
13 labelled as such.

14 ADMINISTRATIVE LAW JUDGE REIF: Would it be
15 in your testimony, perhaps?

16 MR. LONG: I'd have to look.

17 MR. ERICKSON: Your Honor, while he is looking at
18 that, can I add something about the overage rate?

19 ADMINISTRATIVE LAW JUDGE REIF: If you will
20 hold, please, Mr. Erickson. We are still continuing with Mr.
21 Long's testimony.

22 MR. LONG: If you would refer to amended Exhibit
23 1.4 SR.

24 ADMINISTRATIVE LAW JUDGE REIF: Is this part
25 of your surrebuttal?

1 MR. LONG: Surrebuttal, yes, it is.

2 ADMINISTRATIVE LAW JUDGE REIF: Would you
3 repeat that again?

4 MR. LONG: Amended Exhibit 1.4 SR, and under
5 expenses, that is actually the revenue requirement. It goes in
6 and has the total operation and maintenance expenses, in this
7 case the property tax, federal and state incomes tax, in which
8 this case there none, total capital reserve funding, which is
9 included in here, total return on investment, which in this case,
10 there is none, and then the total expenses would be the \$39,353
11 which would be the revenue requirement.

12 If you go to the top section, you can see that the
13 revenues is \$39,439.80, which is over earning by \$86, which is
14 relatively insignificant as far as --

15 MS. SCHMID: Can we have just one more
16 moment?

17 ADMINISTRATIVE LAW JUDGE REIF: Sure.

18 MS. SCHMID: We are back.

19 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
20 you. Mr. Long, the final issue that I was hoping that you could
21 address, and thank you very much for the clarification you have
22 provided and the Commission will look forward to that amended
23 exhibit, is the final issue which the Commission asked to have
24 addressed is the issue which was addressed in the '09 docket
25 during the authorization of the CCPN to the Company originally,

1 in which the Company stated that its rate will not recoup capital
2 costs of the water system but were only meant to recoup
3 operational expenses. The Company stated that the capital
4 costs will be recovered through the sale of lots through the
5 subdivision. The Company also stated that the costs have been
6 completely paid for and there is no debt associated with
7 construction of the water system.

8 MR. LONG: If I can just have a second to find that.

9 ADMINISTRATIVE LAW JUDGE REIF: If it helps
10 you, it is quoted in the notice, but it comes from page 2 of the
11 report and order in Docket 09-2506-01, page 2 about middle of
12 the page.

13 MR. LONG: Okay, I am on the same page now.

14 ADMINISTRATIVE LAW JUDGE REIF: Okay.

15 MR. LONG: The Division's reply to the question
16 posed in the supplemental hearing is Willow Creek Water
17 Company's existing infrastructure was contributed in its entirety
18 by the developers, probably specifically, Mr. Veibell. This is
19 evidenced by looking at Willow Creek's list of assets on its
20 depreciation schedule found on Exhibit 1.6, and that I guess is
21 an amended exhibit--well, that is Exhibit 1.6 SR. Let me clarify
22 that again, it is Exhibit 1.6, but it was in the exhibit for the
23 surrebuttal testimony but it didn't change from the original
24 recommendation.

25 ADMINISTRATIVE LAW JUDGE REIF: Okay, I am

1 looking at that exhibit.

2 MR. LONG: So if you were to look at the list of
3 assets and it says, "Beginning balance," it shows a total of
4 \$629,872, and the way you can tell that 100 percent, or what
5 assets were contributed to the Company by the developer, is
6 you look at their contribution in aid of construction, commonly
7 referred to as CIAC, and that is found in the Exhibit 1.7, so the
8 very next page.

9 So in Exhibit 1.7, you see the beginning balance is
10 \$629,872, those numbers exactly offset each other and that is
11 how we would tell that 100 percent of the assets of the
12 infrastructure was contributed by the developer. We could also
13 look at the balance sheet and there are no notes or accounts
14 payable--well, there is none, anyway, but there is certainly none
15 associated with this.

16 ADMINISTRATIVE LAW JUDGE REIF: So are there
17 capital costs that Mr. Veibell is attempting to recoup by this
18 particular rate increase?

19 MR. LONG: Only to the extent of the 30 year
20 interest-free loan and he is only requesting to be able to be
21 whole on the payment. There is no interest, so there is no rate
22 of return issues involved with this.

23 ADMINISTRATIVE LAW JUDGE REIF: And is that
24 noted on one of the exhibits that you referenced?

25 MR. LONG: It is. It's actually noted--no, it is not

1 noted here. The amount hasn't been set and finalized yet and
2 so it is not included here. Had it been, then the depreciation
3 expense would have been larger, as well as the capital reserve
4 account requirement.

5 ADMINISTRATIVE LAW JUDGE REIF: Is it the loan
6 to put in the well?

7 MR. LONG: Yes, it is.

8 ADMINISTRATIVE LAW JUDGE REIF: I believe it
9 is a second well?

10 MR. LONG: Yes, for the arsenic issues.

11 ADMINISTRATIVE LAW JUDGE REIF: Does the
12 Division find any inconsistency with the Commission having
13 issues with the CCPN under the condition that it did, that the
14 Company would not recoup capital costs, and now that it is
15 seeking to recoup capital costs, does the Division have any
16 concern or find that that is inconsistent with why that the CCPN
17 was originally issued?

18 MR. LONG: Typically, the CCPN refers to the
19 existing infrastructure at the time the Water Company obtained
20 its license or its certification from the Commission, and this has
21 happened several years after the fact, and it is used and useful,
22 also, for all the current customers. It's, in fact, required by the
23 Division of Drinking Water in order to continue to operate.

24 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
25 wouldn't it be rather onerous to hold Mr. Veibell 100 percent

1 responsible for something that the ratepayers are advantaging
2 from?

3 MR. LONG: That's correct; although, he would
4 probably like to pay for the whole thing himself.

5 ADMINISTRATIVE LAW JUDGE REIF: Well, he
6 seems like an awful nice guy, so he might do that. So, in
7 essence, things have changed; this is not the same
8 circumstance?

9 MR. LONG: Yes.

10 ADMINISTRATIVE LAW JUDGE REIF: All right,
11 very good. Was there something more that you wanted to add,
12 Ms. Schmid?

13 MS. SCHMID: If I may, just a brief legal
14 interpretation. The way that I read the quoted paragraph from
15 the 2009 order referred in my interpretation, it refers to money
16 that had expended at that time for capital improvements and did
17 not cover future capital improvements that would be needed to
18 be done to the system that he donated, so past expenses and
19 future expenses, there is a difference.

20 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
21 you, Ms. Schmid.

22 MS. SCHMID: Okay, thank you.

23 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
24 you very much. Does the Company wish to add anything to
25 that?

1 MR. VEIBELL: I don't believe so.

2 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
3 you, Mr. Veibell. Are there any questions for Mr. Long? Do we
4 have anybody on the telephone?

5 MR. ERICKSON: Yes, I am still here, Your Honor.

6 ADMINISTRATIVE LAW JUDGE REIF: Mr.
7 Erickson, did you have any followup questions? I believe you
8 were waiting to ask Mr. Long a question?

9 MR. ERICKSON: Yes. My question is, if you have
10 \$1.13 as your amount that it costs, if you apply the 70 percent
11 overage charge, or a 70 percent conservation rate to that using
12 your own formula, that comes out to a total of \$1.93 for an
13 overage rate, not \$2,50. And I am wondering, can you give me
14 any justification as to why you think it should be \$2.50 instead
15 of something like \$1.93 or \$2 which still increases the 70
16 percent increase for an overage rate?

17 MR. LONG: Only that I wanted to come up with a
18 conservation rate that would actually encourage conservation.
19 That would still probably be on the low side of the a lot of water
20 companies out there. But, you know, the 70 percent wasn't a
21 magic number. You know, it is really not that far off from the \$2
22 and but best --

23 MR. ERICKSON: As Natalie testified in her
24 testimony, our base rates are already over two and a half times
25 what the normal base rate would be, so an overage rate would

1 be something like 62ó, and it seems like if you are going to use
2 something that is not counterproductive, it would be more
3 realistic to use the baseline 70 percent that you started with.
4 And if you don't have any other justification, I would propose
5 that we stick with Natalie's rate of \$1.73, or at worse, use the
6 \$2 overage rate that is based on the spreadsheet that you sent
7 to Natalie.

8 Just to clarify, I sent this spreadsheet into the
9 Commission as an exhibit just a few minutes ago, and that is
10 based on Mark Long's original spreadsheet that is just modified
11 to include \$1.13 amount that he quoted previously.

12 ADMINISTRATIVE LAW JUDGE REIF: Mr.
13 Erickson, our support staff has left for the day so we don't have
14 access to receive your email to review it but we will note it and
15 it will become part of docket. I wish to thank you again for your
16 input and the Commission will take this matter under
17 advisement.

18 I believe Ms. Schmid has a question. Ms. Schmid?

19 MS. SCHMID: May I have the opportunity --

20 MR. ERICKSON: Okay, I do have one other thing
21 to say --

22 ADMINISTRATIVE LAW JUDGE REIF: Just one
23 moment, please.

24 MS. SCHMID: As many of the statements made
25 today have been similar to a closing argument and a statement

1 of position, may I have, perhaps, a minute or so to make a final
2 statement on behalf of the Division before the record is closed?

3 ADMINISTRATIVE LAW JUDGE REIF: You
4 certainly may, and the Company does, as well. Just a couple of
5 matters, of course, keeping though before we do that and before
6 I might forget, I have noted that the Erickson, the Natalie
7 Erickson Exhibit has been admitted into the docket and that the
8 Nate Erickson Exhibit No. 1 has been admitted into the docket.
9 Mr. Erickson has noted that there is a second exhibit that is on
10 its way via email. We will note that and make that part of the
11 docket when it arrives.

12 The other issue is that the Company submitted
13 exhibits today, one of which is marked Company Exhibit No. 1,
14 and the second, Company Exhibit No. 2, those are both admitted
15 and part of the docket.

16 Ms. Schmid, were there other documents that you
17 wished to have admitted?

18 MS. SCHMID: No.

19 ADMINISTRATIVE LAW JUDGE REIF: Okay. Mr.
20 Veibell, this is your application and, ultimately, this is your
21 Company that this--the decision that the Commission will be
22 rendering will impact, along with all of your customer base. Do
23 you wish to make a final statement, a closing statement, before
24 the Division makes their's?

25 MR. VEIBELL: I don't believe so but I think Steve

1 Taylor has something and I would like him to speak on my
2 behalf.

3 ADMINISTRATIVE LAW JUDGE REIF: Okay, very
4 good.

5 MR. TAYLOR: Just a quick note, Willow Creek
6 Water Company is comprised of 60 percent Peters-Borough
7 Partners, 40 percent Mr. Veibell. They have allowed Mr. Veibell
8 to represent them at this hearing. I represent them only as a
9 board member and that's only for--I guess it is not solely his
10 Water Company but I do concur with what the Division has
11 concluded and the information that has been brought here
12 today, as a board member. I think Mr. Veibell feels the same
13 way, so that is our --

14 ADMINISTRATIVE LAW JUDGE REIF: Thank you,
15 Mr. Taylor. I believe Mr. Veibell had made that testimony very
16 clear.

17 MR. TAYLOR: He did, he did.

18 ADMINISTRATIVE LAW JUDGE REIF: Thank you
19 very much. Ms. Schmid?

20 MS. SCHMID: Thank you. In this docket, the
21 Commission has been presented with the situation similar to
22 that found in the Hidden Creek Water Company case, Docket
23 09-2440-01. That case, like this case, involved a requested rate
24 increase for a water company serving a small number of users.
25 In Hidden Creek, the Commission said that it is guided by

1 certain principals, and I quote, "Is decision must be based upon
2 substantial credible and competent evidence," end quote.

3 The Commission also said that when in determining
4 whether a rate increase is proper, the Commission balances the
5 need for ensuring safe, reliable, adequate, and reasonably
6 priced utility services for customers, with the need to insure
7 utility companies have the opportunity to earn a reasonable rate
8 of return.

9 Here, there is no rate of return. The Company is
10 not making a profit and that has not been made--that has not
11 been factored into the rate calculations. The Division believes
12 that it has presented substantial, credible, and competent
13 evidence and the rates as amended to the--with the new
14 conservation rate are just, reasonable and in the public interest.
15 Thank you.

16 ADMINISTRATIVE LAW JUDGE REIF: Thank you,
17 Ms. Schmid. Are there any questions or anything before we
18 adjourn? Thank you, everyone.

19 MR. ERICKSON: Is it all right if I make my final
20 statement now? This is Nate, by the way.

21 ADMINISTRATIVE LAW JUDGE REIF: Mr.
22 Erickson, please. I wasn't sure if you were still there but
23 please, go ahead.

24 MR. ERICKSON: Okay. The last thing I would like
25 to say is that, you know, Mr. Long has said that if this rate does

1 end up producing more revenue than the Company needs to be
2 solvent, then they can be addressed later on a few years down
3 the road. But for me, personally, this is a big hardship because
4 during that interim time, I am the one that is paying the huge
5 overage fees for my lawn that I have in place.

6 I think that is something that would that should be
7 considered by the clerk when deciding whether to use a \$2.50
8 overage rate, or even a \$2 overage rate, because when you're
9 dealing with the amount of water that we are, that has a
10 significance impact on us. And I would encourage as much
11 accuracy as possible in determining the rate to start with
12 because it has a very large increase or affect on those of us
13 who already have our lots in, whereas those people who don't
14 have their lots in may not really understand what they are
15 getting into until it is farther down the road.

16 And the other thing that I wanted to mention is in
17 regard to why we didn't do this sooner, and, again, I really
18 apologize for not having looked at the spreadsheet sooner, but I
19 wasn't even aware that the spreadsheet existed until the first
20 meeting on the 1st of August. And I relied on the rate board to
21 represent me as a homeowner, and it wasn't until the initial
22 rates took affect that I realized that there was a 12,000 gallon
23 limit as opposed to 294,000 annual gallons.

24 And I questioned this to the rate board members,
25 who were Beau Lewis and Rich Croft, and they said that was not

1 something that they even voted on in the rate increase. And so
2 the way that this took place from the prospective of the
3 homeowners was not very transparent at all.

4 And I, again, I apologize that we did not propose
5 these alternatives computations sooner, but it was something
6 that we were trying to rely on the people who represented us to
7 begin with, and when we felt the need and we saw the need,
8 when we went ahead with the additional analysis and effort, and
9 I think, you know, given the opportunity, we would be more than
10 happy to work with the Commission in the future, the Division or
11 the Willow Creek Water Company, to do whatever it reasonable
12 by --

13 ADMINISTRATIVE LAW JUDGE REIF: Mr.
14 Erickson, Mr. Erickson, you are breaking up in the last bit of
15 what you are were saying.

16 MR. ERICKSON: Well, I will just end with that. I
17 think I am going into a dead spot.

18 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
19 you for participating today. We really appreciate your comments
20 and the Commission will definitely take them into consideration.
21 Thank you, everyone, for being here and for your additional
22 participation in this docket. I know the Commission very much
23 appreciates it and for the clarification that has come about. The
24 Commission will be expecting an amended exhibit.

25 MR. LONG: Tomorrow, is that soon enough?

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ADMINISTRATIVE LAW JUDGE REIF: That is soon enough. As you know, we have a specific timeline in which to have an order, so the Commission will review this in its entirety. And, again, I can't emphasize how much it appreciates all of the participation, the public, the parties, and thank you for coming back a second time to help supplement the record in this case.

So we will be adjourned and have a very nice rest of your evening, thank you.

(The hearing was concluded at 5:20 p.m.)

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REPORTER'S CERTIFICATE

State of Utah)
)
County of Salt Lake)

I hereby certify that the witness in the foregoing deposition was duly sworn to testify to the truth, the whole truth, and nothing but the truth in the within-entitled cause;

That said deposition was taken at the time and place herein named;

That the testimony of said witness was reported by me in stenotype and thereafter transcribed into typewritten form.

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

IN WITNESS WHEREOF, I set my hand this 26th day of August, 2013.

Kellie Peterson, RPR