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- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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Application of Mountain)
Sewer Corporation for)
Interim Rate Increase and)
General Rate Increase)
) DOCKET NO. 22-097-01
)
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Public Hearing
Taken on Wednesday, August 23, 2023
At 9:03 a.m. MT

At the Heber M. Wells Building
160 East 300 South
Room 403
Salt Lake City, Utah 84111

Reported by: Brooke Simms, RPR, CCR, CSR

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A P P E A R A N C E S

The Public Service Commission:
Presiding Officer John Delaney

For The Division of Public Utilities:

Patrick Greco
Patricia Schmid
UTAH ATTORNEY GENERAL'S OFFICE

For Mountain Sewer Corporation:
J. Craig Smith
Jennifer Bowen-Crockett
SMITH HARTVIGSEN, PLLC

Also Present:

Melissa Paschal
William Duncan
Ray Bowden (online)
Joanna Matyjasik
Lynn Wood (online)

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I N D E X

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JOANNA MATYJASIK

Direct Examination By Mr. Grecu

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RAY BOWDEN

Direct Examination By Mr. Smith

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

2 -o0o-

3 PRESIDING OFFICER: Good morning, everyone.
4 My name is John Delaney, and I'm the Commission's
5 designated presiding officer for this hearing.

6 Today is August 23rd, 2023, and it's
7 approximately 9:05 a.m. This is the date and the time
8 that's scheduled for the evidentiary hearing on the
9 applicant Mountain Sewer Corporation's application for a
10 general rate increase that's in Docket 22-097-01. And
11 we're here to consider the settlement stipulation filed
12 by the parties.

13 Okay. Why don't we take appearances to begin
14 with, starting with the applicant, please.

15 MR. SMITH: Craig Smith and Jennifer
16 Crocket-Bowen (sic) on behalf of the applicant.

17 PRESIDING OFFICER: Do you want to introduce
18 any witnesses at this point, Mr. Schmid -- or Mr. Smith?

19 MR. SMITH: Yeah. We have Mr. -- introduce my
20 witnesses too?

21 PRESIDING OFFICER: Yeah. Go ahead. Just
22 tell us who's here.

23 MR. SMITH: We have William Duncan who is our
24 witness today. He's been our consultant in this matter.

25 PRESIDING OFFICER: Anybody else?

1 MR. SMITH: I don't believe -- we do have
2 Mr. Ray Bowden, who's the owner. He's here virtually.
3 He's recovering from a shoulder injury, but he's here
4 virtually -- or at least he was. Hopefully he's still
5 here. And, if necessary, he can testify as well.

6 PRESIDING OFFICER: Okay. Thank you very
7 much.

8 The Division?

9 MR. GRECU: Patrick Grecu and Patricia Schmid,
10 assistant attorneys general for the Division, and our
11 witness today is Joanna Matyjasik.

12 PRESIDING OFFICER: Good morning.

13 MS. MATYJASIK: Good morning.

14 PRESIDING OFFICER: Okay. Before we get
15 started -- thank you for the appearances.

16 Before we get started, any preliminary matters
17 that need to be addressed?

18 MR. SMITH: I failed to mention. We also have
19 our certified public accountant. Lynn Wood is here
20 virtually as well. He can also testify.

21 PRESIDING OFFICER: Okay. So any preliminary
22 matters?

23 Okay. I want to address what I consider a
24 preliminary matter. If there are any issues with
25 respect to confidentiality of information, please

1 identify that now.

2 And while you guys are considering this, the
3 reason I raise that is because in the prior hearing on
4 the interim rate case, there was some issues with
5 respect to confidentiality. And I want to make it clear
6 that any issues of confidentiality, it's the party
7 claiming the confidentiality's responsibility to
8 appropriately designate it as such. At which time,
9 then, we will then need to have a discussion about the
10 basis for the claim of confidentiality and how we're
11 going to address the claim of confidentiality.

12 So stated another way, if there is a way for
13 this proceeding to go forward without having to disclose
14 what you would otherwise consider confidential
15 information, that would probably be the most advisable
16 course. If not, and we do need to talk about the
17 confidentiality issues, we'll cross that bridge when we
18 get there.

19 But I want to remind everybody, whoever's
20 claiming the confidential information, it's their
21 obligation to make that clear before the cat's out of
22 the bag. This is streaming live, and this is an open
23 proceeding.

24 MR. GRECU: I can note that the Division won't
25 be -- the Division's testimony won't be disclosing any

1 confidential information.

2 PRESIDING OFFICER: Okay. Thank you. Would
3 you guys like a minute to discuss it, or do you just
4 want to take it on the fly?

5 MR. SMITH: We can just take it on the fly.

6 PRESIDING OFFICER: Okay. Good enough. Any
7 questions on that?

8 Okay. Well, why don't we get going. We'll
9 start with the applicant. Would you like to call your
10 first witness?

11 MR. SMITH: Yes. I'd like to call Mr. William
12 Duncan as our first witness.

13 PRESIDING OFFICER: Good morning, Mr. Duncan.
14 Nice to see you again.

15 MR. DUNCAN: Good morning.

16 PRESIDING OFFICER: Do you swear to tell the
17 truth?

18 MR. DUNCAN: I do.

19 PRESIDING OFFICER: Great. Thank you. Please
20 proceed.

21 WILLIAM DUNCAN

22 was sworn and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. SMITH:

25 Q. Mr. Duncan, would you state your name and

1 address for the record?

2 A. My name is William Duncan. Address is 495
3 East 500 North, Centerville, Utah. I work as an
4 independent consultant on some matters dealing with
5 water and the Public Service Commission.

6 Q. Okay. Can you just -- you've been retained --
7 have you been retained as a consultant and witness
8 for -- by Mountain Sewer?

9 A. Yes, I have.

10 Q. And can you take a minute and talk about --
11 just a little bit about your qualifications?

12 A. Yes. I -- I worked at the Division of Public
13 Utilities for 12 years and oversaw a number of rate
14 cases relating to water, and I've used that expertise in
15 this case.

16 Q. Okay. Are you familiar with the application
17 of Mountain Sewer that we're here for today?

18 A. Yes.

19 Q. And which -- what's been your role in regard
20 to that application?

21 A. My role was to develop rates that are just and
22 reasonable and that will allow the -- the applicant,
23 Mountain Sewer, to earn a fair rate of return and
24 present evidence and exhibits to support those
25 recommendations.

1 Q. All right. And if I recall, you also
2 testified at the interim rate hearing that was --
3 happened in this matter?

4 A. Correct, I did.

5 Q. And are you familiar with a stipulation that
6 was entered into between the applicant and the Division
7 of Public Utilities?

8 A. Yes.

9 Q. And could you briefly describe a little bit
10 what's in that stipulation?

11 A. Certainly. This stipulation -- in general,
12 this -- the company Mountain Sewer adopted the rate
13 schedule developed by the Division of Public Utilities
14 after reviewing the -- their recommendation. It was
15 very close to what our request was. There was small
16 differences, but nothing that would warrant any rebuttal
17 testimony or that type of thing. They were very small
18 differences, and so we just adopted their rate schedule.

19 We thought that they had done an excellent job
20 in developing that, and so -- and it -- and it covers
21 everything that we need -- that Mountain Sewer needs in
22 order to be financially viable and other -- the other
23 aspects, you know, depreciation reserve and that type of
24 thing. So we felt like it was the easiest route just to
25 adopt their rates.

1 Q. And do you know when the last time that
2 Mountain Sewer had an application for a rate increase
3 before the Commission?

4 A. I believe it was effective October 2012.

5 Q. Okay. And are you familiar with the rates
6 that are in the current tariff of Mountain Sewer?

7 A. The current tariff, yes. Well, there's the
8 interim rates that are in the tariff, I guess.

9 Q. Yeah.

10 A. So --

11 Q. I guess the question I wanted to ask is did
12 you have some concerns when you reviewed the financial
13 situation vis-a-vis the rates of the Mountain Sewer when
14 you were retained?

15 A. Yes. It was obvious that the rates weren't
16 covering the costs of service.

17 Q. Okay. And what -- why is that important that
18 you cover the cost of service through your rates?

19 A. Well, my experience has been that when a water
20 or sewer company does not cover its cost -- does not
21 generate sufficient revenue to cover its cost, that over
22 time the service degenerates because they have to put
23 off needed maintenance or, you know, other things. And
24 over time the service degrades, and then it gets to a
25 point where the company has to do something drastic,

1 like special assessments or something, to get back on
2 top of their financial situation. So it's better to
3 have the rates bring in sufficient revenue to cover all
4 of the costs.

5 Q. Okay. And are you familiar with the concept
6 having what's called a "depreciation reserve"?

7 A. Yes.

8 Q. And did the current rates -- not the current
9 rate -- but the former rates in the third tariff -- did
10 they provide sufficient revenue to create a depreciation
11 reserve?

12 A. I believe they did. I'm not sure, but I
13 believe they did at the time. But since 2011, costs
14 have increased and the company, then, is forced to use
15 funds that should be going into reserve to cover
16 operating costs.

17 Q. And why is it important to have --

18 PRESIDING OFFICER: Excuse me. Pardon me.
19 Pardon me. Mr. Smith, I'm not sure if your microphone
20 is on.

21 MR. SMITH: Okay. Now it's on.

22 PRESIDING OFFICER: Thank you.

23 MR. SMITH: Sorry.

24 Q. (BY MR. SMITH) Why is it important to have a
25 reserve fund for Mountain Sewer?

1 A. It's important to have a reserve so that the
2 company can respond quickly to emergency repairs or they
3 can just build it up over time if, you know, at some
4 point they have to replace certain aspects of their
5 infrastructure, and it's important to have that
6 available so that they don't have to do what we talked
7 about before, special assessments or come in for
8 emergency relief. And so it's better to have the
9 reserve built up for those reasons.

10 Q. Thank you. And then the -- the rates in the
11 stipulation -- would they provide for that reserve?

12 A. Yes.

13 Q. Okay. You're familiar with the concept of the
14 charges for a utility service being just?

15 A. Correct.

16 Q. And that's found in Utah Code Section 5431.
17 In your view, are the rates proposed in the stipulation
18 just?

19 A. Yes, they are.

20 Q. And are the -- are the -- and you're also
21 familiar with the concept of reasonableness --

22 A. Correct.

23 Q. -- of the rules. Are the rules that are
24 proposed in the stipulation and in the attached -- I
25 think it's the fourth -- it will be the fourth tariff or

1 Tariff Number 4 -- I guess is the better way to say
2 it -- do you consider those rules to be reasonable?

3 A. I do.

4 Q. And how about the public interest?

5 A. Yes, I believe the public interest includes
6 the ability of the utility to have a depreciation
7 reserve to meet all of its costs to provide safe and
8 adequate reliable service. The rates -- if they're too
9 low and then the service provided isn't reliable, I
10 don't believe that's in the public interest.

11 Q. Thank you. It's my -- my recollection that
12 you recommended the stipulation to Mountain Sewer in
13 your role as their consultant?

14 A. Correct.

15 Q. Anything since then that's changed your mind
16 about recommending that or about that?

17 A. No, no.

18 MR. SMITH: That's all the questions I have,
19 unless there's more questions the Commission would like
20 or more areas the Commission would like me to inquire
21 into.

22 PRESIDING OFFICER: I'll just let you ask the
23 questions you want to ask, and then if you're finished
24 with your witness, we'll let the Division go ahead, see
25 if they have any questions, and then I'll follow up with

1 any.

2 MR. SMITH: Okay. Thank you.

3 PRESIDING OFFICER: Thank you.

4 Would anybody from the Division like to
5 question Mr. Duncan?

6 MR. GRECU: Could we go off the record just
7 for a moment?

8 PRESIDING OFFICER: Sure.

9 (Discussion held off record.)

10 PRESIDING OFFICER: We are back on the record.

11 MR. SMITH: And at this point we'd like to
12 move for admission of the stipulation between Mountain
13 Sewer and the Division of Public Utilities.

14 PRESIDING OFFICER: Any objections?

15 MR. GRECU: No objection.

16 PRESIDING OFFICER: Okay. Well, let me ask a
17 couple of questions about that before we let that in.
18 And these -- these are basically just housekeeping
19 questions at this point. I'll have a few other
20 questions later, but before it gets let in -- and this
21 is consistent with the testimony of Mr. Duncan.

22 The paragraph 6 of the stipulation refers to
23 the last -- it actually uses the word "last rate
24 increase," and it says 2012, which is consistent with
25 what I heard Mr. Duncan testify about. But there was an

1 interim rate case and an increase that resulted from
2 that, which is 2023. So I guess, for the record,
3 paragraph 6 would otherwise read "the company's last
4 general rate case." Is that an accurate representation?

5 MR. SMITH: That would be accurate.

6 PRESIDING OFFICER: And everybody does
7 understand that there has been a rate case -- a rate
8 increase between 2012 and today?

9 MR. SMITH: That's correct.

10 PRESIDING OFFICER: Okay. One other kind of
11 housekeeping note, and this also came up in the
12 questioning of Mr. Duncan. On paragraph 19 -- and I
13 might circle back with the Division on this one. We're
14 talking about the updated tariff sheets, and it
15 references revised Tariff Number 3. Do you see that in
16 paragraph 19?

17 The testimony I just heard was in reference to
18 Tariff Number 4. And as I see what was submitted
19 yesterday, it, too, references Tariff Number 4, but I
20 will note everything prior to what we got yesterday --
21 and there were two sets of different exhibits that came
22 over -- was marked as Tariff Number 3, which is
23 consistent with the stipulation. So what we have is an
24 inconsistency in testimony today referring to Tariff
25 Number 4, with what is referred to as Tariff Number 3 in

1 the stipulation.

2 So which is it? Tariff Number 3 or Tariff
3 Number 4? And if we need to take a minute to figure
4 this out, I think it makes sense to get this
5 housekeeping matter straightened out so we can then do
6 what we need to do with the stipulation.

7 MR. SMITH: Thank you. Yeah. Let's go off
8 the record.

9 PRESIDING OFFICER: Okay. We'll go off the
10 record for five minutes and see where we are. Thank
11 you.

12 (Recess taken from 9:20 to 9:25.)

13 PRESIDING OFFICER: Okay. We're back on the
14 record.

15 MR. SMITH: First of all, thank you for
16 bringing that to our attention about the numbering. It
17 is a mistake. It should be -- everything should be
18 numbered 3 instead of 4, and we're happy to submit
19 corrected documents if that's the best way -- whatever
20 the way that is the best way to try to correct that
21 typographical error.

22 PRESIDING OFFICER: Okay. Division, do you
23 agree with that assessment that that is an error?

24 MR. GRECU: Yes. It should be Tariff
25 Number 3.

1 PRESIDING OFFICER: Okay. My preference would
2 be to get another round of documents. So please --

3 MR. SMITH: Yeah.

4 PRESIDING OFFICER: -- submit as soon as
5 possible.

6 MR. SMITH: I think we can do it today. We'll
7 try to do that.

8 PRESIDING OFFICER: Okay. Well, let's just
9 make sure we get it right. So if you need until
10 tomorrow, that would be fine too, but we will expect --
11 let's -- let's just say by close of business tomorrow.

12 MR. SMITH: Thank you.

13 PRESIDING OFFICER: So we'll expect corrected
14 tariff redline and clean copies of that same tariff
15 reflecting this change from Tariff 4 to Tariff 3.

16 MR. SMITH: Thank you.

17 PRESIDING OFFICER: Great. Thank you.

18 MR. SMITH: So I -- I believe we'd move for
19 admission of the stipulation.

20 PRESIDING OFFICER: Yeah. I'm sorry. Just
21 give me a sec to --

22 MR. SMITH: Oh, I'm sorry.

23 PRESIDING OFFICER: -- continue to --
24 Okay. No more questions on that.

25 And I asked the Division, any objections to

1 the motion?

2 MR. GRECU: No objection.

3 PRESIDING OFFICER: Okay. The motion is
4 granted.

5 MR. SMITH: Also, at this time we'd like to
6 move for admission of the prefiled testimony -- this was
7 done as part of the interim rate proceeding -- of
8 Mr. Lynn Wood, who is our accountant. And he's here --
9 he's here virtually if there's questions on cross -- if
10 anyone wants to cross-examine him. And we'd do the same
11 for Mr. Ray Bowden, the owner, and also the same for
12 Mr. Duncan.

13 PRESIDING OFFICER: Any objections to the
14 Division?

15 MR. GRECU: No objection.

16 MR. SMITH: And they're all -- they're here
17 and -- if the Division has any questions for them.

18 PRESIDING OFFICER: But if I understand the
19 motion, it's what's already been filed?

20 MR. SMITH: That's correct.

21 PRESIDING OFFICER: So nothing will have
22 changed because what has been filed is what's being
23 sought to be admitted?

24 MR. SMITH: Correct.

25 PRESIDING OFFICER: Okay. I have no

1 questions.

2 Any? Okay.

3 MR. GRECU: No questions.

4 PRESIDING OFFICER: Nothing from the Division.

5 Okay. Great.

6 MR. SMITH: I think with that, we'll -- that's
7 all we have, as far as Mr. Duncan or testimony, unless
8 the -- of course, he's here if there are any other
9 questions.

10 PRESIDING OFFICER: Okay. I don't have any
11 questions for Mr. Duncan.

12 Do you have anything else on your side of the
13 case?

14 MR. SMITH: I don't believe so. That's --
15 we'll -- that's what we have. That's -- we'll submit
16 that and rest on that.

17 PRESIDING OFFICER: Okay. Thank you very
18 much. Okay.

19 Why don't we move to the Division. Will you
20 call your first witness, please?

21 MR. GRECU: The Division would like to call
22 Joanna Matyjasik.

23 PRESIDING OFFICER: Good morning,
24 Mrs. Matyjasik.

25 MS. MATYJASIK: Good morning.

1 A. Yes.

2 Q. Did you review the company's application for a
3 general rate increase and its prefiled testimony and
4 exhibits?

5 A. Yes.

6 Q. And did you exist in -- assist in the
7 preparation and filing of your direct testimony and
8 Exhibits 2.1 through 2.10 that were filed on June 29th,
9 2023?

10 A. Yes.

11 Q. And do you have any changes or corrections to
12 any of those?

13 A. No.

14 Q. If I were to ask you about your testimony and
15 exhibits today, would your testimony be the same as that
16 was filed with the Commission?

17 A. Yes.

18 Q. And do you adopt those filings as part of your
19 testimony today?

20 A. Yes.

21 MR. GRECU: At this point I'd like to move for
22 admission of Ms. Matyjasik's testimony and Exhibits 2.1
23 through 2.10 filed on June 29th, 2023.

24 MR. SMITH: No objection.

25 PRESIDING OFFICER: Okay. I have a question

1 for you.

2 So on Exhibit 2.2 -- and I think this is just
3 a typo, but let's -- let's look at 2.2 -- or maybe I'm
4 just not understanding it. Maybe that's better.

5 Do you have 2.2 in front of you?

6 MS. MATYJASIK: I do.

7 PRESIDING OFFICER: Okay. Applicant, do you
8 have 2.2 in front of you?

9 MR. SMITH: I do.

10 PRESIDING OFFICER: Okay. So at the very top,
11 line 3, there's a 70-30 designation. Do you see that?

12 MS. MATYJASIK: Yes.

13 PRESIDING OFFICER: And if I look down -- and
14 let's just use lines 6 and 7 as an example. If I look
15 at line 7, that does not reflect a 70-30 split. It's a
16 90 -- roughly 90-10 split. Do you see -- do you see
17 that?

18 MS. MATYJASIK: I see that.

19 PRESIDING OFFICER: Okay. So I guess my
20 question is -- maybe I'm not understanding the purpose
21 of the 70-30 at the top, and that's why I thought maybe
22 it was a typo.

23 MS. MATYJASIK: May I have a moment to look at
24 it?

25 PRESIDING OFFICER: Yeah, absolutely. Sure.

1 MS. MATYJASIK: Thank you.

2 PRESIDING OFFICER: If you'd like more than
3 just a minute or two, we can take a break if you'd like.

4 MR. GRECU: Yes, please.

5 PRESIDING OFFICER: Great. Thank you. We'll
6 be in recess for at least another five minutes. Thanks.

7 (Recess taken from 9:33 to 9:41.)

8 PRESIDING OFFICER: Okay. We're back on the
9 record. We had taken a break based on a question I had
10 asked, and it is now about 9:40. We are going to take a
11 30-minute break. We will reconvene at ten minutes after
12 10:00 and pick back up where we left off. Thanks.

13 (Recess taken from 9:41 to 10:12.)

14 PRESIDING OFFICER: Okay. Let's go back on
15 the record. It's now about 10:15 in the morning, and
16 we're back on the record in Docket Number 22-097-01.

17 Before I reorient where we were, I failed, I
18 believe, to grant the motion to admit Mountain Sewer's
19 refiled testimony and the exhibits. So if I -- if I did
20 forget to do that, I am granting the motion. There was
21 no objection. A motion was made to admit the prefiled
22 testimony of Mr. Duncan, Mr. Bowden, and Mr. --

23 MR. SMITH: Wood.

24 PRESIDING OFFICER: -- Mr. Wood, along with
25 the exhibits that were filed with that prefiled

1 testimony for the purposes of the interim rate case.

2 MR. SMITH: That's correct.

3 PRESIDING OFFICER: So I've restated the
4 motion, and, again, there were no objections from the
5 Division.

6 MR. GRECU: No objection.

7 PRESIDING OFFICER: And so I am now granting
8 that motion.

9 And then, circling back to reorient where we
10 were, we were looking at a question I had with respect
11 to Exhibit 2.2 and a heading that was on two of those
12 columns in that exhibit.

13 We had earlier had Mr. Duncan's testimony
14 where -- this is my paraphrase -- that the settlement
15 stipulation that we're here to discuss today was
16 agreeable based on the numbers that were presented.
17 They were close, I think is the word that was used, and
18 the numbers that are reflected in the exhibits were
19 close to what Mountain Sewer had asked for to begin
20 with, and so, thus, the settlement where we are.

21 So where we are now is requests for a little
22 bit more time to -- to look at that exhibit, based on,
23 again, what I thought was a typo in those first two
24 columns, especially since the numbers were agreeable.

25 And the request has been for another

1 30 minutes? Or do you think you need a little bit
2 longer?

3 MR. GRECU: I think we're going to shoot for
4 30 minutes.

5 PRESIDING OFFICER: Okay. Any objections?

6 MS. BOWEN-CROCKETT: No objections.

7 PRESIDING OFFICER: Okay. Why don't we stay
8 adjourned -- or why don't we go -- why don't we adjourn
9 now until 10:45. Is that okay?

10 Okay. Thank you. We're adjourned.

11 (Recess taken from 10:14 to 10:50.)

12 PRESIDING OFFICER: Okay. We'll go back on
13 the record at ten minutes to 11:00.

14 Where we left off -- I'm going to take a
15 different direction. There was a motion made by the
16 Division to admit the prefiled testimony of the
17 witness -- the witness's prefiled testimony in the
18 interim rate hearing; is that correct? Was that the
19 motion?

20 MR. GRECU: I believe it was after the interim
21 rate hearing.

22 PRESIDING OFFICER: Oh, okay. I'm sorry. Was
23 there a motion that was made to admit prefiled testimony
24 of this witness?

25 MR. GRECU: Yes.

1 PRESIDING OFFICER: Okay. And there was some
2 discussion about that. Do you want to withdraw that
3 motion and make a new motion based on anything that has
4 changed?

5 MR. GRECU: I think maybe we'll have an
6 explanation of -- or for your question --

7 PRESIDING OFFICER: Okay.

8 MR. GRECU: -- to answer your question.

9 PRESIDING OFFICER: Okay.

10 MR. GRECU: And then maybe renew the motion.

11 PRESIDING OFFICER: Okay. Great. Okay. So
12 my question dealt with -- I'll just keep it way up
13 here -- Exhibit 2.2, and it's on the record, the
14 question from before. So what -- what do you have to
15 say?

16 MS. MATYJASIK: Well, first of all, thank you
17 for bringing this to our attention. As you saw, it took
18 a little bit of digging.

19 I looked at Exhibit 2.2 and discussed it with
20 my colleagues. It appears that the Excel formulas and
21 results don't necessarily track the 70-30 split, but the
22 rates do cover all costs and provide -- I can't read
23 that word -- provide money for a capital reserve
24 account. Okay.

25 As -- I'm so sorry.

1 PRESIDING OFFICER: That's okay. Take your
2 time.

3 MS. MATYJASIK: As a settlement, the contents
4 are a compromise and have been agreed to by all parties.
5 As a whole, and consistent with Utah Code Section
6 54-7-1, it is the Division's testimony that the rates
7 and the stipulation are just and reasonable and in the
8 public interest.

9 PRESIDING OFFICER: Okay. Mountain Sewer, any
10 response or questions follow -- following up on that
11 explanation?

12 MR. SMITH: No. We're -- we're fine with the
13 explanation.

14 PRESIDING OFFICER: Okay. Back to you,
15 Division.

16 MR. GRECU: I'd like to move for admission of
17 Ms. Matyjasik's testimony and Exhibits 2.1 through 2.10
18 that were filed on June 29th, 2023.

19 PRESIDING OFFICER: Subject to this
20 explanation?

21 MR. GRECU: Yes.

22 PRESIDING OFFICER: Okay. Any objections?

23 MR. SMITH: No objection.

24 PRESIDING OFFICER: Okay. No -- no questions
25 from me. Your motion is granted.

1 Q. (BY MR. GRECU) And did you have an
2 opportunity to review the settlement stipulation that
3 the parties agreed upon in this docket?

4 A. Yes.

5 Q. Did the Division and the company make any
6 changes to the proposed tariff that was filed as part of
7 the settlement stipulation?

8 A. Yes.

9 Q. Did you assist in the preparation and filing
10 of the Division's Action Request Response, including the
11 Corrected Attachment A and Corrected Attachment B filed
12 on August 17th, 2023, that revised the tariff to be
13 consistent with the rate structure in the settlement
14 stipulation?

15 A. Yes.

16 MR. GRECU: I'd like to move for admission of
17 the Division's Action Request Response and associated
18 attachments filed on August 17th, 2023.

19 MS. SCHMID: August 17th? Or did you say 27?

20 PRESIDING OFFICER: I'm sorry. I don't have
21 that in front of me. What exactly is it? It's an
22 office action response, and what was attached to that?

23 MR. GRECU: The Corrected Attachment A and the
24 Corrected Attachment B, which were a revised version of
25 the tariff.

1 PRESIDING OFFICER: Okay. But we've got
2 another revised version of the tariff on August 22nd.

3 MR. GRECU: Yes. I'm getting to that point.

4 PRESIDING OFFICER: Okay. So --

5 MR. GRECU: I just want to move to admit that,
6 and then I'll be addressing the additional changes.

7 PRESIDING OFFICER: You want to admit
8 something that is -- the attachments that are no longer
9 going to be part of the record?

10 MR. GRECU: Just to be able to track the --

11 PRESIDING OFFICER: Okay.

12 MR. GRECU: -- how the changes occurred.

13 PRESIDING OFFICER: I understand.

14 Any objection, Mr. Smith?

15 MR. SMITH: No objection.

16 PRESIDING OFFICER: Okay. Your motion is
17 granted.

18 Q. (BY MR. GRECU) Did you also assist in the
19 preparation of the filing of the Division's Second
20 Corrected Attachment A and Second Corrected Attachment B
21 filed on August 22nd, 2023, which is the latest version
22 of the proposed tariff?

23 A. Yes.

24 Q. Do you have any changes or corrections to the
25 second corrected attachments filed with the Commission

1 beyond the change that we've already discussed that it
2 should be the Tariff Number 3 and not Tariff Number 4?

3 A. No.

4 MR. GRECU: I'd like to move for admission of
5 the Second Corrected Attachment A and Second Corrected
6 Attachment B filed on August 22nd, 2023, with the
7 correction that they should be the Tariff Number 3 and
8 understanding that there will be additional filing to
9 make that correction by tomorrow, end of day.

10 PRESIDING OFFICER: Any objections?

11 MR. SMITH: No objection.

12 PRESIDING OFFICER: Okay. No questions from
13 me. Motion granted.

14 MR. GRECU: I would also move for the
15 substitution of the Second Corrected Attachment A and
16 Second Corrected Attachment B in place of the tariff
17 sheets that were originally filed with the settlement
18 stipulation, again, with the understanding that there'll
19 be further correction that they'll be Tariff Number 3.

20 PRESIDING OFFICER: Any objections?

21 MR. SMITH: No objection.

22 PRESIDING OFFICER: Okay. No questions here.
23 Motion granted.

24 Q. (BY MR. GRECU) And does the most recent
25 revised tariff represent the agreed upon tariff for

1 Mountain Sewer?

2 A. Yes.

3 Q. And based upon your experience as an analyst
4 for the Division and the information in the prefiled
5 testimony and exhibits, do you believe that the approval
6 of the settlement stipulation and the latest revised
7 tariff would be just, reasonable, and in the public
8 interest?

9 A. Yes.

10 Q. Do you have a summary to share that provides
11 the Division's position and your testimony in support of
12 the settlement stipulation?

13 A. Yes, I do.

14 On behalf of the Division, I request that the
15 Commission approve the filed stipulation regarding the
16 company's application for a general rate increase. I
17 will not reveal any confidential information in my
18 summary. I will begin by providing background
19 information.

20 On January 31st, 2023, Mountain Sewer filed
21 two applications: One seeking an interim rate increase
22 and one seeking a general rate increase. After the
23 interim rate increase hearing held on March 7th, 2023,
24 the Commission provided approval in an order dated
25 March 14th, 2023, effective March 17th, 2023.

1 The Division wishes to bring to the
2 Commission's attention that, except -- except for the
3 interim rate increase granted on March 14th, 2023,
4 Mountain Sewer's last general rate increase became
5 effective on October 30th, 2012, in Docket Numbers
6 11-097-01, 11-097-02, and 11-097-03.

7 The Division has reviewed Mountain Sewer's
8 application for a general rate increase and all the
9 accompanying exhibits. The Division received additional
10 information via reviewing the company's responses and
11 the Division's data request and email, phone call, and
12 virtual meeting correspondence.

13 The Division's analysis showed that the
14 current rates were no longer just and reasonable as the
15 rates no longer covered costs. The Division's records
16 show no formal or informal complaints have been filed
17 with the Commission or the Division against Mountain
18 Sewer for at least ten years.

19 The Division filed direct testimony on
20 June 29th, 2023. Subsequently, the Division and the
21 company entered into settlement discussions. On
22 August 2nd, 2023, the Division filed an unopposed motion
23 to vacate the procedural schedule and retained the
24 scheduled hearing date which Mountain Sewer supported.
25 The Commission granted the motion on August 3rd, 2023.

1 The discussions between the Division and the company led
2 to a settlement agreement negotiated at arm's length.

3 The Division believes paragraphs 13 and 17
4 through 20 of the settlement are of particular
5 importance. Paragraph 3 table 2 presents a proposed
6 rate model with a rate structure that covers all costs.

7 Paragraph 17 summarizes the billing issues for
8 connected customers. As referenced in paragraph 14,
9 Mountain Sewer incorrectly billed its connected
10 customers the interim rates on March 1st, 2023, rather
11 than the effective date ordered by the Commission on
12 March 17th, 2023, resulting in an overbilling of \$9.29.

13 Paragraph 15 discusses the underbilling of
14 \$129.68 from March 17th, 2023, through September 30th,
15 2023, due to the approved interim rates being lower than
16 the rates presented in the settlement stipulation. Both
17 billing issues are resolved by billing each connected
18 customer an additional \$120.39. The Division recommends
19 that the customers be given the option to pay this
20 amount over three months, if requested.

21 Paragraph 18 summarizes the billing issues for
22 standby customers. As referenced in paragraph 14,
23 Mountain Sewer incorrectly started billing its standby
24 customers the interim rates on March 1st, 2023, rather
25 than -- rather than the effective date ordered by the

1 Commission on March 17th, 2023, resulting in an
2 overbilling of \$12.11.

3 Due to the approved interim rates being higher
4 than the rates presented in this settlement stipulation,
5 paragraph 16 addresses the overbilling of \$90.77 from
6 March 17th, 2023, through September 30th, 2023,
7 therefore, resolving both billing issues by crediting
8 each standby customer \$102.88 through the company
9 standard billing mechanism and the first billing cycle
10 following the effective date stated in the Commission's
11 order.

12 Paragraph 19 of the stipulation also discusses
13 an updated tariff. The tariff initially filed with the
14 settlement stipulation has undergone two revisions. The
15 first revision that was submitted as part of the
16 Division's Action Request Response on March 17th, 2023,
17 corrected the rates to be consistent with table 2 of the
18 settlement stipulation. An old tariff template was
19 inadvertently used in the first revision.

20 The second and final tariff filed on
21 August 22nd, 2023, as Second Corrected Attachments A and
22 B, maintains the rates and fees -- maintains the rates
23 and fee schedule as described in the settlement
24 stipulation and includes revisions to the capital
25 reserve account provision, updated rules and

1 regulations, and a disclaimer.

2 Paragraph 20 discusses the resolution of the
3 long-term notes payable personally held by Mr. Ray
4 Bowden. After Mr. Bowden purchased Mountain Sewer in
5 2011, he then personally paid off a large amount of debt
6 to keep Mountain Sewer solvent and made major
7 infrastructure improvements.

8 Both the interim rate increase and the general
9 rate increase applications show that Mountain Sewer's
10 balance sheet reports long-term notes payable for a
11 substantial amount of money. In the interim rate
12 hearing, Mr. Bowden confirmed that he personally holds
13 these notes. Through responses to the Division's first
14 data request issued to Mountain Sewer, Mr. Bowden
15 acknowledged that the long-term notes payable are best
16 characterized as a subsidy. Mountain Sewer is not
17 responsible for these loans or any repayment of them.

18 Relying on -- relying on owner subsidies to
19 keep Mountain Sewer solvent is not sustainable as a
20 reliable funding service, nor is it sound rate making.
21 Rates should be set to cover the full sewer costs.

22 In summary, the rate structure as proposed, in
23 addition to providing full cost funding, will provide
24 additional funds in Mountain Sewer's capital reserve
25 account. This will help with repairs and replacement of

1 an aging infrastructure.

2 The Division believes the criteria for
3 settlement, according to Utah Code Section 54-7-1, have
4 been met and concludes that the evidence contained in
5 the record supports a finding that the settlement
6 proposal, as a whole, is just and reasonable and in the
7 public interest.

8 The Division recommends the Commission approve
9 the stipulation filed with the Commission on August 15th
10 of 2023 and the latest revised tariff in the Second
11 Corrected Attachments A and B filed on August 22nd,
12 2023, with an effective date of October 1st, 2023, with
13 the exception of the revised tariff sheets to be filed
14 by end of day tomorrow.

15 And that concludes my summary.

16 MR. GRECU: The witness is now -- the witness
17 is now available for cross-examination and questions
18 from the hearing officer.

19 MR. SMITH: We have no questions.

20 PRESIDING OFFICER: Okay. I have a couple of
21 maybe clarifications. I think you referenced March 17th
22 as the date of the -- of a filing relating to the
23 tariffs. Is that --

24 MS. MATYJASIK: Yes, I did.

25 PRESIDING OFFICER: Okay. Did you mean

1 August 17th, or was it, in fact, March 17th?

2 And let me just jog your memory. We had a
3 filing on the 15th of August, another filing on the 17th
4 of August, and then another filing on the 22nd of
5 August, and those each had tariff attachments. And I
6 believe what I heard you testify about the March 17th
7 date was about a tariff redline. And I'm sorry. I
8 don't have the docket in front of me to see if there is
9 actually an entry showing something on March 17th.

10 MS. MATYJASIK: I'm reviewing my notes to see
11 if there's another reference to March 17th, 2023.

12 PRESIDING OFFICER: Okay.

13 MS. MATYJASIK: Or whether -- yes, I'll look.

14 PRESIDING OFFICER: That's fine. We're also
15 looking at the docket here.

16 And for the record, the docket is not showing
17 a filing of March 17th.

18 MS. MATYJASIK: March 17th, 2023, that was
19 referenced -- referenced is the effective date of the
20 interim rates following the Commission's order dated
21 March 14th, 2023.

22 PRESIDING OFFICER: Okay. I must have
23 misheard you, but, yes, I agree with what you just said.
24 Thank you.

25 Okay. I have a couple of questions regarding

1 the stipulation itself, but I think -- I think I'm going
2 to pose those back to Mountain Sewer, and I might come
3 back to you. Okay? So I have nothing further. Thanks
4 for your help. Thanks for clearing up my understanding
5 on both of those issues.

6 MS. MATYJASIK: Thank you.

7 PRESIDING OFFICER: Thank you.

8 But before I go back to those, though,
9 anything further from the Division?

10 MR. GRECU: Nothing further.

11 PRESIDING OFFICER: Okay. Okay. I have a few
12 questions, maybe housekeeping, maybe not, regarding the
13 stipulation, and I think I'll pose them first to
14 Mountain Sewer. And, Mr. Smith, you can make a
15 determination if Mr. Duncan is the appropriate witness
16 or if somebody else is.

17 MR. SMITH: Okay. Thank you.

18 PRESIDING OFFICER: So the first question is
19 the paragraph 17 -- pardon me -- of the stipulation.
20 There's some language in this paragraph about
21 notification to customers and how it will be payable.
22 Specifically it says, "The amount shall be payable over
23 three months, if requested by the customer." Do you all
24 see that on -- okay.

25 So my question is how are the customers going

1 to be notified that they have to -- that they have to
2 request to pay the underbilling? How are they going to
3 be notified that they have up to three months to pay
4 this? How are they going to make this request?

5 MR. SMITH: We have -- Mr. Bowden is still
6 available. I think he would probably be the best to
7 answer this question.

8 PRESIDING OFFICER: Well, let me pose three
9 questions, then, since it might go to the same witness.

10 MR. SMITH: Okay.

11 PRESIDING OFFICER: And they're all kind of
12 stacked up on top of each other, which is -- how is
13 somebody who's going to be hit with a back bill, in
14 essence, going to know that they actually can't take
15 three months to pay this back bill?

16 The second question, then, would be how long
17 are these customers going to have to make this election?
18 That is, they have to -- they have to choose to pick
19 this three-month period. So how long are they going to
20 have?

21 And then the third question is, is there a
22 particular way in which they have to make this election?
23 That is, orally? In writing? You know, what are the
24 mechanics behind this?

25 This paragraph is silent on those -- those

1 questions, and I'd like something --

2 MR. SMITH: Right.

3 PRESIDING OFFICER: -- on the record about how
4 that's going to play out.

5 MR. SMITH: Okay. Yeah. If --

6 PRESIDING OFFICER: I can repeat those, if
7 need be, but if he's the right witness, than please.

8 MR. SMITH: Yeah. So, Ray, are you -- are you
9 available?

10 MR. BOWDEN: Yes.

11 MR. SMITH: Okay.

12 PRESIDING OFFICER: I would like to swear him
13 in. So --

14 MR. SMITH: Please do.

15 PRESIDING OFFICER: Good morning, Mr. Bowden.
16 Do you swear to tell the truth?

17 MR. BOWDEN: Yes.

18 PRESIDING OFFICER: Thank you.

19 RAY BOWDEN

20 was sworn and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. SMITH:

23 Q. So, Mr. Bowden, did you hear those three
24 questions?

25 A. I did.

1 Q. And so my understanding -- tell me if I'm
2 correct -- is that we're going to include a message with
3 bill. We send out monthly bills that are -- I believe
4 we're still doing written paper bills; is that correct?

5 A. Yes.

6 Q. We're going to send out a message with the
7 bill that informs the customer in the first bill with
8 this that informs the customer that this amount is going
9 to be -- that they could pay it either over -- in one
10 month or they could pay it over three months. Is that
11 your understanding?

12 A. Yes.

13 Q. And then my understanding was that they
14 wouldn't have to really elect to do that. They would
15 just -- we would just not consider anything to be late
16 on that bill if it came in during the next three months,
17 as far as if it was paid during the next three months.
18 So there wouldn't be an election process or any kind of
19 notice. They would, you know -- if they, you know -- if
20 they want to pay it in thirds, they pay the first third
21 the first month, the second third the second month.

22 And then, you know, like I said, we will wait
23 until after that three-month period is over before we
24 would determine if there's, you know -- if they're
25 delinquent on their payment of that amount. Is that

1 your understanding?

2 A. Yes.

3 Q. And --

4 PRESIDING OFFICER: Okay. So -- so my
5 question then is doesn't that in effect, Mr. Bowden,
6 mean that the customers have three months within which
7 to do this, and if they don't do it within three months,
8 then they no longer have the option?

9 MR. BOWDEN: I agree.

10 PRESIDING OFFICER: Okay. Because I am
11 confused because the -- the -- the stipulation actually
12 says it has to be requested. "If requested by the
13 customer." And this doesn't sound like there's any
14 request being made.

15 MR. SMITH: Yeah.

16 PRESIDING OFFICER: It's just a function of
17 how it's going to happen.

18 MR. SMITH: Yeah. We have -- we looked at
19 that, and after we did the stipulation, we figured it
20 would just be easier not to force customers to make that
21 request. It would just be easier for us and the
22 customers if we just assumed that if they -- you know,
23 based on their actions were requesting it rather than by
24 contacting us and telling us that they wanted to pay it
25 over three months.

1 PRESIDING OFFICER: Okay. So this settlement
2 stipulation has been admitted. We have now just changed
3 a term of it -- modified a term, I should say. And so
4 do we have an agreement that this provision here -- this
5 sentence in paragraph 17 is modified by this testimony?

6 MR. BOWDEN: Yes.

7 PRESIDING OFFICER: Division?

8 MR. GRECU: Yes.

9 PRESIDING OFFICER: Okay. Thank you. That
10 was a little bit more than housekeeping, I guess. This
11 one kind of was a curiosity.

12 Paragraphs 21B and C. Thank you for providing
13 this comprehensive outline of the customer notifications
14 of the public interest. Thank you. I do have a
15 question, though. Have we gotten any questions?
16 Mountain Sewer, have you gotten any questions per your
17 invitation in paragraphs B and C from customers?

18 MR. BOWDEN: No.

19 PRESIDING OFFICER: Okay. I guess we can find
20 out tonight.

21 MR. SMITH: Yeah. I guess it's been -- it's
22 been surprisingly quiet as compared to the last time we
23 did this.

24 PRESIDING OFFICER: Okay. Let me just look at
25 my notes.

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Okay. I have nothing further, and I think that means we're finished.

Is there anything else from either party?

MR. SMITH: Not from the applicant.

PRESIDING OFFICER: Okay. Division?

MR. GRECU: Nothing more from the Division.

PRESIDING OFFICER: Okay. Well, we're aware of the statutory deadline here, and we will issue an order in due course. We'll look forward to getting the new tariff sheets before the end of business tomorrow. If a problem arises, please just keep in touch, and we'll work with everybody.

Please also don't forget we have the public hearing tonight at 5:30 in this room. And based on what I just heard, it might be a quick hearing. It might not be. But I've got nothing further; so we're adjourned.

(This hearing was concluded at
11:18 a.m. MT.)

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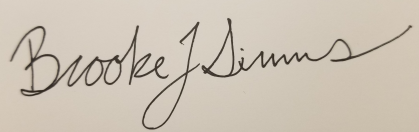
REPORTER'S CERTIFICATE

STATE OF UTAH)
)
COUNTY OF UTAH)

I, BROOKE SIMMS, an Idaho Certified Shorthand Reporter, Utah State Certified Court Reporter, and Registered Professional Reporter, hereby certify:

THAT the foregoing proceedings were taken before me at the time and place set forth in the caption hereof; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such oral proceedings had, and of the whole thereof.

I have subscribed my name on this 31st day of August, 2023.



Brooke Simms, RPR, CCR, CSR
Idaho CSR No. 1174
Utah CCR No. 12335391-780

[102.88 - accompanying]

1	37:17,18	22nd 29:2,21	5431 12:16
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[account - aware]

<p>account 26:24 34:25 35:25</p> <p>accountant 5:19 18:8</p> <p>accurate 15:4,5 45:14</p> <p>acknowledged 35:15</p> <p>action 28:10,17 28:22 34:16</p> <p>actions 42:23</p> <p>actually 14:23 37:9 39:14 42:11</p> <p>addition 35:23</p> <p>additional 29:6 30:8 32:9 33:18 35:24</p> <p>address 5:23 6:11 8:1,2 20:21</p> <p>addressed 5:17</p> <p>addresses 34:5</p> <p>addressing 29:6</p> <p>adequate 13:8</p> <p>adjourn 25:8</p> <p>adjourned 25:8 25:10 44:16</p> <p>admission 14:12 17:19 18:6 21:22 27:16 28:16 30:4</p>	<p>admit 23:18,21 25:16,23 29:5 29:7</p> <p>admitted 18:23 43:2</p> <p>adopt 9:25 21:18</p> <p>adopted 9:12 9:18</p> <p>advisable 6:15</p> <p>aging 36:1</p> <p>agree 16:23 37:23 42:9</p> <p>agreeable 24:16,24</p> <p>agreed 27:4 28:3 30:25</p> <p>agreement 33:2 43:4</p> <p>ahead 4:21 13:24</p> <p>aided 45:13</p> <p>allow 8:22</p> <p>amount 33:20 35:5,11 38:22 41:8,25</p> <p>analysis 32:13</p> <p>analyst 20:20 31:3</p> <p>answer 26:8 39:7</p> <p>anybody 4:25 14:4</p> <p>apologize 20:2</p>	<p>appearances 4:13 5:15</p> <p>appears 26:20</p> <p>applicant 4:9 4:14,16 7:9 8:22 9:6 22:7 44:4</p> <p>application 1:3 4:9 8:16,20 10:2 21:2 31:16 32:8</p> <p>applications 31:21 35:9</p> <p>appropriate 38:15</p> <p>appropriately 6:8</p> <p>approval 31:5 31:24</p> <p>approve 31:15 36:8</p> <p>approved 33:15 34:3</p> <p>approximately 4:7</p> <p>areas 13:20</p> <p>arises 44:11</p> <p>arm's 33:2</p> <p>asked 17:25 23:10 24:19</p> <p>aspects 9:23 12:4</p> <p>assessment 16:23</p>	<p>assessments 11:1 12:7</p> <p>assist 21:6 28:9 29:18</p> <p>assistant 5:10</p> <p>associated 28:17</p> <p>assumed 42:22</p> <p>attached 12:24 28:22</p> <p>attachment 28:11,11,23,24 29:20,20 30:5 30:6,15,16</p> <p>attachments 28:18 29:8,25 34:21 36:11 37:5</p> <p>attention 16:16 26:17 32:2</p> <p>attorney 2:6</p> <p>attorneys 5:10</p> <p>august 1:11 4:6 28:12,18,19 29:2,21 30:6 32:22,25 34:21 36:9,11 37:1,3 37:4,5 45:17</p> <p>available 12:6 36:17 39:6 40:9</p> <p>aware 44:7</p>
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[b - company]

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[depreciation - experience]

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[public - reorient]

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[swear - understand]

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Utah Rules of Civil Procedure
Part V. Depositions and Discovery

Rule 30

(E) Submission to Witness; Changes; Signing.

Within 28 days after being notified by the officer that the transcript or recording is available, a witness may sign a statement of changes to the form or substance of the transcript or recording and the reasons for the changes. The officer shall append any changes timely made by the witness.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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