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

2

3 JUDGE SCHAER: Let's be on the record.

4 We're here this morning in a hearing on docket

5 UW 010877. This is a filing by Rainier View Water

6 Company requesting a general rate increase.

7 We're in the Commission's hearing room 108 in

8 the Commission's headquarters building in Olympia,

9 Washington.

10 Today is February 13, 2002. I am Marjorie

11 Schaer, and I am the Administrative Law Judge assigned

12 by the Commission to this proceeding.

13 I would like to start by taking appearances.

14 And, Mr. Finnigan, since Ms. Taylor appeared on your

15 behalf at the prehearing, perhaps you would give a full

16 appearance at this time.

17 MR. FINNIGAN: My address is 2405 Evergreen

18 Park Drive, Southwest, Suite B-1, Olympia, Washington,

19 98502. My e-mail address is rickfinn, r-i-c-k-f-i-n-n,

20 at ywave, y-w-a-v-e, .com. My business office number is

21 (360) 956-7001. And fax number is (360) 753-6862. I am

22 appearing on behalf of Rainier View Water Company, Inc.

23 JUDGE SCHAER: Thank you. Ms. Tennyson, you

24 have put in a full appearance, so if you will give your

25 name and client.

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1 MS. TENNYSON: I am Mary M. Tennyson,
2 T-e-n-n-y-s-o-n, and I am appearing on behalf of the
3 Commission Staff. I'm the senior assistant attorney
4 general.

5 JUDGE SCHAER: Before we went on the record
6 this morning we had a brief discussion of procedural
7 matters, and decided that we will take the Company's
8 complete case, including direct and rebuttal testimony,
9 and then follow that with the Staff's complete case.

10 So we're going to be beginning this morning
11 with Mr. Fisher for the Company.

12 And another thing that happened before we went
13 on the record is that I distributed two sets of
14 documents, one being a portion of the bench request that
15 the Commission asked of the Company, and the second
16 being a portion of the bench request that the Commission
17 asked of Commission Staff.

18 And the exhibits for the Company I have
19 identified as Exhibit 1. The exhibits for Commission
20 Staff I have identified as Exhibit 2. And I am going to
21 ask if there's any objection to having those two
22 admitted at this point.

23 MR. FINNIGAN: No objection from the Company.

24 MS. TENNYSON: No objection. Your Honor, are
25 the -- I did want to clarify, we only have copies of

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1 Nos. 5 and 6, and the responses from the company; is
2 that correct? Or --

3 MR. FINNIGAN: I have 5, 6, and 7.

4 JUDGE SCHAER: Should be 5, 6, and 7.

5 MS. TENNYSON: I see it. I do have it.

6 JUDGE SCHAER: The last sheet is 7.

7 MS. TENNYSON: Yes, I found it. It's the
8 response to the bench request Nos. 1, 7, and 8,

9 JUDGE SCHAER: I think you'll find also one
10 for --

11 MS. TENNYSON: Oh, and also 9.

12 JUDGE SCHAER: And 9, that's correct. And then
13 those documents are admitted.

14 (EXHIBIT ADMITTED)

15 JUDGE SCHAER: And I think we will go ahead and
16 have you call your witness, and --

17 MS. TENNYSON: I believe we have one other
18 procedural matter.

19 JUDGE SCHAER: Go ahead, Ms. Tennyson.

20 MS. TENNYSON: Mr. Finnigan and I had several
21 discussions relating to potential objections to various
22 exhibits offered, both on behalf of Company and Staff.
23 And we have reached a stipulation with relation to those
24 that we would like to present.

25 JUDGE SCHAER: Go ahead, please.

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1 MS. TENNYSON: We have reduced the stipulation
2 to writing. There are, also, along with this, a couple
3 of changes to Mr. Fisher's rebuttal testimony that we
4 also need to address.

5 MR. FINNIGAN: I thought he was going to do
6 that when he takes the stand.

7 MS. TENNYSON: Okay. Okay. We can do it then.

8 JUDGE SCHAER: Okay. You were indicating that
9 you wanted to address this at the time the witness
10 sponsored these exhibits and takes the stand, or do you
11 want to deal with it now?

12 MR. FINNIGAN: The stipulation, we can deal
13 with now, Your Honor, and mark it as the next exhibit in
14 order.

15 JUDGE SCHAER: I think I will do that. It may
16 not be technically correct, but it is often the easiest
17 way to find something than to refer to it in the brief.

18 So I will mark as Exhibit 3 entitled
19 Stipulation Between the Parties, dated February 12.

20 And does anyone object to that being entered in
21 the record?

22 MS. TENNYSON: No.

23 JUDGE SCHAER: That document is admitted.

24 (EXHIBIT ADMITTED)

25 JUDGE SCHAER: What I would like to do now,

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1 Mr. Finnigan, is have you call your first witness.

2 And I would like you, Ms. Tennyson, while he's
3 getting settled on the stand, to pass out any
4 cross-examination documents you are going to have.

5 MR. FINNIGAN: We would like Mr. Fisher to take
6 the stand, please.

7

8 DOUGLAS R. FISHER,
9 produced as a witness in behalf of the Company, having been
10 first duly sworn, was examined and testified as follows:

11

12 JUDGE SCHAER: Your witness is sworn,
13 Mr. Finnigan.

14 Let's go off the record for a few minutes to
15 allow Mr. Fisher to get set up and organized.

16 (Brief recess.)

17 JUDGE SCHAER: Let's be back on the record.

18 While we were off the record the witness was
19 able to organize his workpapers in preparation for
20 questioning, and counsel and Commission Staff
21 distributed the cross exhibits that have been prepared
22 for this witness.

23 It's kind of a first step, Mr. Fisher. I am
24 going to want to identify the exhibits that you have
25 offered in this matter. And so your direct testimony is

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1 Exhibit DFT-1. And I am going to number that for
2 identification as Exhibit T-4.

3 And then I am going to number the Results of
4 Operations, Exhibit DFT-2, as 5. The Restating
5 Adjustments, DFT-3 as 6. The Proforma Adjustments, this
6 DFT-4 is 7.

7 Document called Detail of Medical Plan
8 Increases Adjustment is DFT-5 as 8. Document entitled
9 Detail of Rate Case Cost Adjustment, labeled DFT-6 as 9.
10 Document entitled Detail of Insurance Increase
11 Adjustments, DFT-7 as 10.

12 Document entitled Detail of Power Increase
13 Adjustment, DFT-8 as 11. Document entitled Detail of
14 Developers Claims Billing Adjustment DFT-9 as 12.
15 Document entitled Revenue Requirement DFT-10 as 13. And
16 a document entitled Rate Spread DFT-11 as 14.

17 And turning to your rebuttal testimony, I am
18 going to mark your testimony as T-15. That's DFT-12.
19 And your document entitled Company Versus Staff
20 Adjustment Schedule, I am assuming DFT-13, as Exhibit
21 16.

22 Document entitled Developer Line Extension
23 Program, all 1215 pages, which is entitled DFT-14 as 17.
24 Document identified as Developer Line Extension Program,
25 56 pages, DFT-15 as 18. Document entitled Commission

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1 Open Meeting Record from 1996 Rate Case, which is DFT-16
2 as 19. Document entitled Salary Restatement Analysis,
3 labeled DFT-17 as 20.

4 Document entitled Power Rate Increase, letter
5 from Peninsula Light Company, identified as DFT-18 as
6 21. A document entitled Purchase of Two Liter Jeeps
7 Detail, identified as DFT-19 as 22. A document entitled
8 Developer Lawsuit Detail, labeled DFT-20 as 23. A
9 document entitled Revenue Requirement Conversion Factor
10 and Cost of Capital, number DFT-21 as 24. And a
11 document entitled Proforma Statement, DFT-22 as Exhibit
12 25 for identification.

13 MR. FINNIGAN: Your Honor, just so the record
14 is clear, what we're marking are the revised exhibits,
15 DFT-21 and -22?

16 JUDGE SCHAER: Okay. I want to remind you in
17 case anything else is coming in revised in the
18 proceeding that we do ask that you type "Revised" and
19 the dates of the revision on the documents.

20 MR. FINNIGAN: We got it half right. They are
21 marked as Revised. I did not put the date, except on
22 the cover letter. But they are labeled as revised
23 exhibits.

24 JUDGE SCHAER: I know mine are in great big
25 letters. Thank you. So go ahead, Mr. Finnigan.

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1 MR. FINNIGAN: Thank you.

2

3 DIRECT EXAMINATION

4

5 BY MR. FINNIGAN:

6 Q Mr. Fisher, you have before you what has when
7 identified as Exhibits T4 through 25?

8 A I believe I have most of them, yes.

9 Q Were Exhibits T4 through 25 prepared by you, or
10 under your supervision and direction?

11 A Yes, they were.

12 Q And errata sheets have been previously
13 submitted to the Commission concerning those exhibits?

14 A Yes, they have.

15 MR. FINNIGAN: And, Your Honor, in addition to
16 the errata sheets, Mr. Fisher was kind enough to show me
17 that I managed to had 10,000 years to the Commission's
18 history, and there's an extra zero on the title -- of
19 the right-hand corner title for the docket number. So
20 if we could eliminate the second zero so it references
21 UW 010877, that would be appropriate.

22 MS. TENNYSON: Is there a particular exhibit?

23 MR. FINNIGAN: On DF 21 and 22, the revised
24 exhibits. I was a little exuberant in my numbering.

25 JUDGE SCHAER: What I would like you to do --

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1 MR. FINNIGAN: I am sorry. That would be
2 Exhibits 24 and 25.

3 JUDGE SCHAER: What I would like you to do is
4 when you are bringing in erratas, indicate that you
5 filed erratas and what exhibits those pertain to,
6 because then I am going to adopt the errata as part of
7 the exhibit when it is admitted.

8 MR. FINNIGAN: There is an errata submitted for
9 Exhibit T4, and an errata submitted for Exhibit T-15.
10 And then while we're on Exhibit T-15, at page 8, lines
11 14 through 15, starting with the word at the beginning
12 of line 14, "Commission Staff", and running through
13 "this rate case," should be stricken. And so the "T" on
14 "the" would be a capital "T".

15 JUDGE SCHAER: Would you tell me, once again,
16 where we are?

17 MR. FINNIGAN: Page 8 of Exhibit T-15.

18 JUDGE SCHAER: I am looking at something that
19 says 8 of 56.

20 MR. FINNIGAN: I am sorry. I am translating.
21 Exhibit 15, T-12; otherwise known as T-12. I am sorry.

22 JUDGE SCHAER: Thank you.

23 MR. FINNIGAN: I am trying to get my brain to
24 think in exhibit numbers.

25 At line 14, page 8 of 41.

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1 JUDGE SCHAER: Line 14 --

2 MR. FINNIGAN: Beginning with "Commission
3 Staff" --

4 JUDGE SCHAER: Uh-huh.

5 MR. FINNIGAN: And then going down to the next
6 line, ending on the right-hand side with "this rate
7 case," comma, that text should come out, and the "T" on
8 "the" would be capital "T."

9 JUDGE SCHAER: So a period after "purposes"; is
10 that correct?

11 MR. FINNIGAN: I don't see the word purposes --
12 oh, I am sorry. No. Continuing over, all of the
13 language, starting with line 14 -- there's two
14 "Commission Staffs." Line 14, "Commission Staff" --
15 I'll read the exact text.

16 "Commission Staff is reversing its historical
17 position on these issues, because of Commission Staff's
18 change of positions for purposes of this rate case,"
19 comma -- that should come out.

20 JUDGE SCHAER: That makes sense to me. Sorry.
21 It seems like a Monday morning today.

22 MR. FINNIGAN: It does. And capital "T" on
23 "the." And then going to the same exhibit at page 13,
24 line 21, the words "this concept" should be replaced
25 with the words "the developer program."

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1 JUDGE SCHAER: Okay.

2 Q BY MR. FINNIGAN: Mr. Fisher, with the errata
3 that had been previously submitted, and the changes that
4 we have discussed today, is the testimony and exhibits
5 that you are submitting, true and correct, to the best
6 of your belief?

7 A Yes, they are.

8 Q And if you were asked the questions that are
9 contained in Exhibits T-4 and T-15 today, would your
10 answers be the same?

11 A Yes, they would.

12 MR. FINNIGAN: Your Honor, the witness is
13 available for cross examination. And I will offer
14 Exhibits T-4 through T-25.

15 JUDGE SCHAER: Any objections?

16 MS. TENNYSON: No objections.

17 JUDGE SCHAER: The exhibits are admitted.

18 (EXHIBIT ADMITTED)

19

20 CROSS EXAMINATION

21

22 BY MS. TENNYSON:

23 Q Good morning, Mr. Fisher.

24 A Good morning.

25 Q First, you have filed revised Exhibits DF-21

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1 and -22. You filed that on or about February 8; is that
2 correct?

3 A Yes, I think so.

4 Q Were those revisions made on or about that
5 time?

6 A Yes, they were.

7 Q Can you give us an overview of what changes are
8 made to those revised exhibits? I don't see any
9 highlighting of what is different. Rather than try to
10 figure out myself, can you tell us what changed?

11 A We're talking about Exhibit 5, the Results of
12 Operation?

13 Q No, I am talking about what is marked as DF-21
14 and -22, your last two exhibits.

15 A The last two exhibits, could I have the name of
16 the document?

17 Q The first one, which has been -- you marked as
18 DF 21, and it's admitted as Exhibit 24. The heading on
19 it is Rainier View Water Company. And on the bottom
20 right-hand corner, the revised exhibit has a bold figure
21 of 9.47 percent. The earlier version of that document,
22 I noticed, had 9.45 percent. I noticed that change.

23 Are there other changes to that document?

24 A Okay. I have the right one, and your question
25 again?

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1 Q What are the changes between the document as
2 originally submitted and the revised one?

3 A There was a small calculation error in the cost
4 of money. It was strictly a summing error in the form.

5 Q If you could go to the next exhibit, then,
6 which you marked as DF-22, and the revised version, I
7 notice, you have the same 9.47 percent as a difference
8 in the lower right-hand corner on the first page. There
9 is six pages.

10 A I do. My exhibits don't have the actual number
11 on them, and I am thinking --

12 MR. FINNIGAN: Would it be easier if I handed
13 my copy? I think he has the working copy.

14 MS. TENNYSON: So you don't have the number in
15 the upper right-hand corner?

16 MR. FINNIGAN: May I?

17 JUDGE SCHAER: Yes, you may approach the
18 witness.

19 MR. FINNIGAN: Thank you.

20 MS. TENNYSON: Perhaps we might avoid spending
21 a lot of time having him walk through it to just ask to
22 get a copy that's been highlighted.

23 MR. FINNIGAN: If you want, we can do that.
24 The only changes are those that were identified in
25 response to bench requests.

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1 MS. TENNYSON: I understand. But I don't want
2 to have to go to the bench responses, read those, go to
3 this exhibit and figure out what is different.

4 MR. FINNIGAN: We can, over the noon hour, get
5 you a copy with the highlights.

6 JUDGE SCHAER: Thank you. Why don't you plan
7 on doing that, so we can proceed. And it might help,
8 Ms. Tennyson, if you can give the witness his
9 identifying number, as well as the exhibit number.

10 MS. TENNYSON: That's what I was doing.
11 Unfortunately, he apparently doesn't have -- he has his
12 original copies before Mr. Finnigan handed the exhibit
13 number copies to him.

14 JUDGE SCHAER: I understand.

15 Q BY MS. TENNYSON: Mr. Fisher, let's turn
16 at this point to your rebuttal testimony. And I am
17 going to start with page 3. This was marked as Exhibit
18 DFT-12, and has been admitted as T-15. Referring to
19 your testimony at page 3, at approximately line 26, you
20 referred to the effect of the Staff's recommendation in
21 this case. And when you are referring to that, what
22 part of Staff's recommendation are you referring to?

23 A The reduction in rates.

24 Q So this would include both the Staff's
25 recommendation on the imputation of taxes, building

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1 rent, Mr. Richardson's salary, the entire
2 recommendation?

3 A Yes, it would.

4 Q And you go on to suggest that the Company would
5 need to lay off employees. Staff's recommendation does
6 provide for wage expenses and rates at the Company's
7 requested level, correct?

8 A Correct.

9 Q And are you -- you are not saying you need
10 additional employees that you haven't requested in this
11 case, are you?

12 A I am saying that if we reduced rates, cash flow
13 decreases. In the real world, something will have to be
14 dropped. The quickest, fastest is in salaries.

15 Q Then going on to page 4, you suggest that the
16 Company might need to defer maintenance. But, again,
17 Staff's recommendation does provide for maintenance
18 expenses and rates, correct?

19 A It allows for it. The only problem is we have
20 to pay for them. And if the money is not there, it's
21 not available.

22 Q If the Commission adopts the Staff's position
23 on not allowing the Company to impute income taxes in
24 its rates, is it your anticipation that Mr. Richardson
25 would continue to take that money out of the Company's

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1 revenues to pay the income taxes?

2 A Taxes have to be paid. So my answer would be
3 they would still have to come from some source. And he
4 doesn't have the source of just paying that kind of
5 money for taxes.

6 Q At page 4, line 17, you refer to the ready to
7 serve charge not being capital recovery mechanism. Can
8 you tell us what you mean by a capital recovery
9 mechanism?

10 A The ready to serve charge, in the form that we
11 have used in our contracts, was not set up for the
12 recovery of capital. It was set up to basically pay for
13 the cost of the contract.

14 Q My question was, what would a capital recovery
15 mechanism be? Can you give us an example of what might
16 be a capital recovery mechanism?

17 A Not right at this moment.

18 Q In your testimony you state that the Company
19 was highly leveraged and the Company didn't have much
20 equity. And that the developer program, or whatever --
21 that's the simplest way to refer to it -- was a way to
22 address the capital structure problem.

23 What was the capital structure problem that the
24 program was trying to fix?

25 A I think in the early '90s our rate base was in

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1 the neighborhood of 14, 15 percent. At that point in
2 time, DOH required comp plans. Comp plans required
3 financial viability. The key issue with financial
4 viability was that they were going to defer to the
5 Commission as to what that viability was. The
6 Commission stated in their references that they were
7 going to expect a 30 percent rate base as part of a
8 viability issue, and the program was set up to address
9 getting to those points.

10 Q And when you refer to the Commission's
11 expectations, that is a Staff guideline?

12 A I believe it was.

13 Q And you said rate base was 14 to 15 percent.
14 Is that -- are you referring to the amount of equity the
15 Company had?

16 A I am referring to the amount of -- well, what
17 makes up rate base.

18 Q And what is that?

19 A Excess of investment to contributed capital.

20 Q Okay. So are you saying that the Company's
21 investment was 14 to 15 percent of the total company
22 capital?

23 A Correct.

24 Q And then the program was designed to increase
25 the amount of equity?

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1 A Well, at the time we had the contribution tax
2 issues that were affecting all utilities. Which meant
3 that when we would receive a dollar in plant,
4 contributed, the IRS was requiring us to pay that as 100
5 percent revenue.

6 And with that, contribution tax was being
7 imputed at a gross-up factor, meaning that we increased
8 it based on the tax rate. Which, at that point in time,
9 the actual rate base or rate investment was being
10 artificially reduced by a tremendous amount in a very
11 short period of time.

12 So the trend at that point in time, there was
13 no -- basically we were at 14, 15 percent, whatever it
14 was. And it was tending to go down dramatically
15 collecting that tax without any offset for plant,
16 because it was strictly a cash or dollar amount. No
17 plant involved.

18 So basically we would receive a dollar in
19 plant, but we were receiving \$1.65 in contributions.

20 Q Let me see if I can break this up. So if a
21 developer was going to put in a development, they would
22 need water, correct?

23 A Correct.

24 Q And the developer would usually construct the
25 water system; is that right?

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1 A Correct.

2 Q And the developer would then contribute that to
3 Rainier View Water?

4 A Correct.

5 Q And because of the value of that contribution,
6 Rainier View incurred a tax that had to be paid to the
7 Federal government on the value of that contribution?

8 A Correct.

9 Q So you are saying when you received those
10 contributions, you were incurring a liability as well?

11 A Correct. Correct.

12 Q So at the time that we're talking about, early
13 1990s, then, you are saying you had -- did you have too
14 much CIAC? Would that be an appropriate
15 characterization?

16 A No. What we actually had was a very, very,
17 high-growth company taking in a lot of contributions in
18 the form of developments, yes.

19 Q What was the effect of the program that you
20 entered into? How did things change between 1990 and,
21 say, 1999?

22 A Well, beginning in approximately the latter
23 part of '94 when the program started -- and basically we
24 were having -- booking income of, for example, say
25 \$100,000. But we were taking in contributions of

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1 everywhere from half million up to, I think, at the
2 highest point was \$900,000.

3 After the program began, the reverse was that
4 book income exceeded contributed income for a major
5 portion of it, reversed the trend in the reduction of
6 rate -- I mean artificial reduction of rate base in the
7 excess in contribution. You know, we went from 14, 15
8 percent contributed capital to, currently, it's over
9 40 percent -- or, excuse me. It went from 13, 14, 15
10 percent rate base to currently, which is a little over
11 40 percent rate base.

12 Q Was that rate base increased with debt or
13 equity? What does that reflect?

14 A Well, the majority of it is -- well, I would
15 say it's not. It would be more debt than equity, but
16 the majority of it was through the developer program and
17 the Cobank. C-o-b-a-n-k. It's a financial institution.
18 So the majority of it was debt financed.

19 Q In your rebuttal testimony you have a fair
20 amount of testimony about what you say Exhibit DF-15
21 shows. These are the copies of Mr. Finnigan's billing
22 records. Do you recall that?

23 A Yes.

24 Q Now, for those conversations that you were not
25 present at, you can't testify from personal knowledge

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1 about what was said, can you?

2 MR. FINNIGAN: I am going to object. We have a
3 stipulation related to this matter, and my understanding
4 of the stipulation is that the evidence would stand and
5 be admitted as evidence.

6 JUDGE SCHAER: Well, that's the objection. I
7 would point out it's my understanding that this is an
8 exhibit that is admitted right now.

9 So what is your brief response, Ms. Tennyson?

10 MS. TENNYSON: I agree. The exhibit is
11 admitted. I am asking him to clarify what he can and
12 can't say about it, about the contents of those
13 conversations.

14 JUDGE SCHAER: Mr. Finnigan, did your
15 stipulation cover the cross examination that could take
16 place about the exhibit?

17 MR. FINNIGAN: No, it didn't specifically cover
18 that. But it was, in part, designed to address whether
19 or not I would need to appear as a witness. And if
20 we're going to get into that issue, then that issue may
21 come back on the table.

22 JUDGE SCHAER: Well, I am going to overrule the
23 objection at this point. I think it's appropriate to
24 let Ms. Tennyson ask questions about the exhibit, and
25 test this witness' knowledge about it. As the trier of

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1 fact, it's going to assist me in understanding this
2 exhibit, and what is it supposed to be showing, and
3 whether or not that's been supported.

4 Go ahead, Ms. Tennyson.

5 MS. TENNYSON: Thank you.

6 Q BY MS. TENNYSON: I can rephrase the question.
7 For those conversations that are referenced on Exhibit
8 DF-15, and Mr. Finnigan's billing records, for those
9 ones that you were not present at for the content of
10 those conversations, you are relying on Mr. Finnigan or
11 someone else's report to you of what happened, correct?

12 A Not correct.

13 Q Okay. I would like to ask one more question
14 related to the debt structure of the Company at page 14
15 of your testimony, at approximately line 15 or 16.

16 JUDGE SCHAER: Excuse me?

17 MS. TENNYSON: I am sorry, the rebuttal
18 testimony.

19 JUDGE SCHAER: Thank you, Ms. Tennyson.

20 THE WITNESS: Page 14?

21 JUDGE SCHAER: Give us a moment to get there,
22 please, before you go ahead.

23 MR. FINNIGAN: Line, please?

24 MS. TENNYSON: I think it's 15. I am looking.

25 Q BY MS. TENNYSON: I am looking at the second

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1 line of that paragraph. You refer to the Company's
2 capital structure as highly leveraged, and you go on to
3 say the Company does not have much equity. By highly
4 leveraged, do you mean the Company is structured with
5 mostly debt? Is that what you are referring to?

6 A Correct.

7 Q At page 12, lines 10 to 18 of that same
8 testimony, you refer to a letter which is in your
9 Exhibit DF-14, which is our 1200-page exhibit. Do you
10 have a copy of that?

11 A Page 12, which line?

12 Q No, do you have a copy of DF-14?

13 JUDGE SCHAER: I have one that is handy.

14 MS. TENNYSON: Refer to page 197, the letter.
15 I think he refers to it, that portion of his testimony.

16 THE WITNESS: (Reading document.)

17 MS. TENNYSON: Do we need to wait for you to
18 find it?

19 JUDGE SCHAER: Is there something I need to
20 follow along?

21 MS. TENNYSON: It would probably help.

22 JUDGE SCHAER: I am just about there. I am at
23 199. So give me one more moment, and I am there.

24 Go ahead, please.

25 Q BY MS. TENNYSON: In your testimony, your

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1 rebuttal testimony, at page 12, starting at line 14, you
2 state that "The Commission Staff requested the Company
3 to explore idea to increase rate base to address the
4 Commission's financial viability, and the Company
5 committed to do so."

6 And you referred to page 197 of Exhibit DF-14.
7 Do you see that?

8 A Yes, correct.

9 Q And the letter that is at page 197 is a letter
10 dated June 8, 1993, addressed to Paul Curl?

11 A Yes, it is.

12 Q And in this one, in this letter, can you --
13 this is what you are referring to as the confirmation
14 that the Company would explore the idea to increase rate
15 base?

16 A Correct.

17 Q Now, this is in reference to several contracts.
18 And if we could just go to the next -- the contract that
19 is attached to that letter. Now, in this --

20 JUDGE SCHAER: It's page 198?

21 MS. TENNYSON: Yes, it starts at 198.

22 JUDGE SCHAER: Thank you.

23 Q BY MS. TENNYSON: In reviewing that contract,
24 isn't it really the developers that are contributing the
25 money, not the company and not the shareholders?

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1 A Are you saying, is the developer contributing
2 the plant that he's going to build?

3 Q Well, let's take it one step at a time. The
4 developer is providing the plant, correct?

5 A Correct.

6 Q And at paragraph 8, at page 201 of the exhibit,
7 the developer pays an offsite charge of \$600 per
8 residential equivalent, correct?

9 A Correct.

10 Q That's a facilities charge, or something of
11 that sort? Is that how you would characterize that?

12 A It has many names, but I believe at this point
13 in time we called it an offsite facilities charge, yes.

14 Q So that's not really relating to the
15 improvements the developer is providing at this point,
16 correct?

17 A This is actually relating to -- yes, it does.
18 The development fee was designed to keep the level of
19 service, the level of service in which these lots were
20 going to affect Rainier View's system in source storage.
21 Those areas is what this fund was developed and started
22 as.

23 So what we could do -- at the point, what we
24 were finding is our customers were increasing, our
25 source was staying at the same place. And what we

0046

1 found, level of service was not staying commensurate
2 with the amount of customers we had at that time.

3 We developed this fund to keep source and
4 storage at an even level, keeping all customers in equal
5 service. Meaning if you are going to bring in 100 lots
6 to Rainier View, we wanted to keep the level of service
7 in gallons pumped, stored water, those things in equal
8 amounts.

9 Q I am understanding that. What my question is,
10 though, this isn't that the developer is going to build
11 this at its expense, contribute it to Rainier, and pay
12 you \$600 per lot for that same item, or piece of
13 property? This is for other improvements that Rainier
14 might need to make, or other investments Rainier might
15 need to make to keep the Company, as a whole, in a
16 situation where it had sufficient source to supply
17 water?

18 A Yes. But it is contributive. Because at the
19 time we build those plants, then it would be taken -- we
20 usually book this into a deferred account. And then
21 book it when the money was spent on -- whatever
22 improvement it was, it would go to contributed plant,
23 yes.

24 Q And in referring, still, to paragraph 8 at page
25 201 of Exhibit DF-14, there's also a reference to a tax

0047

1 of 44.92 percent. Now, is that the CIAC tax you were
2 referring to earlier?

3 A That was our estimation of gross-up at that
4 point in time, to -- basically, the 600 plus 44.92. If
5 you took our tax, or what we estimated at that point in
6 time was our tax requirements, you would end up with
7 \$600, yes.

8 Q And is this what we would refer to as the CIAC
9 gross-up?

10 A Yes, tax gross-up.

11 Q So if the developer paid the \$600, you would
12 incur a tax on that contribution. And because the
13 developer has been paying the tax, that's again, income
14 to the Company on which the Company would increase tax?

15 A What it was designed to do was for me to end up
16 with \$600. So what it meant was whatever the difference
17 would be was the tax amount. So if we needed \$600, I
18 also needed the tax to pay on it to still get to the
19 \$600. We did the gross-up concept, which meant when I
20 paid whatever it is -- 44 percent, say, another \$300 --
21 I paid \$300 to tax, I would still end up with the \$600.

22 Q And you are referring to yourself in the first
23 person. I am assuming you are not referring to your
24 personal tax liabilities?

25 A No. Rainier View's tax liability.

0048

1 Q And would Rainier View actually incur that tax
2 liability, or would it technically be Mr. Richardson, as
3 the shareholder, that would have that liability?

4 A Well, are you asking because of the corporate
5 structure that it would be -- Rainier View would incur
6 the tax liability to pass on to Neil Richardson, because
7 of the corporate structure.

8 Q And this tax, the 44.92 percent, that related
9 to this contribution, correct? It's not general
10 operating income, or other income? It was designed, as
11 you said, so you got \$600?

12 A Correct.

13 Q I would like to return to your rebuttal
14 testimony.

15 MR. FINNIGAN: Is he going to be needing the
16 larger exhibit for the time being?

17 MS. TENNYSON: Not immediately, no.

18 JUDGE SCHAER: Ms. Tennyson, be looking in the
19 next 20 minutes for a good place to break, if there's a
20 place in your questioning that would be better.

21 MS. TENNYSON: Okay.

22 Q BY MS. TENNYSON: At page 13, your rebuttal
23 testimony referred to a calculation of the ready to
24 serve charge. We don't have any exhibit or record of
25 how that calculation was made that you have submitted

0049

1 with your testimony or exhibits, do we?

2 A No, I don't believe so.

3 Q And if I understand it correctly, then, in
4 working this out, your assumption was the developers
5 would sell their lots within two years; is that correct?

6 A When we designed it, we were looking at what
7 the normal build out would be of a development. From
8 our experience, the previous years, we tried to come up
9 with a reasonable guess as to what the cross-over point
10 would be between, you know, how many lots would be sold
11 in a five-year period of time, let's say.

12 Q And these contracts provided for the developer
13 to pay Rainier View Water a ready to serve charge of \$15
14 per month per lot until those lots were sold, in
15 essence?

16 A It was -- yes, we paid them \$600 per lot. They
17 paid us \$15 in what we call the ready to serve charge.
18 And both payments were due on a quarterly basis. And it
19 was determined as to when -- the ready to serve charge
20 was based on whether there was a connection paid for by
21 somebody else there or not. So it would be reduced as
22 the hook-ups were received on each lot.

23 Q So the term in the contract, I believe, is when
24 the lots were sold and the person became a customer of
25 Rainier View Water. What was the determining point for

0050

1 when a person became a customer?

2 A When they came in and applied for service and
3 paid a hook-up fee.

4 Q That was when they would actually pay the
5 service connection fee, not particularly when they
6 bought the lot, or may have gotten a water availability
7 letter, but paid the service connection fee?

8 A Correct.

9 Q And until that happened, then the developer
10 would continue to pay the ready to serve charge
11 indefinitely, correct?

12 A No. It was all designed to end in five years.

13 Q Does the term of the contract actually say that
14 that ready to serve charge ends in five years?

15 A The contracts end in five years.

16 Q I guess maybe he does need to look at the
17 contract. Can you show us where the contract term has
18 five years in it?

19 A (Reading document.) Which contract are we
20 discussing here?

21 Q Depends on which one you have open.

22 A Well, I will look at the newer contracts.

23 MR. FINNIGAN: Since he's needing to look
24 through the contracts, maybe now would be an appropriate
25 time for a break.

0051

1 JUDGE SCHAER: Thank you, Mr. Finnigan. Let's
2 take a morning recess at this time. I would like to be
3 back by quarter to eleven by the clock in this room.

4 We're off the record.

5 (Brief recess.)

6 JUDGE SCHAER: Let's be back on the record
7 after our morning recess.

8 Did you have more questions, Ms. Tennyson?

9 MS. TENNYSON: Yes, I do.

10 JUDGE SCHAER: Go ahead, please.

11 Q BY MS. TENNYSON: Mr. Fisher, if you can refer
12 to Exhibit 1 of DF-14. Do you have that?

13 A Yes, I do.

14 Q And the questions that I was pursuing before
15 the break is where is there a term in the contract that
16 says the contract -- or the ready to serve charge
17 expires after five years?

18 A In this particular contract it's under the
19 agreement, paragraph 2. It states it would be a
20 five-year amortization about mid-way through the
21 paragraph there.

22 Q Okay. Can you read the language you are
23 talking about?

24 A Yeah. It says, "Upon completion of the system
25 extension, Owner shall purchase that extension subject

0052

1 to the developer's compliance with this agreement for
2 \$700 to be paid quarterly -- paid in quarterly
3 installments over five years with the first payment due
4 90 days after system extension is accepted."

5 Q And it said based on five-year amortization
6 schedule; is that correct?

7 A That is correct.

8 Q And that's the time over which Rainier View,
9 being the owner, would pay the developer the amount of
10 the cost of the extension?

11 A Correct.

12 Q Now, this particular contract, I don't believe,
13 has a ready to serve charge in it?

14 A This is a line extension contract.

15 Q Now, does this contract provide for any payment
16 of taxes?

17 A No.

18 Q And is that what you were referring to with the
19 errata that you filed to page 16 of your testimony, to
20 make the insertion about those contracts that involved
21 income taxes?

22 A This is actually our solution to adding rate
23 base, basically. I am paying \$700 for this line
24 extension, whatever it was. I have no recollection of
25 what it is, but we're actually paying for them to run

0053

1 the line down the street. And for that, we're giving
2 them, in this situation, \$700.

3 Q And in this circumstance, this contract does
4 not include any provision for the developer to pay the
5 Company any CIAC taxes or any other amount?

6 A In this particular contract, no. It's just us
7 paying for the extension.

8 Q Within that same exhibit, then, if you can
9 refer to page 280?

10 A (Complies.) Okay.

11 Q And on page 280, now, this is a contract that
12 does have the ready to serve charge in it, correct?

13 A Correct.

14 Q And referring specifically to paragraph 15 on
15 that page, that is the section of the contract that
16 requires the developer to pay the ready to serve charge?

17 A Correct.

18 Q And that sets the terms for when -- the
19 discussion we had earlier about a residential subscriber
20 purchasing a lot and becoming a customer?

21 A Yes.

22 Q And that section doesn't say that the
23 developer, after five years, if he hasn't sold all the
24 lots, stops paying the ready to serve, does it?

25 A It doesn't say that in this paragraph. The

0054

1 contract is a five-year contract, in all essence, that
2 we have developed with our developers. They believe
3 that this will all end in five years, one way or the
4 other.

5 Q So you are saying your understanding with the
6 developers is these contracts --

7 A End in five years.

8 Q -- end in five years. But the only place -- if
9 you could review this contract, again, the only place
10 that the five years is referenced is in paragraph 2 of
11 the contract?

12 A Yes, based on the five-year amortization.

13 Q Now, going on to page 17 of your testimony, you
14 talk about changes to the program. And am I
15 understanding you correctly, what you are saying is that
16 for the more recent contracts, the developers are still
17 contributing the portion of the system that they
18 install, but the Company, in its more recent contracts,
19 is not committed to paying the developers any amount for
20 that plant, correct?

21 A Correct.

22 Q And that's what you are referring to by the
23 buy-back program?

24 A No. This is stating that --

25 Q Well, perhaps I can rephrase my question. When

0055

1 you say you stopped the buy-back program, this is what
2 you mean. The Company is no longer paying the developer
3 any amount; the developer is still contributing the
4 plant, correct?

5 A Correct.

6 Q And the plant that the developer, then,
7 installs, is that contributed capital?

8 A Yes, it is.

9 Q Does the company pay CIAC tax on that
10 contribution?

11 A Not at this time.

12 Q Why is that?

13 A I believe it's the 1996 tax revision, they
14 eliminated that portion of the bad tax law, let's put it
15 this way.

16 Q So you are somewhat familiar with that tax. Is
17 there still a CIAC tax on the actual service connection
18 price?

19 A Yes, there is.

20 Q And is that the only CIAC tax that the water
21 company still has to pay?

22 A Yes.

23 Q And that was -- that tax law change was made in
24 1996 retroactive to sometime in July 1996; is that your
25 recollection?

0056

1 A You are probably correct. I don't remember the
2 exact dates. I just know it occurred in 1996.

3 Q So for the more recent contracts where we don't
4 see that CIAC tax in the contract, it's because the
5 Company doesn't incur that obligation anymore?

6 A Correct.

7 Q At what time -- do you recall when the Company
8 changed its contracts to stop the -- to eliminate the
9 terms that the Company would pay the developer an amount
10 per lot for the development or the connections?

11 A I believe it's just in the last few months, to
12 be honest with you. We finished up with contracts that
13 started -- or developments that had started a few years
14 back. And any new contracts that we were to receive
15 after a certain period of time, we stopped the program.
16 It was actually, I believe, discussed in the middle of
17 last year as to rate base issues that have been
18 fairly -- you know, it reached the level that would make
19 us easily viable. And the board decided that we should
20 probably eliminate those.

21 Q Two clarifying questions: Middle of last year,
22 you are referring to 2001?

23 A Yes.

24 Q And what reached the levels?

25 A We were at rate base of, like I said, in excess

0057

1 of 40 percent. Even with the contributions and
2 surcharges and so forth, we felt we would carry that 30
3 percent along with future investments. And that's an
4 ongoing issue, so we felt we would be -- in the next ten
5 years, mainly through a couple of comp plans, we would
6 be fine.

7 Q Going on in your testimony to page 17 at
8 approximately line 20, you were asked there if the
9 Company included ready to serve charges -- ready to
10 serve revenue in the last rate case.

11 Are you referring in that case to -- or what
12 case? Is that 1996?

13 A 1996. I believe the actual approval was in
14 August of 1996 of the new rates.

15 Q And you have included several exhibits, or
16 several documents under your Exhibit DF-16 that relate
17 to case No. UW 960843. Is that the one you are
18 referring to?

19 A I don't have that exhibit in front of me, but
20 you are probably correct.

21 Q That is the last time the Company filed a rate
22 case?

23 A Yes, it is.

24 Q And that case wasn't an adjudicated case, was
25 it?

0058

1 A It was -- no, it wasn't in this setting, no.

2 Q It went before the Commission at the open
3 meeting, correct?

4 A Correct.

5 Q Isn't it true that in that case the Staff used
6 the implicit price deflator method to evaluate the rate
7 filing?

8 A I am trying to think of the words. I thought
9 it was -- which would be the same thing, less than
10 consumer price index increases, yes. Cost of living was
11 less than what we were asking for.

12 Q Okay. And I would like you to refer to,
13 at this point, one of the -- the first exhibit that I
14 presented as a cross-examination exhibit. Do you have
15 that? It's been marked as Exhibit 26.

16 MR. FINNIGAN: Your Honor, I am not going to
17 object to this, but I do want to note something for the
18 record.

19 I had asked the Records Center through a
20 Records Request to provide me with the records related
21 to this, and some other cases. And the file that they
22 showed me, that I was allowed to inspect did not have --
23 well, it had the notation on it at the start of it that
24 said -- I'll paraphrase what the note said. That the
25 Staff workpapers are missing.

0059

1 And so, obviously, I am not going to object to
2 this being an official record, but I would note that we
3 had asked to see these early in the process, and they
4 have not been provided to us, not through any fault to
5 Ms. Tennyson, by any means. It was not a request to
6 her, but to the Records Section.

7 And I just want to express my frustration on
8 the record, and I will let it go at that.

9 JUDGE SCHAER: Let me make sure, did you make
10 any kind of data request to Commission Staff?

11 MR. FINNIGAN: Not for this document. I was
12 trying to do my own due diligence through the Records
13 Center.

14 JUDGE SCHAER: Let me recommend in the future
15 that you do work through counsel. And especially if you
16 see something like a notation about workpapers being
17 missing, that you find out, perhaps, if counsel can find
18 where they are in the building. Because, unfortunately,
19 we try to comply with the Public Records Act in every
20 way that we can, but there are things that slip between
21 the cracks. And it's useful for you to see everything
22 as early as you want to.

23 MR. FINNIGAN: And I do want to note that I
24 think the Records Section goes to a great deal of
25 effort, and does a very good job in doing their job. I

0060

1 am not trying to criticize them, either. I am just
2 expressing frustration.

3 JUDGE SCHAER: I can understand that you would
4 be frustrated. But I do encourage you to go through the
5 AGs as well, because sometimes they can get blood from a
6 turnip, even if others cannot.

7 I don't think I have marked any of your
8 exhibits officially on the record, Ms. Tennyson.

9 MS. TENNYSON: You gave us the numbers, so I
10 marked them on the copies.

11 JUDGE SCHAER: I thought that might be handy in
12 terms of getting organized, but let's go ahead
13 at this point and identify all of these. Are you
14 planning to offer all of these?

15 MS. TENNYSON: Yes, I am.

16 JUDGE SCHAER: I am going to mark for
17 identification as Exhibit No. 26, July 31st, 1996 Open
18 Meeting Memorandum, Docket UW 960843. And the Company
19 name Rainier View Water Company; Staff indicated as
20 Herta Ingram.

21 And I am going to mark for identification as
22 Exhibit 27 a multi-page document, four pages; front page
23 has a heading in the upper left-hand side, Rainier View
24 Water Company, Inc.

25 And I believe these are workpapers from a 1993

0061

1 case, but I want you to clarify that, Ms. Tennyson.

2 MS. TENNYSON: I will represent they are from
3 the case Docket No. UW-930190, and there were several
4 other docket numbers under there. But that was the
5 first one on the list.

6 MR. FINNIGAN: And just for the record, I want
7 to express the same frustration as to this document.

8 JUDGE SCHAER: I thought, perhaps, you were
9 talking about the whole group.

10 MR. FINNIGAN: Just 26 and 27 were the only
11 things that I thought I requested, and didn't get.

12 JUDGE SCHAER: And I am not sure what the
13 records retention schedule is for some of these things,
14 for a formal record. You do find people keep stuff in
15 the drawer sometimes. So that's marked as Exhibit 27
16 for identification.

17 I will mark as Exhibit 28, a document entitled
18 in the left-hand corner Rainier View Water Company,
19 Inc., Test Year Ended December 31st, 2000, Schedule C-2.

20 I am going to mark for identification -- let's
21 go off the record for a moment.

22 (Discussion off the record.)

23 JUDGE SCHAER: Let's be back on the record.

24 I am going to mark for identification as
25 Exhibit 29 a document headed at the top as Rainier View

0062

1 Water Company, Inc., UW 010877, General Rates, Informal
2 Data Request 2.

3 Next, I am going to mark for identification as
4 Exhibit 30, a multi-page document, 102 pages, which is
5 identified at the top as UW 010877. I believe you
6 indicated, Ms. Tennyson, that this is something called
7 the North Shores Salary Survey.

8 MS. TENNYSON: Yes. The second page actually
9 has the title.

10 JUDGE SCHAER: So we will use the title showing
11 on the second page of this document to help identify it.

12 Then as Exhibit 31 for identification, a
13 document with a service date in the upper right-hand
14 corner of January 17, 1990, docket number 89-3479-AD,
15 Order Granting Application.

16 JUDGE SCHAER: Go ahead, Ms. Tennyson.

17 MS. TENNYSON: Thank you.

18 Q BY MS. TENNYSON: Mr. Fisher, referring to what
19 has been marked as Exhibit 26, can you tell me what this
20 document is?

21 A It looks like an agenda item from the Utility
22 Commission recommending approval of rates to become
23 effective August 1, 1996.

24 Q And from our discussion before we went off the
25 record, this relates to the Company's last general rate

0063

1 case; is that correct?

2 A Correct.

3 MS. TENNYSON: I would move for the admission
4 of Exhibit 26.

5 MR. FINNIGAN: Let me -- may I ask a question
6 of the witness?

7 JUDGE SCHAER: Go ahead.

8 MR. FINNIGAN: Mr. Fisher, do you remember
9 seeing this document at any time prior to today?

10 THE WITNESS: Yes, I have.

11 MR. FINNIGAN: Do you believe it to be a true
12 and correct copy of the document that was submitted to
13 the Commission in 1996?

14 THE WITNESS: I would believe it would be.

15 MR. FINNIGAN: No objection.

16 JUDGE SCHAER: Thank you. The document is
17 admitted.

18 (EXHIBIT ADMITTED)

19 MS. TENNYSON: Thank you.

20 Q BY MS. TENNYSON: Mr. Fisher, in reviewing -- I
21 would ask you to review Exhibit 26. And basically my
22 question is, this document does not refer at all to the
23 revenue from ready to serve charges in it, does it?

24 A No, it does not.

25 Q And in this 1996 case, the Staff does

0064

1 recommend, and the Company agreed to accept a slightly
2 lower amount of increase than the Company requested?

3 A Yeah, it was due to some -- it was some costs
4 due to the Sound case that we were dealing with.

5 Q That was the reason for the increase. Is that
6 what you are saying?

7 A That was the reasoning for the slight decrease
8 in what we were asking.

9 Q I would like to refer at this point to what's
10 been marked as Exhibit 27. Now, do you recognize the
11 first page of this exhibit?

12 A Yes, I do.

13 Q Is this a document that you prepared?

14 A I believe so.

15 Q And I do have the full workpapers here if you
16 would like to refer to them. But is this something that
17 you submitted to the Commission in connection with a
18 rate filing in 1993?

19 A I can't really say. I don't have anything else
20 that tells me that this was part of a '93 case, no. But
21 if there was a rate case in '93, this would have been
22 part of it.

23 Q You had indicated that you prepared the first
24 page. There's an effective date in the column, that's
25 in the middle of the page, of November 26, 1992; is that

0065

1 correct?

2 A Correct.

3 Q And what does the effective date refer to?

4 A Effective date of a salary increase.

5 Q And have you seen the other documents that are
6 attached here before?

7 A (Reading document.) To be perfectly honest, I
8 don't remember. It's been too long ago.

9 MS. TENNYSON: I would just -- to keep these
10 together, I would prefer to have them as one exhibit.
11 Ms. Parker is the author of the remainder documents, and
12 I could separate them and submit them as an exhibit with
13 her, if necessary.

14 JUDGE SCHAER: That document has been
15 identified. It's up to counsel if you want to wait and
16 offer it.

17 MS. TENNYSON: I would offer it now.

18 JUDGE SCHAER: Or you can offer it now, and see
19 if there's any objection.

20 MS. TENNYSON: I would offer it.

21 MR. FINNIGAN: And I will object to the pages
22 that Mr. Fisher can't identify. I think the foundation
23 needs to be laid for them.

24 JUDGE SCHAER: I am going to hold onto this
25 exhibit at this time until the witness is on the stand

0066

1 that can identify the latter two cases.

2 Mr. Finnigan, do you want this split so what
3 this witness identified can go in now? I just don't
4 want an objection when Ms. Parker is on the stand that
5 the person who really knew about those was Mr. Fisher.
6 How should we deal with that?

7 MR. FINNIGAN: I have no -- I don't object to
8 page 1 of Exhibit 27. So if you want to identify it
9 that way, and Ms. Tennyson wants --

10 MS. TENNYSON: My question only relates to page
11 1.

12 MR. FINNIGAN: And if she wants to ask
13 Mr. Fisher questions about page 1, I have no objection
14 to page 1.

15 JUDGE SCHAER: Let's proceed in that manner.

16 Q BY MS. TENNYSON: Mr. Fisher, refer to the
17 first page of Exhibit 27. I note that the last name
18 under the employee name is Neil Richardson. That's the
19 Company's president, correct?

20 A Correct.

21 Q And there's no indication on this document, is
22 there, that there's any reduction of Mr. Richardson's
23 salary to reflect him spending less than 100 percent of
24 his time working with Rainier View, correct?

25 A Not on this form.

0067

1 Q Thank you. And I believe you said you didn't
2 have a copy of your exhibit that you submitted as DF-16.
3 I would like you to refer to that.

4 A (Complies.) My copies -- don't have the
5 numbers on them.

6 MR. FINNIGAN: Your Honor, if I may.

7 JUDGE SCHAER: Yes, you may approach the
8 witness, Mr. Finnigan.

9 Q BY MS. TENNYSON: I would like to refer you to
10 page 9 of that exhibit. The page was titled 1995 Salary
11 Increase. And referring, again, to the entry on this
12 page 9 for Neil Richardson, there's no indication on
13 this document, is there, that reflects -- that indicates
14 that this amount has been reduced from Mr. Richardson
15 spending less than 100 percent of his time working for
16 Rainier View, is there?

17 A That was all addressed from '87 through -- I
18 thought it was in the early '90s, somewhere. We
19 addressed the time issues. The first major case was in
20 1987. And basically ever since 1997 (sic), his salary
21 has always been increased appropriately with the rest of
22 the Company.

23 Q But my question is, this document does not
24 reflect that the figures for Mr. Richardson reflect only
25 60 percent of his time, correct?

0068

1 A Correct.

2 MR. FINNIGAN: And if you don't mind, so the
3 record is clear, I think Mr. Fisher just said "1997."
4 And I believe he meant "1987." Was that correct?

5 THE WITNESS: Correct.

6 JUDGE SCHAER: Thank you, Mr. Finnigan.

7 Q BY MS. TENNYSON: For the 1996 rate case, do
8 you know whether a portion of Mr. Richardson's salary
9 was capitalized in that case?

10 A Yes, it was.

11 Q And do you know if the amount on page 9 of
12 DF-16 reflects the amount before or after
13 capitalization?

14 A I believe it's before.

15 Q And in your rebuttal testimony, you refer to
16 the amount of Mr. Richardson's salary in the per books
17 column already being reduced by the capitalized portion
18 of the salary. And at this point what I need to do is
19 have you refer to your Exhibit DF-2, which is the
20 Results of Operations, I believe submitted with the
21 original testimony.

22 MR. FINNIGAN: Does he need DF-16 anymore?

23 MS. TENNYSON: No.

24 Q BY MS. TENNYSON: My question is, when you are
25 referring to the per books amount from Mr. Richardson's

0069

1 salary, are you referring to your figure of -- at line
2 11 on -- I am sorry, DF-2, line 11?

3 A That amount is less the capitalized portion.

4 Q So the capitalized portion has been taken out?

5 A Correct.

6 Q Now, the Company, in the course of this case,
7 asked for and received copies of Mr. Kermode's
8 workpapers, correct?

9 A Correct.

10 Q And I would refer you at this point to what has
11 been marked as Exhibit 28. Now, did you review the
12 adjustment that Mr. Kermode made to Mr. Richardson's
13 salary in Staff's presentation?

14 A Yes, I looked at it.

15 Q And Mr. Kermode didn't start with the per books
16 number from your Exhibit DF-2, did he?

17 A No, he did not.

18 Q So with him not starting with the per books
19 number that you used, wouldn't it follow that his
20 calculation wouldn't be affected by the computations
21 related to the per book amount?

22 A Well, actually, he started with the 1993 rate
23 case amount. And if we look at your Exhibit 27, and
24 define this 44,721 -- it's on the second page. And I am
25 not sure where that came from.

0070

1 Yeah, I can't identify if that 44,721 was
2 anything more than -- if you are stating, is it prior to
3 the capitalization portion of it, it would be a close
4 number, would be my guess. Based off of my schedule
5 here, it showed that he would have made 45,327 in the
6 year 1993.

7 Q Okay. In the course of reviewing the Company's
8 filing, Mr. Kermode made an informal data request, and
9 asked the Company for information on the job
10 responsibilities of various persons employed by the
11 Company, correct?

12 A Correct.

13 Q Referring to what has been marked as Exhibit
14 29, this is what you provided to Mr. Kermode in response
15 to his request?

16 A I believe it is.

17 Q And attached to the first page of that is a
18 letter from your attorney supplementing that
19 information; is that correct?

20 A Yes, it is.

21 Q And --

22 MS. TENNYSON: And I would move the admission
23 of Exhibit 29.

24 MR. FINNIGAN: No objection.

25 JUDGE SCHAER: The document is admitted.

0071

1 (EXHIBIT ADMITTED)

2 Q BY MS. TENNYSON: And referring -- continuing
3 to refer to that same document, the second page of the
4 document indicates that response was prepared on January
5 23rd, correct?

6 A Correct.

7 Q And that was after your rebuttal testimony was
8 submitted, correct?

9 A This letter was afterwards, yes.

10 Q And so at the time that Mr. Kermode filed his
11 testimony back in December of 2001, the information that
12 was available was the first page of Exhibit 29; is that
13 correct?

14 MR. FINNIGAN: I will object in that the
15 question assumes that there -- that the only information
16 Mr. Kermode had was in written form. And I don't know
17 that that has been established as a basis for the
18 foundation for that question.

19 JUDGE SCHAER: Ms. Tennyson?

20 MS. TENNYSON: I can rephrase the question.

21 JUDGE SCHAER: Would you either get in more
22 foundation, or phrase it in a different way, please.

23 MS. TENNYSON: Sure.

24 Q BY MS. TENNYSON: At the time Mr. Kermode filed
25 his document, he obviously did not have the second or

0072

1 third page of Exhibit 29. Would you agree?

2 A Yes.

3 Q And the only information that you have provided
4 to him in written form, as of December of 2001, was the
5 first page of Exhibit 29; is that correct?

6 A The informal data request, yeah, was prior to
7 his submittal.

8 Q Now, I am going to refer, again, to your
9 rebuttal testimony, this time at page 20 to 21. And
10 your testimony at this point is still talking about
11 Mr. Richardson's salary, and Mr. Kermode's
12 recommendation.

13 You make several comparatives in terms of the
14 number of customers that the Company had in 1993 and
15 currently, correct?

16 A Correct.

17 Q Or the year 2000. We're in 2002. There may be
18 a difference. I am not going to hold you to that.

19 You are not really recommending the Commission
20 set the salary of a water company owner based on the
21 number of connections, or percentage of revenue, or
22 amount of rate base, are you?

23 A The only thing I am suggesting is that in
24 comparison to 1993 to now, in my opinion, it is correct.
25 It's reasonable and based off of some other types of

0073

1 comparisons which are per customer, per revenue, per
2 rate base. As comparison purposes; not recommendation
3 to the Commission, no.

4 Q So you are not recommending that if the Company
5 now has 11,000 customers, and it went to 22,000, that
6 Mr. Richardson's salary should double?

7 A No. I am only saying that his salary should go
8 up with the requirements of a utility that is twice the
9 size. I believe that is true.

10 Q Now, the Company uses a salary survey to set
11 the salaries for most of its salary employees, correct?

12 A No. We use the salary survey to find out what
13 the Competition is paying, and set levels that would be
14 reasonable in the range that we could retain valuable
15 employees.

16 Q You did provide a copy of a salary survey to
17 Mr. Kermode, didn't you?

18 A Yes, we did.

19 Q Referring to what is marked as Exhibit 30, is
20 that what you provided to Mr. Kermode?

21 A Yes, we did.

22 Q Now, the first page is a chart. Did you
23 prepare that?

24 A No, I did not.

25 Q And where did that come from?

0074

1 A Actually, Bob Blackman in our office submitted
2 it to me.

3 Q So it was prepared by the Company?

4 A By the manager, yes.

5 Q And there's some names on the right-hand side
6 of the chart. Are those employees of Rainier View?

7 A Yes, they are.

8 Q And you have testified you used this as a
9 comparative for setting -- figuring out what is a
10 reasonable salary for various employees?

11 A Yes, used it to find out what the other
12 utilities in our area were paying for their employees.
13 And from that, we developed our own range for our
14 employees so we could give them some basis of -- okay,
15 if you get to this requirement, you will be paid these
16 types of dollars.

17 Q And I realize that the copy that we have here
18 has some handwriting on the top right-hand side. That
19 was not something that was on it when the Company
20 submitted it, correct?

21 A Correct.

22 MS. TENNYSON: With that clarification, I would
23 move for the admission of Exhibit 30.

24 JUDGE SCHAER: Any objection?

25 MR. FINNIGAN: I would ask that those

0075

1 calculations or numbers, or whatever they are on the
2 margin notes on the first page not be part of the
3 submitted exhibit. But other than that, I have no
4 objection.

5 MS. TENNYSON: I can do that. I can even submit
6 a revised copy. Since Mr. Finnigan had received a copy
7 of this with the notations, I was hesitant to remove
8 them in the exhibit for concern he might object.

9 JUDGE SCHAER: Let's all take a pen and cross
10 them out.

11 MR. FINNIGAN: That would be fine.

12 JUDGE SCHAER: Go ahead.

13 Q BY MS. TENNYSON: The Company didn't use this
14 salary survey in setting the salary for Mr. Richardson,
15 did it?

16 A Actually we used it for the entire company.
17 The names you see on the side just happened to be in the
18 particular form that I had at that point in time. We
19 used it to look at all employees.

20 Q And is it correct, then, that Mr. Richardson
21 spends about 60 percent of his time working with Rainier
22 View?

23 A 60 percent of about a 12-hour day, yes.

24 Q And the figures in the survey refer to
25 full-time positions; is that correct?

0076

1 A Correct.

2 Q Now, in your testimony relating to
3 capitalization of portions of the Company's salaries, at
4 page 23 you testified that Mr. Kermode told the Company
5 that the Staff would oppose any recovery of salary in
6 rate base?

7 A Correct.

8 Q Do you recall that?

9 A Correct.

10 Q Now, rate base for regulated companies, that's
11 calculated on the historical average cost; isn't that
12 true?

13 A Correct.

14 Q And as capital accumulates with the next rate
15 case, the capitalized portion of the salary expense
16 would show up in the rate base, correct?

17 A In the following year?

18 Q Yes.

19 A Correct. Of actual salary at that point in
20 time.

21 Q And isn't it a requirement of regulatory
22 accounting that a portion of the salaries related to
23 capital projects be capitalized, rather than expensed?

24 A Correct.

25 Q At page 23, line 4, you state that 15 percent

0077

1 of the salaries simply disappear as an expense. Doesn't
2 the Company currently capitalize labor costs?

3 A We recover it in rates.

4 Q Oh, so in prior years the Company capitalized
5 labor costs?

6 A Yes.

7 Q A portion of them. Has staff made an
8 adjustment to remove any costs from rate base associated
9 with capitalized labor costs?

10 A No. But in this case they did not make any
11 adjustments for normalizing the increase. They just
12 basically wiped it clean. They did not use an average.
13 They did not use anything. It just disappeared.

14 Q The Commission doesn't use prospective rate
15 base, does it?

16 A No. But if I am trying to normalize a wage
17 increase that was given for December for the year, and
18 we're going to say it's going to make it normal,
19 a portion of that wage would be capitalized. And it
20 would have been in rate base.

21 If I gave the increase in December, and I am
22 trying to bring it through the previous eleven months,
23 if that salary was in place at the beginning of the
24 year, it would have already been in rate base when we
25 got to December 31st.

0078

1 Q So it's your position that Staff needs to add
2 something to rate base in order to recognize that?

3 A Correct.

4 Q Going on page 24 of your testimony, you testify
5 about the Company's requested amount of rate case
6 expense, and you disagree with Mr. Kermode's adjustment
7 to exclude the cost of preparing the 2000 rate case that
8 was withdrawn from the allowed expense, right?

9 A Correct.

10 Q And you state that a good portion of the 2000
11 expense was incurred to prepare for the ready to serve
12 and income tax issues. What is a good portion?

13 A Well --

14 Q Would you say it's 30 percent, 50 percent, 80
15 percent? Can you put a figure on it?

16 A Not at this point in time, I can't.

17 Q Could you separate it out by witness?

18 A Possibly.

19 Q The Company didn't use Ms. Ingram or the firm
20 that she works with to prepare or support its filing in
21 a 2000 case, did it?

22 A No, it did not.

23 Q What about Ms. Parker?

24 A No, we did not.

25 Q And Mr. Ault?

0079

1 A Yes.

2 Q You used his firm?

3 A His firm, no. We did not use Mr. Ault at that
4 time, his firm.

5 Q Okay.

6 A And excuse me. I believe we did have meetings
7 with -- I am trying to think. We did have a meeting
8 with Staff on the issue of income tax. And I don't -- I
9 am trying to think. I don't remember if Mr. Ault was
10 there or not. I know Randy Wells was there from that
11 firm.

12 Q Mr. Wells is employed by the same firm as
13 Mr. Ault?

14 A Correct.

15 Q Going on to page 24, you testify about the
16 amount of the rent expense that Staff is proposing to
17 allow in this case. Are you aware that Mr. Richardson
18 has on file an affiliated interest arrangement, and that
19 addressed the issue of Rainier View leasing property
20 from Mr. and Mrs. Richardson?

21 A Yes, I do.

22 Q Referring to what is marked as Exhibit 31, is
23 this a copy of the order and the lease that was
24 presented to the Commission?

25 A (Reading document.) On page 2, it does mention

0080

1 the lease, yes.

2 Q And that's in the order?

3 A Yes.

4 Q Now, did you use -- you didn't use this lease
5 as the basis for the amount of rent for Rainier View's
6 office space included in the Company's filing, correct?

7 A Correct.

8 Q After receiving the Staff's response testimony
9 in this case, did you then make some inquiries about the
10 cost of similar rental space?

11 A Correct.

12 Q You refer in your testimony to discussions with
13 Commission Staff about how the Company could support the
14 amount of rent expense. You didn't directly have any
15 discussions, did you?

16 A There is something in here that states that?

17 Q Yes. I am referring to page 24.

18 A (Reading document.)

19 Q Line 13.

20 A (Reading document.)

21 JUDGE SCHAER: Page 24 of --

22 MS. TENNYSON: I am sorry. Of his rebuttal
23 testimony.

24 THE WITNESS: Oh, yes, that's correct. I am
25 sorry.

0081

1 Q BY MS. TENNYSON: So this wasn't -- my question
2 was, you didn't really have any direct discussions with
3 the Commission Staff. That was simply relayed to you by
4 your counsel; is that correct?

5 A Me and Rick discussed this issue.

6 Q Who did you contact about the cost of finding
7 similar rental space?

8 A I contacted three local real estate firms that
9 involved themselves in rental properties, and so forth.

10 Q Do you recall what information you gave to them
11 about the Company's need for space?

12 A I gave them the amount of square feet we
13 currently operate in, and the amount of outside space
14 that we occupy.

15 Q And did you take any notes, or prepare any
16 comparison from those conversations?

17 A Yes, I did.

18 Q And do you have a copy of it, which your
19 counsel has just handed to me?

20 MS. TENNYSON: It's not been marked as an
21 exhibit. I would like to get it marked so we can refer
22 to it.

23 JUDGE SCHAER: Let's go ahead and distribute
24 that, and I will mark that for identification as Exhibit
25 32.

0082

1 Q BY MS. TENNYSON: Mr. Fisher, referring to what
2 is marked as Exhibit 32, is this what you prepared?

3 A Yes.

4 Q All right. I notice a date of February 12. At
5 what point in time did you prepare this exhibit?

6 A Actually, I took my notes and put it on our
7 stationery yesterday.

8 Q So you had taken notes at the time you made the
9 inquiries?

10 A Yes, I did.

11 MS. TENNYSON: I would offer this as an
12 exhibit.

13 JUDGE SCHAER: Any objection?

14 MR. FINNIGAN: No objection.

15 JUDGE SCHAER: Exhibit 32 is admitted.

16 (EXHIBIT ADMITTED)

17 Q BY MS. TENNYSON: Refer to the area in which
18 the Company is currently located. You are currently in
19 Pierce County; is that correct?

20 A Pierce County in the area called Parkland.

21 Q The Company doesn't need to locate its offices
22 in what you characterize as the urbanized growth area of
23 Pierce County, does it?

24 A No, it does not. It should be -- it would have
25 to be in a commercial area, which does limit it in --

0083

1 and reasonable to the customer base, yes.

2 Q For example, you wouldn't want to put your
3 office in Snohomish?

4 A Correct.

5 Q I would like to go on in your rebuttal
6 testimony to page 33.

7 A (Complies.)

8 Q At line 21 of your testimony, you refer to
9 Mr. Kermod's testimony and his adjustments. I just
10 want to clarify this. You say -- line 21 reads, "agreed
11 with the Company, perhaps using the Company's own
12 numbers for restating and proforma adjustments."

13 You are referring there only to the labels for
14 the adjustments, not the actual dollar amounts, correct?

15 A Correct. The actual numbering of the restating
16 and proforma numbers.

17 Q So is it your testimony that by Staff not using
18 the same labels for how it labeled its adjustments, it
19 caused hours of consulting time to be incurred?

20 A I believe the correct answer would be it
21 required us, number one, to not only determine what he
22 was doing, since all of the numbers had changed
23 dramatically --

24 Q So if we look at your Exhibit DF-2, your
25 adjustment PA-7 to power expense, and we look at Staff's

0084

1 adjustment PA No. 3 -- and that's on Mr. Kermod's
2 Exhibit No. 2, which we don't have admitted at this
3 time --

4 A Say that again?

5 Q Looking at your adjustment, PA-7.

6 A Uh-huh.

7 Q Your adjustment to power expense.

8 A Correct.

9 Q And Staff's adjustment to PS-3, is there really
10 any question that this is an adjustment to power
11 expense?

12 A Well, it had to be identified, and it was also
13 different. We had to figure out why it was different.

14 Q So you are referring to not only the difference
15 in the labeling of the adjustments, but the actual
16 dollar amounts when you refer to it took you hours to
17 figure this out?

18 A Correct.

19 Q Isn't it true that you were supplied with a
20 detailed package of all of Staff's adjustments, and how
21 all of those were computed?

22 A Correct.

23 Q I would like to turn, now, to the issue of the
24 vehicle expense for Mr. Richardson. I believe it's at
25 page number 30 and 31 of your rebuttal testimony.

0085

1 A (Complies.)

2 Q Now, you discuss at that point Mr. Kermode's
3 adjustment to restating adjustment No. 7, referring to
4 the vehicle Mr. Richardson drives. The substitute
5 vehicle that Mr. Kermode's used, isn't that the most
6 expensive one on the Company's books, except for the
7 Lincoln Navigator?

8 A I can't answer that.

9 Q Would you accept that subject to check?

10 A I would accept that subject to check.

11 Q You refer to Mr. Richardson's vehicle being
12 used to transport company personnel to meetings. How
13 often do meetings that require the transportation of
14 five adults take place?

15 A Once a month, probably, or more, depending on
16 developer problems.

17 Q And what are the locations of these meetings?

18 A Various; Seattle to Olympia.

19 Q You suggest using a Ford Expedition as a
20 substitute vehicle. There are many other vehicles which
21 can transport five passengers; isn't that true?

22 A Yes. Correct.

23 Q Such as a Ford Explorer, would be another
24 alternative?

25 A Correct.

0086

1 Q And I gather that other company personnel would
2 receive mileage for using their personal vehicles if
3 they drove on company business?

4 A Yes, they would.

5 Q Why isn't that method of compensating for the
6 use of a personal vehicle sufficient for
7 Mr. Richardson's use, as well?

8 A Not very convenient. Employees don't enjoy
9 that portion -- they receive the funds later -- than
10 instant gratification.

11 Q And do the employees need to keep records and
12 record that?

13 A Yes, they do.

14 Q Going on in your testimony, again on your
15 rebuttal testimony, page 35, you state, "The Company has
16 many persons who are in rental housing within its
17 territory."

18 A Correct.

19 Q Has the Company considered requiring deposits
20 from persons who are renting property?

21 A We have discussed it.

22 Q So the Company -- would you say the Company has
23 made an informed decision not to obtain deposits from
24 customers?

25 A There's a major discussion because of the

0087

1 requirements in Staff requirements based off of our
2 quantity to actually deal with the issue. To the point
3 there would almost be a staff person dealing with the
4 interest rate, the calculations, the going over every
5 application, and identifying rentals. Not all the time
6 do we get that information when a new person enters a
7 home.

8 Q So I gather the answer to my question would be,
9 yes, it made an informed decision not to obtain deposits
10 from renters?

11 A Correct, because of the cost factor.

12 Q On page 35, line 13, you use two different
13 figures. One is for the past five years. Beginning
14 with 1996, the Company has an average bad debt to
15 revenues of 1.45 percent. And then in the test year,
16 the bad debt jumps to 1.73 percent of revenues?

17 A Correct.

18 Q Now, that's the amount of the recorded bad
19 debt, correct?

20 A Correct.

21 Q And are both of these amounts the amount of bad
22 debt the Company recorded, versus what it wrote off in
23 those periods?

24 A Say that once more, please?

25 Q That's the amount of bad debt the Company

0088

1 recorded; not the amount it actually wrote off in those
2 periods?

3 A It's the amount that was contributed to the
4 years that we're discussing here.

5 Q Could you explain the difference between
6 recording bad debt expense, and actually writing off the
7 accounts receivable?

8 A We -- for balance sheet purposes, we do use the
9 allowance method. And on the income side, we do the
10 direct write-off.

11 Q Now, in your testimony -- at this point, I am
12 jumping back a little bit, because I think we're in the
13 middle of the rebuttal testimony.

14 You talk about the income tax expense, and
15 refer to various contracts and Commission approval of
16 those contracts that are in your Exhibit DF-14, our big
17 exhibit, right?

18 A Uh-huh.

19 JUDGE SCHAER: Could you please answer "yes" or
20 "no" so we get a good record? Thank you.

21 THE WITNESS: Yes.

22 JUDGE SCHAER: Excuse me, Ms. Tennyson. Go
23 ahead.

24 Q BY MS. TENNYSON: Isn't it true that all the
25 references to income tax in those contracts relate to

0089

1 Federal income tax for capital contributions that cause
2 the Company to incur CIAC tax liability?

3 A Yes.

4 Q And those contracts and the Commission orders
5 approving them, for those that there is an order, they
6 don't refer to Federal income tax incurred on income
7 from the Company's operations that are reflected in the
8 results of operations; is that true?

9 A It is tied together on the income statement, or
10 the Federal tax return. They do tie at that point.

11 Q But neither the contributed capital, nor the
12 CIAC tax appears on the Company's Results of Operations,
13 correct?

14 A Correct.

15 Q Is the utility plant that the Company receives
16 from the developers under the contracts, is that plant
17 in the Company's rate base?

18 A Yes -- of the amount that we pay for it.

19 Q Okay. So not -- that's how it's valued, as the
20 amount that the Company paid for it?

21 A Under the contract, it would be valued at the
22 \$600 per lot.

23 Q Right. Okay. Just out of curiosity, would you
24 also have in your rate base the line extensions where
25 you didn't pay a particular amount? Would that be in

0090

1 the rate base, or would that be recorded somewhere else?

2 A If we installed main replacement and
3 extensions, that would be in the rate base, the Company
4 itself, yes.

5 Q Is depreciation that's related to that plant
6 that we have been discussing, the utility plant you
7 received from the developers, depreciation related to
8 that plant, in the test year expenses?

9 A Yes.

10 Q And are property taxes related to the plant in
11 the test year expenses?

12 A If they are -- yes.

13 Q We had some discussion about ready to serve
14 charges. Rainier View doesn't have a ready to serve
15 charge in its tariff, correct?

16 A Correct.

17 Q So the only charges, the only place a ready to
18 serve charge shows up is in contracts?

19 A Correct.

20 Q Now, there is, within your Exhibit DF-15, there
21 is one contract for Heritage Homes that is a seven-year
22 contract. If you want to refer to it, it starts on page
23 496.

24 Now, from reviewing this contract, it doesn't
25 appear to contain the term that the developer pays the

0091

1 Company the \$600 per residential equivalent facility
2 charge, or contingency charge, and the CIAC tax,
3 correct?

4 A (Reading document.) It's just a line extension
5 contract.

6 Q And that's -- my question is, why is this
7 contract different than those others? And am I
8 understanding your answer to be that this is because
9 it's a line extension contract?

10 A Yes, a fair amount of money.

11 Q Now, this one has a seven-year repayment term,
12 correct?

13 A Yes, it does.

14 Q And there's no number of lots listed; it's a
15 line extension?

16 A (Witness nods head.)

17 Q That's why?

18 A Right.

19 Q Is the Company still paying on this contract?

20 A I don't believe so. I think it's done now.

21 Q The cover letter says it was effective in
22 October of 1995?

23 A Correct.

24 Q The seven-year repayment term, are you saying
25 the Company paid it off early?

0092

1 A Possibly, if we are not paying on it right now.
2 I can't answer the question if we're not paying on it
3 right now. I don't have the corresponding note number
4 that goes along with this --

5 Q You don't know whether --

6 A -- to be positive.

7 Q So I would like to return to your rebuttal
8 testimony. And referring to page 37, you state that you
9 have calculated what you believe is the appropriate rate
10 of return, and you calculated --

11 MR. FINNIGAN: I am sorry. Which page are you
12 on?

13 MS. TENNYSON: 37.

14 MR. FINNIGAN: Thank you.

15 Q BY MS. TENNYSON: And referring to Exhibit
16 DF-21, your revised exhibit, my question is, could you
17 explain how you derived the 12 percent return on equity
18 that you calculated?

19 A What part of page 37 are we looking at?

20 Q Line 25.

21 A 25?

22 Q You stated there, "I have calculated what I
23 believe is the appropriate rate of return on Exhibit
24 DF-21."

25 A On the equity portion we have determined 12

0093

1 percent.

2 Q Could you explain how you derived the 12
3 percent return on equity?

4 A We've used that on the previous rate cases.

5 Q You show a weighted cost of debt on this
6 Exhibit DF-21 of 3.47 percent; is that correct?

7 A Actually, I have a weighted cost of 4.44
8 percent, or -- oh, excuse me, 3.47 on the 50/50 split,
9 yes.

10 Q And taking the weighted cost of debt and
11 applying it against average rate base, then you indicate
12 an interest expense. Can you tell us what that amount
13 is?

14 A 6.93.

15 Q That is the rate, or the dollar amount?

16 A The weighted cost would be 6.93 based off of
17 using these interest rates.

18 Q Have you taken that calculated interest expense
19 and incorporated it in your results of operations?

20 A Yes, we have.

21 Q You don't, however, make an adjustment on your
22 proforma results of operations, do you?

23 A Well, in the form of -- based off of rate of
24 return of 9.47, yes, we make an adjustment for the net
25 operating requirement. I'm struggling what you are

0094

1 saying is the proforma -- I am giving you proforma
2 effective rate.

3 MS. TENNYSON: I don't think I have any other
4 questions at this time.

5 JUDGE SCHAER: Okay. Let's go off the record
6 for a moment to discuss how to go forward.

7 (Discussion off the record.)

8 JUDGE SCHAER: Back on the record.

9 While we were off the record we discussed a
10 lunch period, and have decided to break now, and to
11 return at 1:15. Off the record.

12 (Lunch recess taken.)

13 JUDGE SCHAER: Let's be back on the record.

14 After our lunch recess, Ms. Tennyson, did you
15 wish to offer either Exhibit 28 or Exhibit 31 before you
16 end your time with this witness?

17 MS. TENNYSON: Yes. I would offer them both.

18 JUDGE SCHAER: Are there any objections,
19 Mr. Finnigan?

20 MR. FINNIGAN: I would prefer that Exhibit 28
21 come in through Mr. Kermodé, and I would have no
22 objection to her doing -- to Ms. Tennyson doing a brief
23 direct when Mr. Kermodé is called, just so we have the
24 proper foundation.

25 And the other was Exhibit --

0095

1 JUDGE SCHAER: 31.

2 MR. FINNIGAN: No objection.

3 JUDGE SCHAER: And I will note with the
4 stipulation this is probably not something we need to
5 make an exhibit, but I think it will be more convenient
6 for everyone to have as an exhibit number, so that
7 document is admitted.

8 (EXHIBIT ADMITTED)

9 JUDGE SCHAER: And Mr. Fisher, I am Marjorie
10 Schaer. And I am an Administrative Law Judge for the
11 Commission, and we're at the stage of the hearing where
12 I get to ask you a few questions that we would like to
13 know a little bit more about. And then you will go back
14 to have redirect by your own attorney.

15

16 EXAMINATION

17

18 BY JUDGE SCHAER:

19 Q But I would like first to have you look at
20 Exhibit 29, which looks like this. And this is one of
21 several places, I believe, the one that I remembered
22 discussion, I believe, about Mr. Richardson's hours.

23 And looking at the column for Mr. Richardson,
24 it indicates that his weekly hours are about 60 percent
25 of a 12-hour day. Do you see that statement?

0096

1 A Yes, I do.

2 Q And so that would be, by my arithmetic, about
3 7.2 hours a day?

4 A Correct --

5 Q And if you were to look at that number of hours
6 in an eight-hour day, if I did my arithmetic correctly,
7 again, that would be 90 percent of a 40-hour week; is
8 that correct?

9 A Correct.

10 Q And I want to know, just very briefly, by
11 talking about him working 60 percent of a 12-hour day,
12 instead of 90 percent of an eight-hour day, is there
13 some history to this that goes back to agreements made
14 before, or what is going on here?

15 A 1987 is the first major rate case that Rainier
16 View -- or formerly Richardson's Water Company, was
17 involved in. At that point in time we were doing time
18 studies. And it all started at that point in time where
19 he spent about that much on a daily basis with the same
20 percentage actually back then, and it carried through in
21 three or four more rate cases all the way through 1996.

22 We have never made another adjustment to that
23 number, even though the size of the company is growing,
24 because of the sensitivity of the salary issues that we
25 tend to have with his salary and these types of

0097

1 proceedings. So we have kept that 60 percent rate
2 during this whole period of time.

3 Q And then you have just increased the number of
4 hours that you described, so that 60 percent matches the
5 amount of time he puts in?

6 A No. His time is about the same. The only
7 thing is with raises of the rest of the employees
8 through the years, we have just kept his close to
9 inflation, with some -- or close to -- I shouldn't say
10 inflation; close to whatever everybody else got. Or if
11 there was some raises that took in the effect of these
12 types of surveys, and so forth, we have gone and looked
13 at -- comparable to other utilities in the area, we
14 applied those numbers to his salary along with the rest
15 of the employees' salaries.

16 Q I would like to look now at your exhibit, which
17 is labeled DF-21, which is, in this case, Exhibit 24.

18 Do you have that available to you? I believe
19 that's a revised exhibit.

20 A No, I don't.

21 JUDGE SCHAER: Could that be made available to
22 the witness, Mr. Finnigan?

23 MR. FINNIGAN: I handed it to him earlier
24 today, so it's up there among his papers.

25 JUDGE SCHAER: Go ahead and take a look for

0098

1 that, if you would, please. Why don't you hold on a
2 moment, and we will get a copy.

3 THE WITNESS: I have it right here. I just
4 didn't mark it as that number.

5 Q BY JUDGE SCHAER: That's why I am giving you
6 your numbers, too, if that helps you.

7 A Okay.

8 Q Looking in the upper left-hand area of the
9 exhibit, you show a utility tax factor of 0.05029 or
10 5.029 percent, correct?

11 A Correct.

12 Q Referring you now to your next exhibit, which
13 is, for our purposes, Exhibit 25, and has your marks of
14 DF-22. Do you have that available?

15 A I am not sure what one that is.

16 MR. FINNIGAN: It's the revised results of
17 operations page.

18 THE WITNESS: Excuse me, yes.

19 Q BY JUDGE SCHAER: I would like you to look at
20 page 2, Restating Adjustment One of Restate Surcharge
21 Revenues, Previous Years. Are you there?

22 A Yes.

23 Q You show for taxes, other than income, a
24 negative amount of \$10,062, which according to our
25 calculations, is 5.29 percent, rather than 5.029

0099

1 percent. Was there some reason why you would use 5.29
2 percent rather than 5.029 percent, or does the figure
3 that is shown there in revenues need to be corrected to
4 \$9,565?

5 A It should equal the .05029. If it doesn't,
6 then it is a mistake.

7 Q So then I would like you to just check the
8 math, or accept, subject to your check, that the figure
9 you show here of negative \$190,201 multiplied by 0.05029
10 equals \$9,565.21.

11 A And I think I answer this now. What happened
12 is we agreed to this \$190,201. We had a different
13 number originally, and this calculation is not a direct
14 link in this number. So I did not use the percentage
15 down here for this number. We actually had
16 191-something-or-other, and that's probably where this
17 number came from. So when we agreed to the smaller
18 number, my page didn't link to it properly.

19 Q When you talk about we agreed, who is "we,"
20 please?

21 A With Staff's numbers our -- interviews with
22 Staff came up with a similar number. We just reduced
23 our number to their number for purposes of eliminating
24 some problems.

25 Q Now, I want you to look at what I believe is

0100

1 Exhibit 1. It's the document that was put in this
2 morning, which is the Company's responses to Commission
3 Bench Requests No. 5, 6 and 7. Do you have that
4 available to you? First page reads at the top WUTC
5 Bench Request, No. 5.

6 MR. FINNIGAN: Mr. Fisher, it was the one that
7 was passed out this morning. I provided you with a copy
8 before you took the stand.

9 THE WITNESS: Yes. Exhibit 2, correct.

10 Q BY JUDGE SCHAER: Exhibit 1.

11 A Excuse me, your 1.

12 Q So we're in the same place?

13 A Okay.

14 Q Can you -- in your response to Bench Request
15 No. 6, the Company provided balance sheets of three
16 separate dates; is that correct?

17 A Yes, it is.

18 Q Would you please look at the balance sheet as
19 of September 30, 2001?

20 A (Complies.)

21 Q Are you there, sir?

22 A Yes, I am.

23 Q Okay. Looking at the assets side of the
24 balance sheet, and the category Other Assets, it shows a
25 debt service reserves amount of \$361,284.35. Do you see

0101

1 that figure?

2 A Yes, I do.

3 Q Can you explain for the record what these
4 amounts represent?

5 A In 1995 Rainier View began a relationship with
6 a bank called Cobank. It's a bank of cooperatives who
7 lend to rural telephone, sewer, water. And what their
8 requirement to be part of this cooperative is, is they
9 require 10 percent of the amount of the loan to be in
10 the form of -- I went blank on it as -- let's say our
11 investment into Cobank itself. I will think of the
12 exact name in a second.

13 And this is the actual amount that we have had
14 in those funds for each loan. For example, on a million
15 dollar loan, we would have to put \$100,000 in their
16 fund.

17 Q The next line down of this exhibit shows loan
18 fees of \$25,211.12. Do you see that?

19 A Yes, I do.

20 Q Can you explain for the record what these
21 amounts represent?

22 A I believe those are the fees that we have paid
23 on those loans that they have amortized over a period of
24 time.

25 Q So are those long-term debt loans?

0102

1 A Yes, they are.

2 Q And below that, the next line is shown as
3 investment of \$42,192.56. Could you please identify for
4 the record what these amounts represent?

5 A I believe they are the -- if I remember
6 correctly, they are associated with these same reserve
7 funds. I just don't remember the exact name. It might
8 be the excess amounts that those have accumulated.

9 Q So you are thinking that this is probably some
10 kind of reserve fund related to the debt service
11 reserves in some way?

12 A Uh-huh, yes.

13 Q Now, I would like you to turn to the
14 stockholders equity and liability section of the balance
15 sheet.

16 A (Complies.)

17 Q Are you there?

18 A Yes, I am.

19 Q Great. The current liability section, there is
20 a category Deposit of Advances for Construction of
21 \$540,377.75. Do you see that?

22 A Yes, I do.

23 Q Can you identify what this is, and explain the
24 difference between these amounts and the amounts the
25 Company included in Contributions in Aid of

0103

1 Construction?

2 A The deposits on advances would be our off-sites
3 facility charge or fees that we collect and hold in a
4 separate account. And as we spend those fees on wells,
5 storage, and so forth, then they are booked. The
6 booking would be a debit to this account, and a credit
7 to contributions, increased contributions at that point
8 in time.

9 Q When you say increased contributions, you are
10 referring to increased Contributions in Aid of
11 Construction?

12 A Yes, we do.

13 Q Now, for total stockholder equity as of
14 September 30, 2001, you show an amount of \$2,323,991.71;
15 is that correct?

16 A Yes, we do.

17 Q Now, if you would look at the same amount,
18 December 31st, 2000?

19 A (Complies.)

20 Q The total stockholder equity is shown to be
21 \$2,106,602.77, correct?

22 A Correct.

23 Q Do you have a total stockholder equity figure
24 for any period more current than September 2001?

25 A No, I do not.

0104

1 Q Was the increase in total stockholder equity
2 from December 2000 to September 2001, achieved through
3 operations, or did the investors infuse some additional
4 equity into the Company?

5 A The difference between these two numbers would
6 be the income derived off of operations.

7 Q So that's all from operations?

8 A Correct.

9 Q Now, I am going to do something that proves
10 that I am a brave person, and I am going to ask you
11 about something in your Exhibit 14, and our Exhibit 17.

12 A This one?

13 Q Yeah, in the big guy.

14 A Okay.

15 MS. TENNYSON: Can you give us a heads-up on
16 what page you are heading for?

17 JUDGE SCHAER: Yes. We're going to be looking
18 at page 276 to start.

19 Q BY JUDGE SCHAER: Do you have that, sir?

20 A Yes, I do.

21 Q This is a contract that Ms. Tennyson had asked
22 you some questions about previously. Do you recall
23 that?

24 A Yes, I do.

25 Q And one group of her questions was regarding

0105

1 whether or not there was some kind of five-year term for
2 payments under this contract?

3 A Uh-huh, yes.

4 Q And looking at section 2 on page 276 it appears
5 to the Bench that there is an amount shown there of
6 \$6,000 to be paid in quarterly installments over five
7 years with the first payment starting at a date they
8 described. Am I reading this correctly?

9 A That we're going to pay \$6,000, and we're going
10 to pay them in quarterly installments over five years is
11 correct, yes. Four payments per year for five years,
12 with the principal amount being \$6,000.

13 Q And these are payments from the Company to the
14 developer?

15 A Correct.

16 Q Okay.

17 A This is what we call a system extension, or
18 line extension purchase. They put in "X" amount of feet
19 of main, and we're buying it back from them instead of
20 having them contribute it to us.

21 Q Okay. A few questions about the general topic
22 that I would like you to help me with.

23 You have described the section on page 276 of
24 Exhibit 17 as being a line extension purchase. And when
25 you make a line extension purchase, where is that

0106

1 purchase booked?

2 A The booking of -- for this case, the \$6,000
3 would be booked to the appropriate asset account. Which
4 is, in this case, transmission mains, and the offset, of
5 course, would be the note to whoever this person is.

6 Q And how is this amount treated in terms of the
7 income statement?

8 A It would be an increase to assets, at this
9 point in time. And actually on the income statement,
10 the only thing would be is whatever portion of
11 depreciation for that particular year came into play.

12 Q And where would that show up on the balance
13 sheet?

14 A Under utility plant.

15 Q And then I have the same series of questions
16 about your ready to serve charges.

17 How does the Company book those? First, tell
18 me kind of briefly what those are.

19 A Ready to serve -- well, if you look at it as
20 the \$6,000 being a purchase of what we would call the
21 inside of the system, you would have to look at one of
22 the other contracts where it shows the \$15 increase.

23 For example, you come in and develop ten lots.
24 First of all, we're going to charge you -- during this
25 period of time, the facilities charge was \$600. So I

0107

1 charge you \$6,000 and put that in the facilities bank
2 account, let's say.

3 Second portion of the contract is that I would
4 pay you \$600 per lot for that inside section of the
5 system. That \$600 would be booked -- a portion of it
6 would go to hook-up, a portion to transmission mains,
7 and another portion to hydrants if those were part of
8 the system.

9 Again, the offset would be a note for that
10 \$6,000 that I am paying you. Paid under quarterly
11 installments over five years. And then the next phase
12 would be you are paying me \$15 per lot during this same
13 period of time for what we call -- for ease of use, we
14 use the name ready to serve.

15 We had many names for it at the start. That
16 was one name -- actually one of the first developers
17 that suggested it, because it was used pretty heavily,
18 especially in King County. And it was easier for the
19 developers to live with -- we came up with several
20 different names, standby charge, developers contract
21 charge. But we designed the \$15 to be paid, again,
22 quarterly, same due date as our due date to the
23 developer. And running with the same intent, to run at
24 the same point in time.

25 And that's how we have operated. All contracts

0108

1 that ended at five years are ended. We have no ready to
2 serve charges going on with those contracts at all, or
3 lots. If there are involvements, and I would say there
4 probably are lots in the previous contracts that had
5 not, you know, been built on, or purchased.

6 Q So let's go back to the first part of your
7 example where the developer has just paid you \$6,000.
8 How do you book that money?

9 A I book that to -- you asked the question, we
10 booked it to the Advances for Future Construction, what
11 we call the facilities account. But it's funds that I
12 don't have directly earmarked for any particular
13 project. I could have -- I might have to do something
14 for that development. I might have to add a pump
15 station, or some other item. But what I would do, is
16 when I collected the \$6,000 I booked it to Advances.
17 And when I spent the money out of that account, then all
18 of the other reversing entries occurred, the
19 contributions and appropriate plant account, or utility
20 plant account is booked.

21 Q Let's look at the \$15 payment that comes from
22 the developer to you. Where is that booked, and how is
23 that treated?

24 A We booked that to non-utility income, and
25 offset it, of course, in the cash account.

0109

1 Q Oh. If you are booking the \$6,000 -- \$600 that
2 the developer has paid to you, to plant, why would you
3 not be booking the \$15 payments that are going to offset
4 that plant, also, instead of to non-utility income?

5 MR. FINNIGAN: If I may, I think he responded
6 to the booking of the \$6,000. Maybe I didn't --

7 MS. TENNYSON: \$600 per lot is \$6,000 for ten.

8 JUDGE SCHAER: I think it was \$600 per lot
9 times ten lots. That was my understanding when I asked
10 him the question.

11 MR. FINNIGAN: Okay. Thank you.

12 Q BY JUDGE SCHAER: If you are booking the \$600
13 to plant, why are you not booking the \$15 payments to
14 plant to offset that amount?

15 A Well, the \$15 was a funding mechanism, to
16 fund -- some source of revenue to fund the purchase.
17 And similar to -- my only thought at this moment is, you
18 know, a standby charge, or something that we tried to
19 make it a portion of non -- what I would call above the
20 line revenue to fund these sections. So I have not
21 heard that thought as to how to book it before.

22 Q I believe there's a place in your testimony
23 where you describe these two charges are designed to
24 offset each other over time; is that correct?

25 A Yes, it is.

0110

1 Q And could you give me a quick reference to
2 where that is -- even a slow one?

3 A I believe it's in my direct testimony --

4 MS. TENNYSON: Rebuttal page 13.

5 THE WITNESS: Yes, it is under the rebuttal,
6 page 13. Starts at line 7.

7 JUDGE SCHAER: Thank you. That's all the
8 questions I have.

9 Mr. Finnigan, do you have any redirect?

10 MR. FINNIGAN: Maybe the best way to do it is,
11 does Ms. Tennyson have any questions that were inspired
12 by the Bench's questions, and then I could do my
13 redirect at one time.

14 JUDGE SCHAER: Does that work for you,
15 Ms. Tennyson?

16 MS. TENNYSON: I have one follow-up right now
17 that would help, I think.

18

19

20 RE CROSS EXAMINATION

21

22 BY MS. TENNYSON:

23 Q Mr. Fisher, if we address the point that
24 Ms. Schaer was just addressing, I understand that if you
25 take the \$15 per month, per lot ready to serve charge

0111

1 payments that the developer pays to the Company, and
2 that is booked below the line?

3 A Is my understanding that's the proper term,
4 yes.

5 Q So it's not in regulated income?

6 A Right.

7 Q Then you use that cash to buy the plant, and
8 you book that purchase to the plant to the appropriate
9 asset account?

10 A No. I pay the amortization schedule that it
11 generated to pay for not only principal and interest on
12 that \$6,000, in this case --

13 Q I think a point of confusion for the Bench is
14 the same confusion I had earlier in this case. In these
15 contracts there are two different \$600 amounts?

16 A Yes, there is.

17 Q Do they have anything to do with each other?

18 A No, they do not.

19 Q So the \$600 that the developer is paying to the
20 Company for the offsite or developer contingency charge,
21 or whatever it happens to be called in the contract,
22 that is not what the Company is using to buy back the
23 plant?

24 A Correct.

25 Q It's the \$15 that you are not booking to

0112

1 regulated income that you are using to buy the plant
2 with?

3 A Correct.

4 Q You also were asked a question about interest,
5 but I'm not sure where it comes in.

6 When Ms. Schaer was asking you questions about
7 where you booked the expenses, you said you booked the
8 assets purchase to plant, and the only thing that shows
9 up on the income statement is the debt.

10 Doesn't interest on the notes also show up on
11 the income statement?

12 A No. Actually what I said was the only thing
13 that shows up is depreciation, but you are right.
14 Interest would be there, too.

15 MS. TENNYSON: That's all I have at the moment.
16 Maybe you will prompt some more.

17 JUDGE SCHAER: Go ahead, Mr. Finnigan, or
18 do you need five minutes, or are you ready to go?

19 MR. FINNIGAN: I think we're ready to go.
20 Thank you, Your Honor.

21

22 REDIRECT EXAMINATION

23

24 BY MR. FINNIGAN:

25 Q Let's follow up on the contracts. And

0113

1 Ms. Tennyson covered an area that I was going to cover.
2 But just so we can make the record as clear as we can,
3 under the contract involving the interior -- what is
4 called the interior portion of the water system as
5 opposed to a main extension, those contracts had three
6 parts to them in terms of dollars flowing; is that
7 correct?

8 A Yes, they did.

9 Q And one was the one that Ms. Tennyson just
10 clarified, is the offsite fee, which in the earlier was
11 \$600, and in the later years increases to --

12 A \$1,210.

13 Q And the offsite fee is for funding plant that
14 may be unrelated to that specific development at that
15 point in time, but is needed for the Company over the
16 long run; is that correct?

17 A Correct.

18 Q And then the other components are the ones that
19 you discussed with the Bench concerning the purchase
20 of --

21 MS. TENNYSON: Your Honor, I get to testify
22 when I am asking cross examination. And I realize he's
23 clarifying, but --

24 MR. FINNIGAN: I was just trying to
25 short-circuit this.

0114

1 MS. TENNYSON: I understand. But I would like
2 to hear the witness describe the contracts.

3 Q BY MR. FINNIGAN: What are the other two
4 portions of the contract related to the financial
5 aspects we have been discussing?

6 A We do buy back the interior sections for \$600
7 per lot. And then the other ready to serve charge is
8 \$15 per lot.

9 Q And then for those contracts that don't involve
10 the interior portion but involve a main distribution, do
11 those same three financial elements exist?

12 A No, they do not.

13 Q In this exterior or main extension, what type
14 of contract -- what kind of financial elements exist?

15 A Just the calculated purchase by the Company
16 from the developer.

17 Q So the offsite fee does not exist in those
18 contracts?

19 A No, it does not.

20 Q And the ready to serve fee does not exist in
21 those contracts?

22 A No, it doesn't.

23 Q Why is there a difference between the two
24 contracts?

25 A The line extension contracts could possibly

0115

1 benefit someone else in the future, is one aspect of it.
2 It eliminates some of the buy-back issues that
3 developers have with having to extend the line 1,000
4 feet, which would benefit somebody else in the future.
5 That's the biggest portion of why we bought the
6 extension from the developer.

7 And then the interior portion had a direct
8 effect, because of the multiple lots involved. Which
9 would mean more customers to Rainier View, more drain on
10 the system, had a direct effect where we could attribute
11 source storage calculations to make sure that we had the
12 proper amount of source, available water, and storage.

13 Q You were asked a series of questions
14 concerning -- by the Bench concerning the balance sheet
15 you provided in Exhibit 1.

16 A Yes.

17 Q And you described the entries on the asset
18 sheet for September 30 -- ending September 30, 2001.
19 You were describing the debt service reserves, the loan
20 fees, and the investment?

21 A Yes.

22 Q Do you have a master loan agreement with Cobank
23 that sets out some of the requirements related to these
24 items?

25 A Yes, we do.

0116

1 MR. FINNIGAN: It may be helpful to put a copy
2 of the master loan agreement as an exhibit.

3 JUDGE SCHAER: Let's go off the record for a
4 moment.

5 (Brief recess.)

6 JUDGE SCHAER: Let's go back on the record.

7 While we were off the record, a document has
8 been distributed, and I've marked it for identification
9 as Exhibit 33. It reads at the top National Bank for
10 Cooperatives, National Loan Agreement. And it appears
11 to be a 14-page document.

12 Go ahead, please, Mr. Finnigan.

13 MR. FINNIGAN: Thank you.

14 Q BY MR. FINNIGAN: Mr. Fisher, in looking at
15 Exhibit 33, does that appear to be a true and correct
16 copy of the master loan agreement between Cobank and
17 Rainier View?

18 A Yes, it does.

19 Q This loan agreement might have other exhibits
20 and other portions to it, but is this the basic
21 document?

22 A Yes, it is.

23 Q Looking at page 9 there at the bottom center of
24 the page, look at item L.

25 A (Complies.)

0117

1 Q Does that describe the debt service reserve
2 that the Company is required to maintain?

3 A Yes, it does.

4 Q And do each of the supplements -- well, would
5 you tell us what a supplement is as referenced there in
6 paragraph L?

7 A Well --

8 Q It's in the second line in paragraph L. The
9 word "supplement" with a capital "S".

10 A Each supplement would be any additional loans.

11 Q Is each individual loan evidenced by a separate
12 supplement?

13 A Yes, it is.

14 Q Does each of the supplements set out the
15 specific debt reserve related to that particular loan?

16 A Yes, it does.

17 Q In addition to the debt service reserve, is
18 Rainier View required by Cobank to make an investment in
19 Cobank?

20 A I don't believe we're required to. I thought
21 the debt service reserve was the investment in Cobank.

22 MR. FINNIGAN: I will offer Exhibit 33.

23 JUDGE SCHAER: Any objections?

24 MS. TENNYSON: No.

25 JUDGE SCHAER: Exhibit 33 is admitted.

0118

1 (EXHIBIT ADMITTED)

2 Q BY MR. FINNIGAN: Backing up to the area in
3 which Ms. Schaer started, you were asked some questions
4 about Mr. Richardson's salary. Do you remember those?

5 A Yes, I do.

6 Q And she was asking you questions about the
7 derivation of the 60 percent calculation.

8 A Yes.

9 Q Did I understand you correctly that you
10 testified that that was derived initially from
11 timesheets?

12 A Yes, it was.

13 Q Would you describe for us what the process was
14 in keeping those timesheets?

15 A Well, Mr. Richardson, along with all of us,
16 were required to keep their time on a daily basis, and
17 submit them with each pay cycle.

18 Q And those timesheets established that
19 Mr. Richardson worked a 12-hour day?

20 A Approximately, yes.

21 Q And those timesheets, then, established that
22 approximately 60 percent of his time per day was spent
23 on Rainier View's business?

24 A Yes, it was.

25 Q Were those timesheets kept over a number of

0119

1 years?

2 A I believe they were kept, yes, up through '93,
3 I believe.

4 Q Did the Company request permission from
5 Commission Staff to stop the process of keeping
6 timesheets?

7 A I believe we did. I believe we -- it became a
8 nonissue at that point in time.

9 Q Going back to, now, questions you were asked
10 this morning by Ms. Tennyson. Would you look at your
11 rebuttal testimony at page 4, I believe was the
12 reference used.

13 A (Complies.)

14 Q At approximately line 17 you were asked
15 questions about capital recovery mechanism?

16 A Yes.

17 Q Is the ready to serve charge, as you described
18 it here, meant to recover the cost associated with
19 depreciating plant?

20 A No, it was not.

21 Q This morning you were not able to provide
22 examples of capital recovery mechanisms to Ms. Tennyson.
23 Have you had an opportunity to think through that
24 question further?

25 A A little bit, yes.

0120

1 Q Do you have any examples of capital recovery
2 mechanisms you can give us this afternoon?

3 A Well, to bring in the effect of depreciation,
4 and interest expense, and those items.

5 Q You were asked questions concerning the
6 Company's financial viability and ratios associated with
7 financial viability. Do you remember those questions?

8 A Yes, I do.

9 Q Are you familiar with the term capital asset
10 ratio?

11 A Yes, I am.

12 Q Could you describe for us what that term means?

13 A Utility plant, less depreciation, less
14 contributions.

15 Q And what is the ratio supposed to show?

16 A Well, in the viability issues, the number was
17 30 percent. And we received that through Staff
18 recommendations, or that was their number that they used
19 at that point in time.

20 Q To arrive at the 30 percent, what would be the
21 two parts of the ratio? What are you comparing to what
22 in order to arrive at a 30 percent capital rate ratio?

23 A The actual invested portion of that ratio to
24 total utility plant.

25 Q So one part would be total utility plant. Is

0121

1 that what you said?

2 A Yes.

3 Q And the other part would be invested portion?

4 A It would be the difference between those other
5 items.

6 Q Is another way of describing the invested
7 portion as the rate base?

8 A Yes, it is.

9 Q When you use the term rate base, do you mean
10 both debt and equity funded rate base?

11 A Yes, I do.

12 Q In Exhibit 14, DF-14, which I believe is
13 Exhibit 17, you were asked questions concerning page
14 197, I believe. Do you have that?

15 A Yes, I do.

16 Q Could you describe for us the process used at
17 Rainier View when a letter is sent out on behalf of
18 Rainier View?

19 A Well, usually I request you, as our counsel, to
20 prepare the letter. And I usually review it prior to
21 sending it out.

22 Q And is that the standard operating practice for
23 you to review it and approve it before it is sent?

24 A Yes, it is.

25 Q Within Rainier View, what is the normal

0122

1 operating practice related to meetings with Commission
2 Staff members?

3 A It's usually a discussion between myself and
4 you, as our counsel. And usually I contact you to set
5 up or discuss the issues that either I am interested in,
6 or based off of the rest of the board's request.

7 Q Is it also standard operating practice at
8 Rainier View for me to then report back to the Company
9 the results of those conversations?

10 A Yes, it is.

11 Q You were asked a series of questions this
12 morning concerning the contracts that comprise Exhibit
13 DF-14. Do you remember those questions and answers?

14 A Yes, I do.

15 Q Could you describe for me the process under
16 which these contracts, a system extension is constructed
17 and delivered to the Company?

18 A Of course the developer comes to the office and
19 makes application. That application is relayed to our
20 engineer. The engineer, in turn, determines whether
21 it's -- we're capable of serving.

22 And we get to the approval from Department of
23 Health. Once we have that approval, we go into the
24 contract process, determine the appropriate documents
25 needed to submit for utility approval, Utility

0123

1 Commission approval. We, in turn, after receipt of
2 approval, develop and proceed.

3 The construction process is usually storm and
4 sewer is installed first. Water is third. We usually
5 are involved in the inspection and testing process.
6 Usually on completion of the pressure testing, we turn
7 the water off to the development because we still have
8 power, gas, phone, and cable usually is going to be
9 installed. Thereafter, the roads are installed.

10 And in reality water is turned on, usually,
11 when the first customer requests water. We do what they
12 call heat the system at that point in time --

13 Q What does the term "heat the system" mean?

14 That's a new one to me.

15 A It's -- our utility workers turn the water on,
16 make sure everything is working properly, make sure
17 disinfection is proper, flush and make it a part of the
18 entire system.

19 Q The contracts call for the system to be
20 accepted by the Company. When, in this process, is the
21 system accepted by the Company?

22 A When it is completely accepted and approved
23 by -- actually it's approved by the Department of
24 Health, which is the final acceptance. We have already
25 accepted it as being built, and that has to be relayed

0124

1 on to the Department of Health, and they give us a
2 letter saying that we can turn the water on.

3 Q That normally involves -- does that normally
4 involve the submission of as-built drawings?

5 A Yes, it does.

6 Q How soon after acceptance of the development,
7 in your experience, does the Company have a customer, as
8 opposed to the developer, on those developments?

9 A In most cases right away.

10 Q Moving to, I believe it's page 17 of your
11 rebuttal testimony. In any case, you were asked
12 questions concerning the rate case expense from the rate
13 finding the Company made in the year 2000.

14 Do you remember that? Do you remember those
15 questions from this morning?

16 A Yes, I do.

17 Q Would you please describe for us what the
18 expense related to that rate case is?

19 A We -- the majority of that fee is the cost of
20 yourself, and the expert witness group, which came after
21 we found the -- which the majority of those costs were
22 associated, once we found the tax and the ready to serve
23 issues were going to be a big problem.

24 Q By expert witness, are you referring to
25 Mr. Ault's accounting firm?

0125

1 A Yes, I am.

2 Q Do you have an estimate of -- in percentage
3 terms, of what amount of that expense was related to
4 issues that carried over to this case?

5 A Yes. I would say it's close to 60 percent of
6 those cases.

7 Q You were also asked questions about, I believe,
8 Exhibit 26, which is the Staff memorandum in the 1996
9 rate case.

10 A Yes, I was.

11 Q You were asked a question by Ms. Tennyson
12 whether or not this exhibit referred to the ready to
13 serve charges. Do you remember that question?

14 A Yes, I do.

15 Q Outside of this exhibit itself, did you ever
16 discuss the ready to serve charges with Commission Staff
17 during that 1996 rate case?

18 A Yes, I did.

19 Q Would you please tell us what you discussed.

20 A That we had put it below the line, or in what
21 we call nonutility income.

22 Q Would you look at Exhibit 27, at least the
23 first page of Exhibit 27. Do you have that exhibit?

24 A Yes, I do.

25 JUDGE SCHAER: I am double checking my notes.

0126

1 Has 27 been admitted, or is it just for identification
2 at this point?

3 MR. FINNIGAN: I indicated that I didn't object
4 to the first page, because Mr. Fisher identified that
5 page, but the remainder he could not identify.

6 JUDGE SCHAER: Because I don't think we
7 admitted just the first page, and I am a little
8 uncomfortable with too much more questioning.

9 MR. FINNIGAN: But I allowed Ms. Tennyson to
10 ask her questions concerning the first page, because I
11 said I didn't have an objection to that page. And on
12 that basis, she did pursue her cross examination of
13 Mr. Fisher, so I am just responding.

14 JUDGE SCHAER: Okay. Go ahead, Mr. Finnigan.

15 Q BY MR. FINNIGAN: Do you remember Ms. Tennyson
16 asking you about the entry for Mr. Richardson's salary
17 on page 1 of Exhibit 27?

18 A Yes, I do.

19 Q And she asked you if, on this form -- I believe
20 it was a direct quote, that it showed that
21 Mr. Richardson's salary had been reduced to reflect the
22 60 percent ratio. Do you remember that question?

23 A Yes, I do.

24 Q Can you tell us whether or not that number that
25 appears for Mr. Richardson was reduced before it was

0127

1 placed on this form?

2 A It was reduced prior to putting them on this
3 form.

4 Q Could you describe for us the Company's
5 treatment of Mr. Richardson's testimony -- or excuse me,
6 Mr. Richardson's salary in rate filings that you have
7 made before this Commission?

8 A We have -- well, it's the reduced amount of
9 time that he's being paid, plus a portion of his
10 capitalized --

11 Q Going back to your rebuttal testimony, at pages
12 20 and 21 you were asked questions this morning
13 concerning the ratios that appear on the bottom of page
14 20, and going over to page 21.

15 A Yes, I was.

16 Q Did I understand you correctly that your
17 response to Ms. Tennyson's questions were that these
18 were factors that should be considered in setting
19 Mr. Richardson's salary?

20 A Yes. I would believe that these definitely
21 would be factors. I should say, they should be
22 considered in setting the salary.

23 Q And I believe you responded to her question
24 that if the number of customers would double, you were
25 recommending that Mr. Richardson's salary double?

0128

1 A I didn't recommend that it double, but it would
2 have to be reviewed as to being appropriate.

3 Q Would you look at Exhibit 30, please?

4 A (Complies.)

5 Q And that is what has been referred to as the
6 North Shore Salary Survey?

7 A Yes. I have it in front of me.

8 Q On the first page, at the very top, there
9 appear to be names and numbers going across the top of
10 those columns.

11 Could you explain those to us, please?

12 A Yes. It's the first one, Spanaway, where it
13 says 61, that's the amount of paid membership they have
14 at the time the survey was done.

15 Q And Spanaway is what?

16 A Spanaway Water Company, they are located just
17 to the north of Rainier View in what we call our Graham
18 area.

19 Q What kind of entity is Spanaway?

20 A It's a mutual water company. The membership
21 own a share. That would mean at this point in time,
22 Spanaway had 6,100 paid memberships.

23 Q Does that mean they have 6,100 operating
24 customers?

25 A No. They have 61 paid memberships. The

0129

1 mutuals use the membership number as their amount.

2 Q Is the number of members greater than or less
3 than the number of operating customers?

4 A It would be greater in most cases.

5 Q Could you identify the next column label,
6 please?

7 A That's Parkland Light and Water. They are
8 located in the area of Parkland, which is just south of
9 Tacoma.

10 Q What kind of entity is Parkland?

11 A They are a mutual.

12 Q And what does the 6,600 figure represent, then?

13 A The 6,600 paid water subscribers or members.

14 Q Subscribers or --

15 A It would be members. Parkland Light and Water
16 has, and can have, either both light and water, or they
17 can be just light, or they can be just water.

18 Q Do you know how many of these 6,600 members
19 would be actually receiving water service from Parkland?

20 A It would be some number less.

21 Q Go ahead, please, and describe the next entry
22 to the right.

23 A Fir Grove Water, same thing. Fir Grove is its
24 actual name. It has 5,200 paid members. Fruitland
25 Mutual has 2,800 paid members. Summit Water, another

0130

1 mutal, has 4,700 paid members. And Lakewood is a city,
2 and I would guess that that 15,800 would be some number
3 of either customers or -- I am not positive how
4 municipalities count their connections.

5 Q This survey was conducted by North Shore. Can
6 you describe North Shore for us?

7 A North Shore is a utility district, a little
8 different formation. King County has a lot of utility
9 districts in it, and they had just taken the lead in a
10 survey that most of us were dealing with at this period
11 of time.

12 Q And the salary numbers that are here, do you
13 know whether or not they represent direct salary, or do
14 they include benefits that might be outside of direct
15 salary?

16 A Lakewood's manager, besides receiving this --
17 which is -- their manager actually receives close to
18 \$100,000 a year. But he also receives a home to live
19 in, and a car for all uses.

20 Q Do you know if the value of that home, for
21 example, is reflected in the salary numbers that are in
22 here, that are listed here?

23 A No, they are not.

24 Q Turning, now, to your rebuttal testimony at
25 page 30.

0131

1 A (Complies.)

2 Q This concerns Mr. Richardson's vehicle. Do you
3 remember being asked certain questions by Ms. Tennyson
4 this morning?

5 A Yes, I do.

6 Q Do you remember her asking you one question
7 about how many times Mr. Richardson's vehicle is used to
8 transport five individuals to meetings, and your
9 response to that question?

10 A Yes, I do.

11 Q How often is that vehicle used to transport
12 some number less than five, say, two, three, or four
13 company employees to meetings?

14 A I would say between two and three times per
15 week.

16 Q Are there any other company uses for that
17 vehicle?

18 A Yes. Myself and Bob Blackman will borrow his
19 vehicle, since we both own pickup trucks. And if we
20 have to transport usually more than two people, it's a
21 little more comfortable to take his vehicle than to jam
22 into a pickup truck.

23 Q Could you describe the frequency with which you
24 and Mr. Blackman use that vehicle for company business?

25 A A couple of times a month; Bob more than I,

0132

1 because he's dealing more with the developers and the
2 engineers.

3 Q Going now to page 35 of your rebuttal
4 testimony.

5 A (Complies.)

6 Q You were asked questions -- do you remember
7 being asked questions this morning concerning the
8 Company's bad debt expense?

9 A Yes, I do.

10 Q In response to one of the questions from
11 Ms. Tennyson, you stated, I believe, that you write off
12 or use a write-off methodology for bad debt as it
13 relates to the income statement.

14 Q Could you please explain what you mean by the
15 term "write-off"?

16 A Actually what I meant is we use the allowance
17 method for bad debt with an adjustment to actual.

18 Q Is that methodology an accrual method?

19 A Yes, it is.

20 Q And is the method that you use for the balance
21 sheet, which you described this morning as an allowance
22 method, is that also an accrual method?

23 A Yes, it is.

24 Q Did you mean to imply that there was a
25 difference between the methodology used for the balance

0133

1 sheet and for the income statement?

2 A No, I did not.

3 Q And you were also asked a couple of specific
4 questions about the Heritage contract in Exhibit 14.

5 And one item that occurred to me is that it appears
6 there that the contract is -- the note is for seven
7 years in that contract?

8 A Yes, it is.

9 Q Could you explain why seven years is used in
10 that case?

11 A It was because of the amount of cost involved,
12 and we spread it over a longer period of time so we
13 could afford to make the quarterly payments.

14 Q Was that a more expensive purchase than is
15 usually the case for the contracts?

16 A Yes, it is.

17 MR. FINNIGAN: May I have just a moment to
18 think?

19 JUDGE SCHAER: You may, or I have one more
20 question. If you would like me to ask that, then you
21 will have that information to see if you have any more.

22 MR. FINNIGAN: Thank you.

23

24

25

0134

1

EXAMINATION

2

3 BY JUDGE SCHAER:

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5

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7

8

9

Q I am just about with you on the kinds of contracts, I think. But you discussed with counsel that there are two types of contracts. And I think you said that there are interior contracts, and then the other thing I wrote down is main extension contract; is that correct?

10

A That would be a correct answer, yes.

11

12

Q And when you have ready to serve charges, do you have them in both groups?

13

A No, we do not.

14

Q Are they all in one of the groups?

15

A Just on the interior contracts.

16

Q So just on the interior contracts. Thank you.

17

JUDGE SCHAER: That's all I have.

18

19

MR. FINNIGAN: And I don't know whether asking you this question is going to help or not.

20

21

REDIRECT EXAMINATION

22

23 BY MR. FINNIGAN:

24

25

Q But so that the record is clear, there are -- do the contracts that are filed with the Commission also

0135

1 include a third category when it's relating specifically
2 and solely to fire hydrants?

3 A Yes, there are.

4 Q And the terms of those contracts are different
5 than the line extension or interior purchase contracts;
6 is that correct?

7 A Yes, it is.

8 MR. FINNIGAN: That's all I have.

9 MS. TENNYSON: I did have one follow-up,
10 clarifying --

11 JUDGE SCHAER: You may ask it, Ms. Tennyson.

12

13 RE CROSS EXAMINATION

14

15 BY MS. TENNYSON:

16 Q Mr. Fisher, referring to the salary survey,
17 it's Exhibit 30. And Mr. Finnigan asked you several
18 questions about the names of the entities at the top of
19 the chart that is the first page of this exhibit. What
20 kind of entity did you say Lakewood was?

21 A Municipal; it's a city.

22 Q And did I understand you to say that the City
23 provides a house for a manager of the water company?

24 A Yes, they do.

25 MS. TENNYSON: I think we have some other

0136

1 issues with the State auditor.

2 MR. FINNIGAN: You may have to look at when the
3 City came into existence.

4 Q BY MS. TENNYSON: Now, the entities that were
5 listed along the top, that information that is in those
6 columns is not from the actual North Shore Survey, is
7 it?

8 A They got -- they took part in the survey. We
9 just got their direct information.

10 Q You said Mr. Blackman compiled this exhibit?

11 A Yes, he did.

12 Q Could you look at page 4 of the exhibit?

13 A (Complies.)

14 MR. FINNIGAN: You mean Mr. Blackman compiled
15 the first page?

16 MS. TENNYSON: Yes, Mr. Blackman compiled the
17 first page. That's what he said on my earlier question.

18 Q BY MS. TENNYSON: Now, I am looking at page 4,
19 which says, Data Collection. And it indicates that the
20 following agencies provided data for the survey. I see
21 Lakewood Water District, but I don't see Spanaway,
22 Parkland, Fir Grove, Fruitland, or Summit.

23 Am I understanding you to say that this is
24 wrong, or that you may have gotten the other information
25 from another source?

0137

1 A It was my understanding that they took part in
2 this data. But you are right, I do not see another page
3 to this.

4 Q And Lakewood Water District, do you know
5 whether that's the same as the City of Lakewood, or --
6 that is referred to in your column?

7 A City of Lakewood just incorporated last year, I
8 believe.

9 Q And the results of the survey, then, looking at
10 the first page, it appears that the last column on the
11 right, inside the box, is the results of the survey as
12 opposed to detailed data from individual -- the other
13 systems or municipals, or mutuals, whatever they are,
14 that are in the other columns?

15 A This was our numbers. We used those as the
16 various amounts that we were thinking about.

17 MS. TENNYSON: That's all I have. Thank you.

18 JUDGE SCHAER: Mr. Finnigan, anything further?

19 MR. FINNIGAN: Let's just -- for clarification
20 purposes.

21

22 REDIRECT EXAMINATION

23

24 BY MR. FINNIGAN:

25 Q On Exhibit 30, for those entities that are not

0138

1 listed within the survey itself which follows the first
2 page of exhibit 30, is it possible that Mr. Blackman
3 surveyed those entities on his own?

4 A Actually he got this through these entities. I
5 believe they were all part of the same group; we,
6 Spanaway, Parkland, Fruitland, and Summit were part of a
7 group that were doing the same thing we were doing at
8 the same time.

9 Q There are a group of operating utilities in
10 Pierce County -- water utilities in Pierce County that
11 meet on a regular basis; is that correct?

12 A Yes. They are called the Regional Water
13 Association.

14 Q And these entities that are listed here,
15 Spanaway, Parkland, Fir Grove, Fruitland, and Summit are
16 all members of that group?

17 A Yes, they are.

18 MR. FINNIGAN: Thank you. No further
19 questions.

20

21 EXAMINATION

22

23 BY JUDGE SCHAEER:

24 Q Mr. Fisher, one more question, if you know.
25 When you look at the figures in Exhibit 30, do those

0139

1 reflect just the salaries, or salary plus benefits?

2 A As far as I understand it, they were strictly
3 the salary numbers. When we got to this point we used
4 just salary numbers, not the benefits.

5 JUDGE SCHAER: Thank you very much.

6 Anything further?

7 MR. FINNIGAN: Just to be clear --

8 MS. TENNYSON: One more --

9

10 REDIRECT EXAMINATION

11

12 BY MR. FINNIGAN:

13 Q When you talk about "this," are you referring
14 to the first page of Exhibit 30?

15 A The first page of the exhibit, yes.

16 MR. FINNIGAN: Thank you.

17 MS. TENNYSON: And if I might follow up on the
18 question that Ms. Schaer asked.

19

20 RECROSS EXAMINATION

21

22 BY MS. TENNYSON:

23 Q Rainier View also provides benefits to its
24 employees in terms of medical coverage?

25 A Yes, we do.

0140

1 MS. TENNYSON: Thank you.

2 JUDGE SCHAER: Mr. Fisher, thank you very much
3 for your testimony. You have helped us a great deal
4 today.

5 Mr. Finnigan, I would suggest that we call your
6 next witness and get him sworn in, and then we will go
7 off the record for a few minutes to get reorganized and
8 allow him to get organized on the witness stand.

9 MR. FINNIGAN: At this point we will call
10 Mr. Ault.

11 JUDGE SCHAER: Mr. Ault, would you raise your
12 right hand, please?

13

14 FRANK AULT,
15 produced as a witness in behalf of the Respondent, having
16 been first duly sworn, was examined and testified as follows:

17

18 JUDGE SCHAER: You may take the witness stand
19 at your convenience, and we will go off the record for a
20 few minutes to allow the witnesses to shift, and people
21 to get organized.

22 We're off the record.

23 (Brief recess.)

24 JUDGE SCHAER: Let's be back on the record.

25 While we were off the record, we recessed and

0141

1 allowed a new witness to take the stand, and for the
2 parties to get organized.

3 Would you like me to mark the exhibits at this
4 time, Mr. Finnigan?

5 MR. FINNIGAN: Yes, Your Honor.

6 JUDGE SCHAER: I will mark for identification
7 as Exhibit T-34, document headed FAT-1, which is the
8 rebuttal testimony of Frank Ault. This is consisting of
9 15 pages.

10 I am going to mark for identification as
11 Exhibit 35, a Statement of Education and Experience of
12 Mr. Ault. I am going to mark for identification as
13 Exhibit 36 a document headed FA-3 -- should that be
14 FAT-3?

15 MR. FINNIGAN: No, T is for testimony.

16 MS. TENNYSON: I think when you identified on
17 the record with Mr. Fisher's exhibits you referred to
18 them as T, but only the first one should say that.

19 JUDGE SCHAER: Well, we will figure it out.
20 And we will have for identification Exhibit 36, Rainier
21 View Water Comparison of S Corporation and C Corporation
22 Federal Income Tax, identified as Exhibit FA-4.

23 Exhibit No. 37, which is a list of court cases,
24 Roy Cohn, C-o-h-n. And I am going to mark for
25 identification as Exhibit 38 a tariff sheet, indicating

0142

1 it's a Schedule for Tax Surcharge, and the First
2 Revision of Sheet Number 35, and tariff WNU-2.

3 Go ahead, Mr. Finnigan.

4

5 DIRECT EXAMINATION

6

7 BY MR. FINNIGAN:

8 Q Mr. Ault, do you have before you what have been
9 marked as Exhibits T-34 through 38?

10 A Yes, sir.

11 Q And in addition to these exhibits, an errata
12 sheet has been submitted to the Commission setting out
13 corrections to those exhibits?

14 A That's correct, sir.

15 Q Were these exhibits prepared by you or under
16 your supervision and direction?

17 A They were.

18 Q And with the corrections contained on the
19 errata sheet, is the information contained in these
20 exhibits true and correct, to the best of your
21 information and belief?

22 A It is, sir.

23 Q And if you were asked the questions that are
24 contained in Exhibit T-34 today, would your answers be
25 the same?

0143

1 A They would be, yes, sir.

2 MR. FINNIGAN: Mr. Ault is available for cross
3 examination.

4 JUDGE SCHAER: Did you want to --

5 MR. FINNIGAN: I would very much like to offer
6 Exhibits T-34 through 38. Thank you.

7 MS. TENNYSON: No objection.

8 JUDGE SCHAER: Those documents will be
9 admitted.

10 (EXHIBITS ADMITTED)

11 JUDGE SCHAER: And I will relate the errata
12 sheet, which relates to Exhibit T-34 will be considered
13 part of that exhibit. Go ahead.

14

15 CROSS EXAMINATION

16

17 BY MS. TENNYSON:

18 Q Mr. Ault, referring to your Statement of
19 Qualifications, and in your testimony you testify you
20 were a vice president of finance for a manufacturing
21 company for five years?

22 A I was. I started my career initially in public
23 accounting. I was in public accounting with, at that
24 time, one of the Big 8 firms for a half dozen years.
25 And then I went to work for a client as their VP of

0144

1 finance, and then back to public accounting.

2 Q What type of business was that?

3 A A boat manufacturing company.

4 Q And --

5 A Well, it was boat manufacturing, and other
6 recreational type units.

7 Q So by public accounting, what do you mean?

8 A Well, I am speaking to basically CPA firms. I
9 started my career initially with what was, at that time,
10 referred to as the Big 8, which has now shrunk to the
11 Big 5. And when I went back into public accounting I
12 worked for a regional -- or we refer to them sometimes
13 as regional, and sometimes local, depending on what your
14 reference is.

15 Q But by public accounting, that doesn't mean
16 public utility accounting?

17 A No. It means holding ourselves out to the
18 public to prepare audits, reviews, compilation, special
19 work, or tax services.

20 Q Do you have any experience in public utility
21 accounting?

22 A Well, I have been involved with Rainier View
23 previously with regard to an arbitration that went on
24 for quite some time with Sound Water Company, and a lot
25 of specialty work with Sound Water Company.

0145

1 Q Do other persons in your firm also do
2 accounting work for Rainier View?

3 A They do. I do not do the day-to-day, or what
4 we would call the routine work for Rainier View. That
5 is done by an individual in our firm currently by the
6 name of Randy Wells.

7 Q And I notice the firm name is currently RSM
8 McGladry?

9 A That's correct.

10 Q And the predecessor was Knight Vale and
11 Gregory?

12 A That's correct. We had a merger in -- well,
13 the end of August of 2001.

14 Q So it's not that you switched firms; the firms
15 just sort of came together?

16 A Correct.

17 Q Do you do Mr. Richardson's personal accounting?

18 A I do not, no.

19 Q Are you aware of any other business ventures
20 that Mr. Richardson may be involved in?

21 A I am certainly aware of them. I don't provide
22 any day-to-day services for those ventures, but I am
23 certainly aware of some of Mr. Richardson's other
24 activity.

25 Q So he does have other businesses that he is

0146

1 involved with?

2 A He has other businesses that he was involved
3 with, yes.

4 Q Can you tell us what you know about his other
5 business activities?

6 A Well, he has a company called -- I believe it
7 is Richardson's Bottling Company. He has activities
8 involving a small well drilling operation. Those are
9 the three that I have seen some information with regard
10 to that -- including Rainier View Water.

11 Q Okay. Did you prepare the corporation --
12 Rainier View Water Corporation's income tax return for
13 the year 2000?

14 A I did not personally, but our firm did.

15 Q How about for 2001?

16 A I don't believe 2001's return has been
17 completed at this time. I believe the audit is probably
18 in progress as we speak.

19 Q So if I am understanding, your first contact
20 with the company of Rainier View was for purposes of the
21 Sound Water matter?

22 A Actually, I believe -- if my recollection is
23 correct, I believe there were two Sound Water matters.
24 But, yes, that's my recollection of my first involvement
25 with Rainier View Water.

0147

1 Q And the arbitration you referred to, was that
2 the Sound Water purchase matter, or lawsuit by customers
3 of the former Sound Water Company?

4 A It was with regard to, my recollection -- this
5 is several years ago now, but my recollection is that it
6 was initially with regard to the prior Sound Water
7 shareholders. And then with a second party who stepped
8 in, or to some extent stepped into the shoes of those
9 shareholders.

10 Q So it related to the purchase of ownership of
11 the company?

12 A It related to the purchase and the ownership of
13 the company, that's correct.

14 Q In your testimony, you discuss Mr. Richardson's
15 work with the Company, and of the amount of time he
16 spends. What is the source of the information from
17 which you draw the conclusions you reach there?

18 A The source of the information with regard to
19 his time spent, the 60 to 65 percent of his time is
20 based upon -- certainly based upon assertions that have
21 been made to me by company personnel.

22 Q And I would like to move at this time to the
23 comparatives that you use in your testimony for
24 executive compensation. And at this point I would like
25 to refer to the Millman and Robertson -- I believe it's

0148

1 entitled the Northwest Executives Compensation Survey.

2 A That's correct.

3 Q In your testimony at page 5 you refer to this
4 as reflecting compensation for privately traded
5 companies. Is Rainier View privately traded?

6 A Well, it's privately held. And I may have used
7 the term improperly. The Millman and Robertson survey
8 deals with privately held and publicly traded companies.
9 And I may have mixed the two terminologies. So it cites
10 salary compensation for both groups of companies
11 privately held, and publicly traded.

12 Q And you have a copy of this with you?

13 A I do.

14 Q Now, your testimony indicates the survey
15 includes privately traded companies with revenues up to
16 24.9 million dollars. Did the survey break down the
17 companies by fortiles (ph.) or other units?

18 A What the survey does is the survey breaks --
19 first of all, it breaks between privately held and
20 publicly traded companies. And it breaks down the
21 highest paid executives. And specifically it tries to
22 address the five highest paid executives. One of the
23 reasons we use this survey extensively is Millman and
24 Robertson is out of Seattle, so it is a Northwest/Puget
25 Sound survey.

0149

1 Q Are the companies --

2 A In fact, it says Northwest on it. And this
3 particular survey comes out on an annual basis. They
4 put out several of these kinds of surveys for different
5 job categories, but this particular one deals with
6 executives. Like I say, it comes out on an annual
7 basis. I would have been happy to have shared a copy
8 with you, other than the restriction that says we're not
9 supposed to do that, because we pay about \$350 a year to
10 get this.

11 It breaks it down by privately held versus
12 publicly traded. And then it breaks it down in revenue
13 categories. Zero to 24.9 million; 25 million to 99.9
14 million; 100 million to 249.9 million; 250 million to
15 999.9 million; and one billion plus.

16 Q So now when you used the category of zero to
17 24.0 million, I gather --

18 A That was the first category. And that
19 category, as it's identified in the survey, indicates
20 that the mean level of sales volume for that group and
21 privately held companies is a sales volume of 4 million
22 dollars. That's the median level.

23 By comparison sake, Rainier View, in the year
24 2000, is approximately 3.7 million dollars.

25 Q Did you say "mean" or "median"?

0150

1 A Median. This survey uses both of those
2 terminology, so we will.

3 Q I had written down "mean." That was my
4 concern.

5 A Okay.

6 Q So the median level of sales volume was 4
7 million dollars?

8 A The median level, as it's referred to here, for
9 the sales group zero to 24.9 million for the privately
10 held companies, the median level in that category was 4
11 million dollars.

12 Q And is that -- that sales volume, is that gross
13 revenues? Does that equate to the gross revenues of
14 Rainier? Now, Rainier View, as I understand it, has
15 gross revenues of approximately 3.7 million dollars?

16 A That would be my interpretation. In other
17 words, I was comparing this \$4 million worth of revenue
18 to Rainier's approximately 3.7 million dollars worth of
19 gross revenues in the year 2000.

20 Q Of the companies included in that survey, you
21 indicated you used Millman and Robertson because
22 they were Northwest. Are these Northwest companies?

23 A That's what they are supposed to be. When I
24 say Northwest, they are not just talking Washington;
25 they are using Washington, Oregon, Idaho. They used to

0151

1 have a map of where they range to, because -- basically
2 Oregon, Washington, Idaho, and I believe there was
3 another state that fell into that category.

4 Like I say, I believe there's probably a map in
5 here, in this survey someplace, that gives you an
6 indication of where they reach out to to get their
7 composite numbers.

8 Q Were there any water utilities included in the
9 survey?

10 A I don't know.

11 Q Do you know whether there were any utilities?

12 A There were utilities, yes. There is a breakout
13 here that refers to, of course, biotech, distribution,
14 wholesale, retail, electronics, forest products,
15 manufacturing, services and finally utilities.

16 Q Okay.

17 A And they have another category for banking and
18 financial.

19 Q Would any of those categories include internet
20 start-up companies?

21 A I am sure that some of the electronic
22 technology area probably would have involved some of the
23 technology type companies. Whether or not they were
24 specifically internet start-up, I don't know.

25 Q Do the salary levels that are reported in

0152

1 that -- is this salary, or is this salary and benefits?

2 A This is salary and bonus. So it's total cash
3 compensation, not including benefits.

4 Q For the utilities category, are there
5 subcategories? Do they reflect these revenue and salary
6 data for the utilities?

7 A They don't break it out in that type of format;
8 in other words, what I just described to you is they
9 tell you some of the types of companies that are
10 contained within the survey, but they don't break the
11 survey down into what it is for each individual
12 category.

13 Q So those guys don't want us to know what they
14 get paid?

15 A And I am sure there's confidentiality
16 situations there, too, of course.

17 Q Is there an average revenue of the companies in
18 the survey? I gather it goes up. You gave us four
19 different categories, and you are just looking at the
20 lowest category, the zero to 24.9?

21 A It breaks it down in zero to 24.9 million. And
22 as I stated, within that category they are saying that
23 the median revenue for that category of company and
24 privately held companies is 4 million dollars. But that
25 entire category ranges that volume of revenue.

0153

1 Q Does it give us the mean, or just the median?

2 A It doesn't give us the mean for that; it just
3 gives us the median. It gives us the mean in salary
4 numbers, but it doesn't give us the mean in revenue
5 numbers.

6 Q From your testimony, it appears that your
7 position is that there's a strong correlation between
8 gross revenues and salaries paid; is that correct?

9 A Well, there's certainly a correlation between
10 gross revenues and salary paid. I mean, the larger, the
11 more complex the enterprise, typically the higher the
12 compensation to the CEO.

13 Q Okay. I would like to refer at this point to
14 one of the exhibits that I have --

15 MS. TENNYSON: Mr. Finnigan, I provided you
16 with two piles. You have provided him one?

17 MR. FINNIGAN: He hasn't seen them, but they
18 are on the witness stand.

19 JUDGE SCHAER: Would you like me to identify
20 all of those at this point, Ms. Tennyson?

21 MS. TENNYSON: Yes, ma'am.

22 JUDGE SCHAER: You have provided six
23 cross-examination exhibits. First one, which is a
24 printout from a publication called Career Journal, has
25 been marked for identification as Exhibit 39.

0154

1 The next has been marked as Exhibit 40, is a
2 schedule of tax rates.

3 THE WITNESS: There's two Career Journals, Your
4 Honor.

5 MS. TENNYSON: There's three pages to that,
6 Your Honor.

7 JUDGE SCHAER: I am considering all three pages
8 to be one exhibit. Is that confusing? If it is
9 confusing, do stop me and let's keep everything clear.

10 THE WITNESS: Well, they do represent two
11 different sources, would be my only input -- is the
12 two-page one represents one source, and the single-page
13 one represents another source.

14 JUDGE SCHAER: Is that something you can
15 question about so the record is clear, Ms. Tennyson?

16 MS. TENNYSON: Yes, absolutely.

17 JUDGE SCHAER: Okay. We will make sure that
18 stays clear.

19 And I'm going to mark for identification as
20 Exhibit 41 the Response to Data Request 42. I will mark
21 for identification as Exhibit 42 the Response to Data
22 Request 43. I am going to mark for identification as
23 Exhibit 43 the Response to Data Request 41.

24 If you kept those in order --

25 MS. TENNYSON: Really. I could have made this

0155

1 easier, couldn't I?

2 JUDGE SCHAER: I am going to mark for
3 identification as Exhibit 44 a document entitled
4 Response to Data Request 36.

5 Go ahead, Ms. Tennyson.

6 MS. TENNYSON: Thank you.

7 Q BY MS. TENNYSON: Mr. Ault, in your testimony
8 you refer to another source of information entitled
9 Career Journal. And I provided you with three pages of
10 a printout from that.

11 Is this the same source that you were referring
12 to in your testimony?

13 A That's exactly what I am trying to identify
14 right now. Yes, it is.

15 Q Now, looking at the first page of Exhibit 39,
16 it's titled Senior Executive Start-up Companies' Median
17 Salaries. Do you see that?

18 A Yes, I do.

19 Q And this is actually -- goes on to a second
20 page. Is there any further breakdown, or any more
21 information about the companies from this source that
22 you used?

23 A No. This represents what I examined. The one
24 thing I would point out to you, although I did not go
25 into a great deal of detail about it, over on the second

0156

1 page, the one that's 2 of 2 --

2 Q Yes.

3 A -- you will notice that the source there is
4 indicating that the information is effective January of
5 1998. So although it's talking about it, and it's a
6 current year printout, the material itself is a little
7 dated.

8 Q Okay. Does the information that's in here at
9 this cite, does it tell you whether this states that
10 this salary is the annual salary plus bonus? Does it
11 include benefits? Do you know that from the
12 information?

13 A I don't believe that we can necessarily tell
14 that for sure from here, but it would be my
15 interpretation that it would be total compensation.

16 Q And then referring to the third page of this
17 exhibit, which has as a title for the substantive part
18 of it Senior Executives-Private Companies.

19 A Yes.

20 Q Now, that's a different set of data. Is that
21 your understanding?

22 A Yes. And you will notice below it's indicating
23 that it's from a 1999 Officers' Compensation Report for
24 medium size businesses out of a particular publisher out
25 of New York.

0157

1 Q So this one does have salary and direct total
2 compensation on it, correct?

3 A Yes.

4 Q For this one, do we have any information on the
5 size of the private company?

6 A Well, it says that the typical company surveyed
7 had the annual sales of 25.8 million dollars.

8 Q So that's -- the annual sales there would be
9 substantially more than Rainier View's sales?

10 A That's correct.

11 Q Let's go back to the first page of this
12 exhibit, and the categories for the company revenue. It
13 starts at 10 million dollars?

14 A That's correct.

15 Q And that's more than twice what Rainier View's
16 is, isn't it?

17 A That's correct.

18 Q And Rainier View is not a start-up company by
19 any means, is it?

20 A I wouldn't refer to it as such, no.

21 Q Do you have any information on the -- referring
22 to the third page, any information on the average
23 revenues of the companies with the 25.8 million dollars
24 annual sales?

25 A No, nothing further than what is here on this

0158

1 page.

2 Q So we don't know how many companies are
3 included in this survey?

4 A I don't believe it gives us that information,
5 no.

6 Q And we don't know whether there's any
7 particular utilities, or particularly water utilities
8 included either, do we?

9 A That's correct.

10 MS. TENNYSON: I would move the admission of
11 Exhibit 39.

12 JUDGE SCHAER: Any objection?

13 MR. FINNIGAN: No objection.

14 JUDGE SCHAER: The document is admitted.

15 (EXHIBIT ADMITTED)

16 Q BY MS. TENNYSON: The next source you testify
17 about on pages 5 and 6 of your testimony is the
18 Washington State Household Income, the change in that.
19 And I believe the period of time you talk about is from
20 1993.

21 A Yes. I have a printout that is for Washington
22 that actually goes from 1990 through preliminary 1999,
23 on a county by county basis.

24 Q Can you tell us what percentage -- by what
25 percent did the Washington State household income

0159

1 increase for the year 1996 through 2000?

2 A Well, I took the data that was here, and
3 computed a percentage increase on a year by year basis.
4 So for the year 1996, I computed a 5.15 percent; year
5 1997, 5.98 percent; 1998, 5.79 percent; and 1999, 4.61
6 percent.

7 Q Can you tell us what the basis of that survey
8 was? Did it control for variables, like household size,
9 the number of wage earners in the household, those
10 matters?

11 A I will read to you the title, because basically
12 it's a single-page printout off of an internet site.
13 It's "Median Household Income by County, 1989 through
14 1999." It says, "Not Comparable with Prior Published
15 Series. Revised 1990 through 1998 -- or 1989 Median
16 Income Numbers from 1990 Federal Census, 1990 US Census
17 of Population and Housing Current Dollars."

18 And then it's giving it, as I stated, on a
19 county by county basis for Washington State as well as
20 the state average.

21 Q So that doesn't give us any information on the
22 household size or number of wage earners?

23 A No.

24 Q In your testimony on page 7, you state some
25 calculations about revenue and customer multiples being

0160

1 used to compute proper salary. Do you see that?

2 JUDGE SCHAER: What page, please, Counsel?

3 MS. TENNYSON: Page 7.

4 THE WITNESS: I am sorry. Which page?

5 MS. TENNYSON: Page 7.

6 THE WITNESS: Yes.

7 Q BY MS. TENNYSON: Starting at line 7, you say,
8 "Revenue has increased" -- this is now since 1993 --
9 "2.9 times, and customer numbers have increased 2.6
10 times." This is for Rainier View?

11 A That's correct. These are approximations, but
12 that's correct.

13 Q Are you advocating this as a method of setting
14 compensation?

15 A Well, I am comparing it to all of the other
16 situations that I have cited. I started out citing this
17 Millman and Robertson survey, and I have already
18 indicated that it's a survey that I tend to use and give
19 the greatest weight to.

20 However, I considered the Wall Street Journal
21 data that came off of the internet. I considered the
22 household income data. And then I certainly looked to
23 what the actual growth of the organization had been
24 during this period of time.

25 I think all of those things are factors to

0161

1 consider. With regard to what I gave the most weight to
2 would probably be the salary survey that I quoted from
3 Millman and Robertson.

4 Q Now, you were present in the room when
5 Mr. Fisher testified, correct?

6 A I was.

7 Q And you heard Mr. Fisher testify about the
8 Company using the North Shore Salary Survey?

9 A Yes.

10 Q Are you saying you did not consider that survey
11 at all in your analysis of compensation?

12 A I didn't consider that in my analysis.
13 Mr. Fisher had considered it in his analysis. It's not
14 a survey that I am largely familiar with. I am familiar
15 with the one that I have cited and have used on many
16 occasions.

17 Q Did you do any research into what publicly
18 traded water companies paid?

19 A No, I didn't look at publicly traded water
20 companies, because I oftentimes don't find good
21 comparables between publicly traded and privately held
22 companies.

23 Q Now Mr. Richardson, we have been talking about
24 his salary. He receives a salary from Rainier View
25 Water Company. And as far as you are aware, the Company

0162

1 deducts payroll taxes from his gross salary, do they
2 not?

3 A I believe so.

4 Q So the income tax related to his salary is
5 accounted for as for any other employee at the Company?

6 A Well, you are speaking to the compensation that
7 is paid to him?

8 Q Yes, that's correct.

9 A Well, the income tax comes -- it reduces his
10 pay. It's withholding.

11 Q His withholding is done similar to any other
12 employee?

13 A Yes. The corporation shows as an expense the
14 gross compensation, and he receives the net pay. And
15 they remit the withholding that is taken out of his pay.

16 Q In your testimony on page 9, you refer to the
17 payments that Rainier View paid to the Internal Revenue
18 Service for Federal income tax expense?

19 A Yes.

20 Q Now, just to be clear, those payments that
21 Rainier View paid for taxes, those were on behalf of
22 Mr. Richardson, not on behalf of Rainier View Water;
23 isn't that true?

24 A Well, let me find my copies of the checks.

25 Q In your testimony, isn't it true you state,

0163

1 "The payments directly to the IRS are on behalf of
2 Mr. Richardson"?

3 A (Looking at documents.) Give me one moment to
4 find those copies. The checks are Rainier View Water
5 Company checks that are written directly to the Internal
6 Revenue Service, and they do represent payments that are
7 made on behalf of Neil Richardson's estimated tax
8 payments. That's the specific reference on the checks.

9 Q So another way of making that payment would
10 have been the Company to write a check to
11 Mr. Richardson, and Mr. Richardson to write the check to
12 the IRS?

13 A The effect would have been the same. But in
14 this particular case, the Company wrote the checks
15 directly to the IRS.

16 Q So we avoid one set of banking fees?

17 MR. FINNIGAN: I am sorry. Was that a
18 question?

19 MS. TENNYSON: No, that was not.

20 THE WITNESS: They represent tax associated
21 with the earnings of the corporation, and they are being
22 remitted from the corporation directly to the Internal
23 Revenue Service.

24 Q BY MS. TENNYSON: I understand that. I am
25 referring to your testimony where I believe you say

0164

1 twice on page 9 where the payments are on behalf of
2 Mr. Richardson. You are not changing that, are you?

3 A No, I am not.

4 Q In your testimony on page 14 -- or I am sorry,
5 page 8, line 14, you say that Mr. Kermode suggests that
6 an S corporation is a tax-free enterprise, and I want to
7 make sure we're talking about the same thing.

8 It's the only time I have seen anyone use the
9 term "enterprise." The other witnesses use -- refer to
10 it as an "entity." Are you using that term
11 interchangeably?

12 A I am using the term in generalities, because
13 when you get into a tax-free enterprise, you are talking
14 about something like a not-for-profit organization, or
15 something like that. So it would necessarily have to be
16 incorporated.

17 Q Would you agree with the Company's other
18 witnesses that an S corporation is a tax reporting
19 entity and not a tax paying entity?

20 A It is an entity that does not remit taxes
21 directly, but the taxes are paid through its corporate
22 ownership.

23 Q So it's the shareholders that incur the income
24 tax liability; is that correct?

25 A The shareholders are responsible for paying 100

0165

1 percent of the tax associated with the income of the
2 corporation.

3 Q The election of the subchapter S corporate
4 status is an election the shareholders make; is that
5 correct?

6 A That's correct.

7 Q And they can change that election if they wish
8 to?

9 A They can.

10 Q You refer to the checks that Rainier View Water
11 wrote on behalf of Mr. Richardson to the Internal
12 Revenue Service. And these were for the tax years --
13 well, clarify, I have 2000 and 2001, but I think there
14 may be some estimated tax versus actual -- actually, I
15 could clarify.

16 They were for Mr. Richardson's actual 1999 tax
17 liability, and 2000 estimated tax liability. Is that
18 your understanding?

19 A They represent three checks that were paid
20 by -- or written by the corporation over the course of
21 the year. One of the checks was paying partly 1999. It
22 was broken into a payment of 1999 payment, and first
23 quarter estimated year 2000.

24 The other two checks represent the other two
25 estimated tax payments for the year 2000.

0166

1 Q Were there any other checks from prior years
2 that you reviewed that the Company paid directly to the
3 IRS on behalf of Mr. Richardson?

4 A It was my understanding that this had been a
5 situation that had been going on for quite some time. I
6 did not specifically investigate those other checks or
7 disbursements.

8 Q Now, in your discussion of your review of the
9 checks written by Rainier View for the 1999 and 2000
10 estimated tax liability, you state that "Distributing
11 enough cash to shareholders in order to pay the tax is
12 normal policy," correct?

13 A That's the policy that is followed within
14 Rainier. And that's my personal experience in dealing
15 with clients and S corporations; in other words, the
16 corporation will distribute enough cash to assist the
17 shareholders in paying that tax.

18 Q So in this instance, it was one check written
19 instead of, as we discussed, a check to Mr. Richardson
20 followed by a check to the Internal Revenue Service?

21 A Correct.

22 Q In your testimony you discuss that over time it
23 doesn't matter if the tax is paid by a C corporation or
24 an S corporation; that the total tax results are, I
25 think you used the word "comparable"; is that correct?

0167

1 A Well, I think what I was trying to do is
2 reflect that when we use the terminology of a C
3 corporation, and use the term double taxation, the
4 resulting effect is not necessarily double. It is a
5 term, just referring to the fact that you may have some
6 extra tax to pay.

7 And I was trying to show in my comparison and
8 my schedule some comparability of what an S corporation
9 versus a C corporation might be.

10 Q And you do that on -- using your Exhibit FA-3;
11 is that correct?

12 A Correct.

13 Q We can look at that --

14 A Certainly.

15 Q Now, I have questions about the assumptions
16 that you use. First, you start with the 39.6 percent
17 tax rate for the shareholders?

18 A Yes, ma'am.

19 Q But you apply that as a flat tax. Isn't it
20 true that to correctly compute the tax you have to
21 include the lower tax brackets?

22 A You would have to include the lower tax
23 brackets. But keep in mind, I have not personally
24 examined Mr. Richardson's personal tax return, but
25 Mr. Richardson is drawing a salary of approximately

0168

1 \$140,000 or \$150,000. So that salary is going to push
2 him through a number of the lower levels in his personal
3 income tax return.

4 Q And you refer to him drawing a salary of
5 \$140,000 to \$150,000. That's not all from Rainier View,
6 is it?

7 A But it all impacts Mr. Richardson's personal
8 income tax returns.

9 Q Well, now, the Bench asked you some Bench
10 Requests. And No. 7 is a response that you provided.
11 Do you have a copy of that?

12 A I do. I have to locate it, but I am certainly
13 well aware of the one you are referring to.

14 Q So basically your response included the lower
15 tax brackets?

16 A Well, my response to the Bench Request for
17 No. 7 indicates the source of this is right out of the
18 Federal Master Tax Guide, and the Married Filing Joint
19 Table for the year 2000. And you can see specifically
20 with regard to the taxable income of that, and the
21 resulting taxes.

22 Q So the example that you prepared on FA-3, now
23 this isn't supposed to be directly related to
24 Mr. Richardson's income or anything, is it?

25 A No. I was asked the source for 39.6, and what

0169

1 I am displaying here, as I indicated, is the tax tables
2 for married taxpayers filing a joint return in the year
3 2000, as represented in the US Master Tax Guide.

4 Q Okay. I understand that's your response to the
5 Bench Request. I had jumped back for a moment to FA-3,
6 where you use the taxable income of \$400,000. This is
7 just a general example?

8 A The \$400,000 is a general example. If you
9 look, for example, at Rainier's corporate tax return in
10 the year 2000, I believe the taxable income, if I recall
11 correctly, is somewhere around \$740,000.

12 I was using the \$400,000 strictly for purposes
13 of example. We could have used -- the objective is to
14 see how the ratios work out. It's not to find a precise
15 number.

16 Q But if you look at how you have calculated the
17 tax on this, isn't it true that your \$158,400 figure for
18 the tax paid for the S corporation is calculated on the
19 basis of a flat application of 39.6 percent, instead of
20 using the calculations you have provided in Bench
21 Request No. 7, or the tax table you provided in Bench
22 Request No. 7?

23 A Correct. But again, recall I have not examined
24 Mr. Richardson's personal income tax return. So I don't
25 know all of the other sources of his income. I am

0170

1 looking at this being an incremental level above all of
2 his other sources. I know, for example, he's receiving
3 a combined salary of \$140,000 or \$150,000 a year. So
4 you are starting at least at that level.

5 Q But Mr. Ault, you said your example that you
6 used on Exhibit FA-3 is a general example, it's not
7 specific to this company. You are purporting to compare
8 an S corporation and C corporation; not Rainier View if
9 it were a C corporation, or an S corporation; isn't that
10 true?

11 A Okay. I think I am probably getting a little
12 confused.

13 Q I am looking at your Exhibit FA-3.

14 A No. 36?

15 Q No. 36.

16 A Okay.

17 Q Now, you use a taxable income of \$400,000.

18 A Correct.

19 Q Now, this example that you use is just a
20 general example, not specific to a water utility or any
21 other kind of company? You are just comparing the
22 differences in taxation in an S and a C?

23 A It's a general example, of course, assuming
24 that all of the other income sources for the individual
25 who's going to be taxed on the S corp income are going

0171

1 to elevate him through the remainder of the table.

2 Q But our taxable income in both cases is
3 \$400,000, correct?

4 MR. FINNIGAN: I will object; he just answered
5 that question, Your Honor.

6 JUDGE SCHAER: Ms. Tennyson?

7 MS. TENNYSON: Well, he keeps asserting that
8 he's using other figures, and other income sources, and
9 yet what he's using here is on the exhibit.

10 I can let the exhibit speak for itself. He's
11 proposed it. It says \$400,000 is the taxable income.
12 Doesn't mean that the taxable income is more than
13 \$400,000 or less than \$400,000. In the example it's
14 \$400,000.

15 THE WITNESS: Well --

16 JUDGE SCHAER: Mr. Ault -- the objection was
17 asked and answered. And I do think, Mr. Finnigan, that
18 you are correct that the basis of this exhibit and
19 what's in these numbers has been described by the
20 witness. And I think you have made your point.

21 Q BY MS. TENNYSON: I would ask you to turn to
22 what has been marked as Exhibit 40.

23 JUDGE SCHAER: And I also want to ask you to
24 find a good place to break for our afternoon break to
25 talk about where we're going.

0172

1 Q BY MS. TENNYSON: In running the calculations,
2 it appears, if we look at Exhibit FA-3, for an S
3 corporation taxable income of \$400,000 times the tax
4 rate of 39.6 percent, that you have not applied the
5 other brackets that are included on Bench Request No. 7
6 Response, correct?

7 A Again, for purposes of example --
8 unfortunately, when I am trying to display this example,
9 you have to understand that there are graduated rates in
10 the corporate environment as well. So when we talk
11 about graduated rates, if we get in and talk about
12 graduated rates, we have to talk about them on both
13 sides of the equation.

14 So if we're going to talk about graduated rates
15 on the individual side, you are going to experience the
16 same sort of thing in the corporate environment as well.
17 I mean, the first graduated rate in corporate
18 environment is the 15 percent tax rate. So you have to
19 move through the graduated tables.

20 What I am doing is I am assuming that this is
21 an incremental level of income that is coming in over
22 and above all of the other income that is being
23 experienced by the taxpayer. And all of this income is
24 going to be subject to the 34 percent tax rate on a C
25 corporation, and 39.6 percent, highest level, on a

0173

1 personal individual.

2 Q Okay. So, then, you are assuming that for each
3 of these, on the S and the C corporation side, you have
4 applied the flat rate of 39.6 or the 34 percent
5 respectively to the \$400,000?

6 A Which both represent the highest tax rates that
7 either would be paid by a married person filing a joint
8 return in the year 2000, or a corporation filing an
9 income tax return in the year 2000.

10 Q Okay. Now, in your assumptions on Exhibit FA-3
11 relating to the discount rate in the 15-year delay.

12 A Yes.

13 Q Now, if we change either of those variables,
14 isn't it true it would affect the results that you get?

15 A It certainly will.

16 Q So if we have an 8 percent discount rate, then
17 your numbers might not come out so close?

18 A That's correct. Or if you used a shorter or
19 longer period, it would make them vary.

20 The 6 percent rate is based on a historical
21 safe rate of return. It's what the treasury rates, and
22 T-bill rates, and bond rates have been over an extended
23 period of time.

24 The 15 years is strictly an approximation to
25 try and gauge what the life existence of a closely held

0174

1 C corporation might be, assuming that normally they are
2 started by one person, and normally that person shuts
3 them down and liquidates them within their working
4 lifetime.

5 Q So if they liquidated in five years, we would
6 have a far different result?

7 A We would have a different result. Now, I did
8 calculate what the impact would be if it was 5, or if it
9 was 25. And I could share that with you, if you would
10 like.

11 Q But you are using the same assumptions?

12 A I am using the same 6 percent assumption. If
13 we changed the interest rate that, of course, would
14 change.

15 Q Now, in one -- you were asked about the basis
16 of your 6 percent assumption in one of the Staff Data
17 Requests. I don't have that as an exhibit, but do you
18 recall what the basis of that was?

19 A Yes, I do. And I am sorry you were unable to
20 locate that, because that came off of the website
21 as well. It's the Bond Market Yield Summary, and it's
22 at [www.bondtrack](http://www.bondtrack.com), one word, .com.

23 And what I was referencing was a comparison of
24 the 20-year treasury rates that came off on 1/31/2002,
25 the 20-year Triple A corporate rates, and the 20-year

0175

1 Triple A municipal rates.

2 Q Okay.

3 A And two of those -- one was in the mid fives,
4 one was just under five, and the other one was over six.

5 Q And are these -- the returns on these, is that
6 before or after income tax, when you hold a bond and
7 that amount that comes out?

8 A They would be all of the above. I would assume
9 that municipal rates would be tax-free.

10 Q But it would be before tax for the holder of
11 the other bonds?

12 A For the treasury bonds, and for the Triple A
13 corporate bonds, I believe it would be before tax.

14 Q So when an individual bond holder purchases
15 these investments, they need to pay personal income tax
16 on any earnings?

17 A Depending on their particular facts and
18 circumstances, probably.

19 MS. TENNYSON: I think if we can break now, I
20 might be able to shorten up the next questions I have.
21 I need to confer with my clients here.

22 JUDGE SCHAER: Let's go off the record to take
23 our afternoon recess, and try to be back by about two
24 minutes after 4:00 by the clock in this room. We're off
25 the record.

0176

1 (Brief recess.)

2 JUDGE SCHAER: We'll be back on the record
3 after our afternoon recess.

4 At this point, Ms. Tennyson, did you have more
5 questions for Mr. Ault?

6 MS. TENNYSON: Yes, I do.

7 JUDGE SCHAER: Go ahead.

8 Q BY MS. TENNYSON: Mr. Ault, I am referring to
9 your testimony starting at page 10, line 23.

10 And at this point in your testimony you discuss
11 briefly the ability of the IRS to make -- to collect
12 taxes from a corporation if the shareholders haven't
13 paid their tax liability; is that correct?

14 A Correct.

15 Q Now, in terms of collection of taxes, I assume
16 this would be in contrast to the IRS placing a lien on
17 the property of the shareholder in order to collect an
18 outstanding tax liability?

19 A In other words, the opportunity of the IRS to
20 go after the assets -- specific assets of the
21 shareholder, or the specific assets of the corporation.

22 Q So the IRS could choose to attach the
23 shareholder's house, or bank accounts, or other assets?

24 A Certainly. But you have to keep in mind with
25 a company like Rainier View, and a taxable income of

0177

1 \$750,000, and 39.6 percent of that, my house wouldn't do
2 it.

3 Q Now, you discuss the alter ego concept, and you
4 cite a few cases. Now, I assume since you cited those
5 cases, you read those cases?

6 A Specifically what I did is I went to one of our
7 in-house tax experts, and asked them to research this
8 particular issue on my behalf, and then give me back the
9 information.

10 Now, I have read through, to some extent, those
11 cases, but the concept of the alter ego theory was a
12 concept that the tax specialist did the research on.

13 Q Do you have copies of the cases with you?

14 A I think so.

15 Q I would like you to refer to the case, the Roy
16 M. Cohn, C-o-h-n, case, if you have that.

17 A (Complies.) Yes. I have that in front of me.

18 Q Now, there's a portion of that where -- I
19 believe it's on page 13 to 14 of that opinion, depending
20 on the format that you have it in, where the court
21 quotes from the Valley Finance case, which is one of the
22 other ones you cite. Can you find that portion?

23 A Could you give me a line number?

24 Q I don't have line numbers. The quote starts
25 with, "The concept of distinct corporate entity." I can

0178

1 show you the portion in my book, and you can find it in
2 yours.

3 MR. FINNIGAN: That might be faster.

4 Q BY MS. TENNYSON: Obviously we have different
5 sources. Mine looks like this.

6 MR. FINNIGAN: Maybe, Counsel, why don't you
7 just hand him your copy?

8 JUDGE SCHAER: Go ahead and use Ms. Tennyson's
9 copy.

10 Q BY MS. TENNYSON: Referring to the copy of the
11 case, do you see the quotation that I am referencing?

12 A I do.

13 Q Could you read that for us?

14 A Certainly. "The concept of distinct corporate
15 entity has long served useful business purposes
16 encouraging risk taking by individual investors, as well
17 as overall convenience of financial administration.
18 Ordinarily, such consideration justifies treating the
19 corporation as a separate entity independent of its
20 owner.

21 "On occasion, however, this concept is abused
22 and yields results contrary to the interests of equity
23 or justice. Courts have not hesitated to ignore the
24 fiction of separateness and approve a piercing of the
25 corporate veil when the corporate device frustrates

0179

1 clear intendment of the law. The government's liability
2 otherwise to satisfy a legitimate tax debt clearly may
3 form a sound basis for such disregard of corporate
4 form."

5 Q So in your testimony where you refer to the IRS
6 seeking recovery of the taxes, the shareholder's taxes
7 from the corporation, are you suggesting that
8 Mr. Richardson is abusing the corporate structure?

9 A I am not suggesting that at all. I am
10 suggesting the Internal Revenue Service does have the
11 ability to come back against corporate assets should
12 they find themselves in a position of not receiving
13 their level of taxation.

14 Q Okay.

15 A And since you are on that subject, I am looking
16 here at a specific example with regard to the alter ego
17 situation, and the corporate entity may be disregarded
18 as a separate entity from the shareholder by piercing
19 the corporate veil.

20 Q Correct. And that is normally done in
21 situations where there is reason to do so; not where the
22 company, the corporate structure is being appropriately
23 applied and used?

24 A Right. And normally if you don't pay
25 substantial tax, they might feel that would be a

0180

1 reasonable reason for doing it.

2 Q Thank you. I would like to turn to the subject
3 of bad debt at this point.

4 A Certainly.

5 Q If you can just return that book -- can you
6 tell us what methodology Rainier View uses to recognize
7 bad debt?

8 A Rainier View uses the reserve method, which is
9 an accrual base method. Rainier is an accrual basis
10 corporation, and it reports its financial statements
11 under generally accepted accounting principles. And
12 accrual basis accounting is part of GAP.

13 Q Is the reserve or accrual method the same as
14 the allowance method?

15 A They would largely be thrown into the same sort
16 of terminology, yes.

17 Q What would be the accounting entry used to
18 recognize the bad debt expense under the method we're
19 talking about, whether we call it reserve or allowance?

20 A Well, I am smiling, because in small,
21 closely-held businesses the application for reserve for
22 bad debts -- I mean the methodology can be used to
23 increase the reserve, which is a contra-asset account.
24 In other words, it's a credit account immediately
25 following accounts receivable. The entry can be done by

0181

1 crediting that account, and debiting bad debt expense.

2 And then bad debt -- I am sorry.

3 Q Let me make sure I understand. You are
4 crediting the reserve account, and debiting the expense
5 account?

6 A Right. And the reserve account, as I say, is
7 what we would refer to as a contra-asset account. It's
8 on the asset side of the balance sheet, but it will
9 reflect as -- its normal balance will be a credit
10 balance, a negative balance, as opposed to a debit or
11 positive balance.

12 Q Now, at the end of the test year, Rainier View
13 had \$75,000 in its reserve account for bad debt; is that
14 correct?

15 A They have had \$75,000 in bad debt reserve over
16 a number of years, correct.

17 Q And in 2001, the Company wrote down its
18 accounts receivable by \$27,542?

19 A Well, as you say that, recognize that the
20 reason to have a bad debt reserve is to recognize the
21 concept of bad debts. That is, a bad debt is a bad debt
22 the day you sell it. You just don't know which ones
23 they are until some time has passed, so the concept --

24 Q So somebody may not pay their bill this month,
25 but they might pay it next month?

0182

1 A No. Typically what happens is somebody is not
2 going to pay their bill from this month, but you may not
3 figure out which one it is for three months. So it's a
4 bad debt, but you haven't figured out which one is bad.
5 The idea of establishing a reserve is to state
6 statistically we know "X" number are going to go bad, or
7 "X" dollar amount is going to go bad. So the reason for
8 them to have a bad debt reserve of \$75,000 is to cover
9 \$75,000 worth of bad accounts that are floating around
10 in accounts receivable.

11 Q Now, I would like you to refer to what has been
12 marked as Exhibits 41, 42, and 43.

13 A Okay.

14 Q Now, are each of these Response to Data
15 Requests that the Staff presented in this case to the
16 Company?

17 A These represent my responses, yes.

18 Q So you prepared each of these responses?

19 A I either prepared them myself, or I had
20 somebody prepare them at my behest, yes.

21 Q So they were prepared by you, or under your
22 supervision, a format we use?

23 A Correct.

24 MS. TENNYSON: I would move for the admission
25 of these exhibits.

0183

1 MR. FINNIGAN: No objection.

2 JUDGE SCHAER: Exhibits 41 through 43 are
3 admitted. I don't believe you offered Exhibit 40 yet,
4 Ms. Tennyson.

5 (EXHIBITS ADMITTED)

6 MS. TENNYSON: No. And I don't intend to. It
7 was a dead horse we were beating.

8 JUDGE SCHAER: Okay. So that is withdrawn.
9 Thank you. Go ahead.

10 Q BY MS. TENNYSON: Referring at this point,
11 Mr. Ault, to Exhibit 42, which is the Staff Data
12 Request, No. 43.

13 A Okay.

14 Q And the second page of that exhibit is a
15 narrative or memorandum of some sort.

16 A Correct.

17 Q Now, this does indicate that in 1999 the
18 Company wrote off \$57,540.65 worth of bad debt. Do you
19 see that?

20 A Yes, I see that reference.

21 Q Under generally accepted accounting principles,
22 what is the proper accounting for that right now? How
23 would we do it? I think you said it before, but I am
24 not positive that I got it.

25 A Well, I think what I was trying to suggest, in

0184

1 1999, what the Company could have done is they could
2 have, in specifically identifying that \$57,540.65, they
3 could have written that off against the reserve account,
4 which is that contra-asset account, and then made a
5 reassessment of what that reserve needed to be at the
6 end of the year.

7 Q Okay.

8 A I think normally if you would look at, for
9 example, accounting text, that would probably be the
10 textbook example. What oftentimes happens is that maybe
11 they bypass the reserve, and they specifically write
12 those accounts receivable off directly to bad debt
13 expense, and they leave the reserve balance as it was.

14 Q So the proper method would be to credit the
15 accounts receivable and debit the reserve account?

16 A That would be the textbook method.

17 Q To your knowledge, did the Company do that? Do
18 you know?

19 A I don't specifically know. I can interpret by
20 reading this particular document that you have
21 requested, comes from our audit workpaper files. And
22 realize it represents a dual purpose. It represents a
23 dual purpose in looking at the adequacy of the accounts
24 receivable reserve, and assessing what the overall bad
25 debt experience of the client has been.

0185

1 Q So you would be using it to advise the client
2 on what to do in the future, as well as --

3 A Well, realistically what they are going to do
4 with this is they are trying to look at it and say, "Is
5 the bad debt reserve adequate, or are there more
6 potentially -- are there potentially more bad debts out
7 there than there is reserves, or is the bad debt
8 substantially understated?"

9 Q Isn't it true that Rainier View did not write
10 off any of its bad debt in 1996, '97, or '98?

11 A (Reading document.) I am sorry. The times on
12 those again?

13 Q 1996, 1997, and 1998?

14 A No, that would not be my interpretation.

15 Q I am not asking what they recorded as an
16 expense, but what they actually wrote off?

17 A Well, we're going to have to come to some
18 agreement on terminology, because when you say
19 "write-off," I am talking about recorded as an expense.
20 If you are talking about taking it from accounts
21 receivable and putting it directly into the bad debt
22 expense account, I am more concerned about the income
23 statement impact.

24 Q Okay. I am referring to the document from your
25 firm that is in Exhibit 42, and particularly the first

0186

1 sentence of that. That's what that indicates, isn't it?

2 A You know, that's what the individual -- and I
3 can read the initials, but I am not sure who did this.
4 That's what that document says. But when I look at the
5 reserve for bad debt, and I look at the bad debt expense
6 on the income statement for those years, I have to
7 interpret that there were write-offs in the years 1996,
8 '97, and potentially '98.

9 JUDGE SCHAER: May I ask a quick question. My
10 copy of Exhibit 42 has several handwritten notations on
11 the second page. Should a clean copy be provided, or is
12 that part of what the exhibit should be? I just would
13 like to have that clear in the record.

14 MS. TENNYSON: That was the copy that was
15 provided to Staff. So as far as I know, it's what is in
16 the firm's accounting records.

17 THE WITNESS: Are you referring to the D-5 up
18 in the corner?

19 JUDGE SCHAER: Yes, I am. Is that how that
20 appears in your workpaper records?

21 THE WITNESS: That's correct. In other words,
22 the individual on staff and doing the audit who prepared
23 this document at the time, typed it into their computer
24 and printed out, and then made some manual adjustments
25 to it.

0187

1 JUDGE SCHAER: Thank you. That will make the
2 record clear.

3 Go ahead, Ms. Tennyson.

4 Q BY MS. TENNYSON: From your knowledge of your
5 persons in the firm, can you tell me whether this person
6 is an auditor, or what function he or she makes?

7 A He or she was certainly involved in the audit
8 and making audit assessments during this examination,
9 the year 2000 audit example.

10 Q Okay. At this point, why don't we go on to
11 depreciation, another lovely thing we all enjoy
12 discussing at this time of the day.

13 A Certainly.

14 Q Page 14 of your testimony, you suggest that
15 Mr. Kermode is proposing an adjustment to retained
16 earnings. He doesn't actually make that kind of
17 adjustment or recommendation, does he?

18 A I am sorry. Where are you referring --

19 Q Page 14, line 19.

20 A (Reading document.) As I read it, it was a
21 proposed adjustment to retained earning.

22 Q Didn't he make a restating adjustment of
23 \$119,040 on the proforma income statement to take the
24 depreciation expense to the test year amount that is
25 reflected in the depreciation schedule? That is the

0188

1 adjustment you are talking about?

2 A That is certainly one side. The other side
3 would go to retained earnings, I believe.

4 Q So you are saying that a restating adjustment
5 does affect the retained earnings?

6 A I believe that was my recognition of what was
7 being proposed in this situation.

8 Q Then you make the statement that this
9 represents a catch-up adjustment.

10 Now, I assume in that case you are talking
11 about the \$119,040, and not what Mr. Kermod's
12 adjustment is; is that correct? It's not clear from the
13 testimony what this is.

14 A I believe the catch-up adjustment that was
15 referred to here occurred in the year 2000. I have
16 looked at the detailed depreciation schedule that's
17 contained within the financial and the tax records --
18 our financial and tax records. And it represents a
19 catch-up adjustment to get accumulated depreciation on
20 those specific assets to the level that they needed to
21 be at the end of the year 2000.

22 What occurred, if I might take a moment to
23 explain, Rainier View was keeping their own detail fixed
24 asset records. And then our firm was basically auditing
25 those fixed asset records, and making adjustments to

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1 them.

2 During the year 2000, or near the conclusion of
3 the year 2000, all of those detail fixed assets were put
4 into the computerized system that our firm uses. And
5 when the result came out, the beginning accumulated
6 depreciation was greater than what the books and records
7 had shown at the end of the prior year. Some of that
8 was because of changes in asset lives when they were put
9 in. Some of that was because assets that had been lost
10 or used up over the years were not entered. There were
11 a number of reasons why that occurred.

12 But that is what I was referring to as a
13 catch-up adjustment. In other words, that depreciation,
14 part of it should have occurred in that year; part of it
15 should have occurred maybe in the prior one or two
16 years.

17 Q But the catch-up adjustment is the changes
18 between the detailed depreciation schedule, and the
19 general ledger amount?

20 A It's the general ledger amount. And when a
21 clean and concise and complete detailed listing of the
22 fixed assets was done, and applying the appropriate
23 useful lives and listing only those assets that were
24 remaining in the Company's inventory of assets was done,
25 there was a difference between the accumulated

0190

1 depreciation at the beginning of the year per the
2 printout versus what was on the general ledger.

3 Q And then you were asked by a Staff Data Request
4 for a copy of the analysis that you refer to in your
5 testimony. And you have described that analysis.

6 The response that Staff received as shown on
7 Exhibit 43 is that this was a process, but there's no
8 electronic document? Now, you have stated you put it in
9 the computer --

10 A The process was just to make a detailed
11 listing. There wasn't -- I went back in the workpapers
12 and referred to the workpapers. There was no prior
13 detailed listing, so there wasn't really a way to
14 analyze how the situation -- what specifically the
15 situation -- how much of it represented one thing versus
16 another.

17 Q So the auditor, then, did adjust the useful
18 lives of some of the assets?

19 A Adjusted the useful lives. Some of the assets
20 were determined to be no longer in existence. There
21 were a number of factors that took place.
22 Unfortunately, the way the process was done, they can't
23 be specifically identified which is which.

24 Q So you don't have anything that specifically
25 reconciles what makes up that \$119,040 difference?

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1 A I know that difference existed. As to how you
2 allocate that difference between assets that had been
3 used up, assets that had their useful lives changed, et
4 cetera, I am sorry. I can't help you in that regard. I
5 did go back and look for that detail information. We
6 don't have it.

7 Q Okay. You recommend in your testimony that we
8 spread the expense over three years by reducing that
9 \$119,000 net of the \$5,443 CIAC -- reduce it to \$75,731.
10 How does reducing the excess depreciation expense to
11 that \$75,000 figure spread it over three years?

12 A (Reading document.) I believe you have me.

13 Q Didn't seem to make logical sense. That's why
14 I asked the question.

15 JUDGE SCHAER: Let's go off the record for a
16 moment.

17 (Brief recess taken.)

18 JUDGE SCHAER: Let's be back on the record.

19 While we were off the record, the court
20 reporter was able to change the computer disk in her
21 machine and is now ready to go again. So I believe that
22 you are on, Ms. Tennyson.

23 MS. TENNYSON: Yes. I had asked a question,
24 and we were waiting for a response.

25 THE WITNESS: I am specifically referring to

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1 page 14, and I think it's line 27, 28. Your question
2 was how does the \$75,731 represent one-third? It
3 doesn't. I believe it represents the two-thirds that
4 should be adjusted away, leaving a remaining one-third.

5 Q BY MS. TENNYSON: And three-thirds make up
6 three years?

7 A Yes, ma'am.

8 MS. TENNYSON: Okay. That's all of my
9 questions at this time.

10 JUDGE SCHAER: Thank you. Mr. Ault, I have
11 just a couple of questions for you.

12

13 EXAMINATION

14

15 BY JUDGE SCHAER:

16 Q And one because we're curious, and one because
17 I want to get something clarified.

18 The first question is, can you identify the
19 shareholders of the company and the proportion of their
20 ownership in the company?

21 A It's my understanding that the shareholders of
22 the company are jointly Mr. and Ms. Richardson.

23 Q And they hold 100 percent of the company?

24 A The joint community owns 100 percent. That's
25 my understanding.

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1 Q Thank you. And my second question, when
2 Ms. Tennyson was asking you some questions on page 5 of
3 15 --

4 A Yes, ma'am.

5 Q And I believe that you testified that some of
6 the places where it -- when it said privately traded,
7 you should have said privately held and publicly traded.
8 And I'd like to get that clear for the record.

9 So could you read through the paragraph, and
10 when you see something that needs to be changed, tell me
11 where you are, and let's get the right terminology put
12 in.

13 A Yes, Your Honor. Reading on page 5, if you
14 read, for example, on line -- my lines are a little off.
15 It's either 11 or 12, where it says, "Compensation of
16 CEOs of privately," should be "privately held companies"
17 instead of "privately traded."

18 And then, again, on line 18, where again it
19 says, "Base salary for CEOs privately," it should again
20 be "held" and not "traded." Those are the two.

21 Q Thank you. I just wasn't sure if the first one
22 should say both privately held and publicly traded, or
23 just privately held. I appreciate having it clarified.

24 A I apologize for the confusion.

25 Q Looking at page 14 of your testimony.

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1 A (Complies.)

2 Q Looking at the catch-up figure --

3 A Yes.

4 Q -- of retained earnings of \$119,040, how is
5 that going to show up in the future? What account is it
6 going to be in? Where is that going to be reflected?

7 A Are you referring to the accounting adjustment
8 that was done in the year 2000, or the restating
9 adjustment that Mr. Kermode proposed?

10 Q We are interested in your testimony describing
11 what was happening with the catch-up adjustment. You
12 described that there were some changes made for
13 depreciation, and we would like to know where those
14 changes show up, and how they are going to be treated
15 now and in the future.

16 A When I made reference to the fact that it was a
17 catch-up adjustment, what I was suggesting is that once
18 all of those detailed fixed assets were put into the
19 depreciation computer system, there came up a total
20 asset amount, and a total accumulated depreciation as of
21 that date.

22 The depreciation expense for the year 2000 was
23 adjusted accordingly to bring the allowance for
24 depreciation up to the level it should have been. So
25 that catch-up adjustment was made all in the year 2000,

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1 as far as the financial records were concerned.

2 Q But looking at line 22 and a half, where you
3 talk about examining useful lives, and other information
4 about property being depreciated, how does that show up?
5 Are there changed lives? Is there information? What
6 information is there?

7 A Well, in other words, now there is a complete
8 detailed fixed asset listing on the computer system, and
9 it's in a depreciation program. And each one of those
10 assets has been individually put in.

11 What I am suggesting is the adjustment that
12 occurred resulted from either differences in lives in
13 the way they were being treated before, or once
14 they were put in in a detailed fashion, some of the
15 assets were no longer in existence. So they just didn't
16 get put on the list. And that automatically changed the
17 accumulated depreciation as well.

18 JUDGE SCHAER: Thank you. That's all I have.

19 Any redirect? I would like to see if
20 Ms. Tennyson has any --

21 MS. TENNYSON: (Shakes head.)

22 JUDGE SCHAER: Go ahead, Mr. Finnigan.

23 MR. FINNIGAN: Fairly short, and we will start
24 where Your Honor left off.

25

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1

REDIRECT EXAMINATION

2

3 BY MR. FINNIGAN:

4

Q On the depreciation lives, if there's a change
5 in the asset's life, would it be because the asset had
6 originally been misclassified, and it was then placed
7 into its proper classification?

8

A That would be correct. In other words, the
9 previous lives may have been too long. And by putting
10 the proper life in, it would indicate that the asset
11 should be further along in its depreciation cycle than
12 had been previously anticipated.

13

Q You were not, by the reference to shortening
14 lives, changing the life for a category of investment,
15 were you?

16

A No. There wasn't any specific purpose for
17 making an arbitrary change in asset lives.
18 Realistically it was to clean up an existing system.
19 And over time these assets had been put on the books and
20 kept in different methodologies. And this was just a
21 process of putting it all down on one single
22 depreciation schedule, and scanning it, and reanalyzing
23 all of the asset life categories.

24

It wasn't a matter of saying we're going to
25 change the depreciation lives. We're going to get them

0197

1 properly stated.

2 Q Do you have any sense of proportion as to how
3 much of this adjustment is related to plant that had
4 been used up, versus placing plant into its correct
5 category?

6 A Unfortunately, I don't, because of the prior
7 detailed records and the current detailed records. I
8 mean, I went back to the files. I made a diligent
9 attempt to try and sync them up, and try and determine
10 how much was because of one category versus the other.
11 And unfortunately, there's no way to do it.

12 Q How often is this review of the depreciation
13 account undertaken?

14 A Well, now it's being looked at on an annual
15 basis.

16 Q Moving, I am going to go backwards, instead of
17 forward. We move now to bad debt. You described in
18 response to questions from Ms. Tennyson what you
19 characterized as two ways of making entries for bad debt
20 expense. One you characterized as a textbook way, and
21 then you described another way.

22 Do you remember that testimony?

23 A I do.

24 Q Are both ways acceptable under GAP accounting?

25 A Well, whether you charge the bad accounts

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1 receivable off to the reserve and then adjust the
2 reserve at the end of the year, or whether you charge
3 the bad debts directly to the expense account and adjust
4 the reserve at the end of the year, you are going to end
5 up in exactly the same relative position. So either
6 method is acceptable, and we see clients doing it both
7 ways.

8 Q In answer to -- let me get the exhibit. One of
9 the questions from Ms. Tennyson concerned an answer to a
10 Data Request that you had provided, and you indicated in
11 part of your response that you had run the information
12 on January 31st.

13 Did you also run that information prior to the
14 preparation of your testimony, your rebuttal testimony,
15 which was submitted on January 18?

16 A You are speaking to the bondtrack.com?

17 Q Correct.

18 A I did, but I didn't retain a copy of it. I
19 retained a copy of it after the request was made.

20 Q But I just want to be sure that the record was
21 clear that you had done that both before and after the
22 preparation of your rebuttal testimony?

23 A Yes, sir.

24 Q In answer -- in questions about your Exhibit
25 FA-3, which is the comparison of the S corporation and

0199

1 the C corporation, you responded to Ms. Tennyson that
2 you had done a sensitivity analysis looking at what
3 would happen if the corporation ended after five years
4 and after 25 years. What did you find when you did that
5 sensitivity analysis?

6 A If the corp, if the C corporation ended after
7 five years, that residual amount that is listed on the
8 schedule as \$21,515 would end up being \$39,144, and
9 would raise the total tax expense to \$175,000 in
10 comparison to \$158,400.

11 If it went out to 25 years, that residual
12 amount, instead of being \$21,515 would be \$11,825. And
13 therefore, the C corp, on the 25-year basis, would
14 represent roughly \$146,000 as compared to the \$158,400.

15 Q And at the start of your cross examination, you
16 were asked about Mr. Richardson's other business
17 activities. Do you remember that?

18 A Yes, sir.

19 Q Are you aware whether Mr. Richardson has sold
20 substantially all of his interest in the drilling
21 company?

22 A Yes, sir, I believe he did sell it because I
23 was actually involved in assisting in some valuation
24 work in regard to that company for him to set a price.

25 Q And do you know whether or not he is, today,

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1 substantially involved in the activities of the drilling
2 company?

3 A It wasn't my understanding that when I met with
4 him to review the company for potential sale, that he
5 was substantially involved in it then, other than
6 through ownership. In other words; he wasn't spending
7 substantial time, is how I understood it.

8 MR. FINNIGAN: That completes my redirect.

9 JUDGE SCHAER: I have one more question I am
10 still trying to figure out how to ask.

11

12 EXAMINATION

13

14 BY JUDGE SCHAER:

15 Q Do you know what the total composite
16 depreciation rate was for the test period of the year
17 2000?

18 A I am sorry. I didn't quite understand.

19 Q I am asking about the total depreciation rate
20 the company used in the year 2000, which was the test
21 year.

22 A Okay.

23 Q Do you know what that rate is?

24 A No. There would be a number of rates, because
25 of the whole series of assets that are involved. I

0201

1 mean, the asset lives would vary from -- some would be
2 as short as three years, and some would be as long as 20
3 years.

4 MR. FINNIGAN: I think the witness is missing a
5 key word in the question.

6 Q BY JUDGE SCHAER: The question I am trying to
7 ask is about the total composite. So when you add all
8 of the pieces together, you come up with one overall
9 rate. Is that something you know for the year 2000?

10 A I think I can make an estimate.

11 MR. FINNIGAN: If that's a question --

12 JUDGE SCHAER: Mr. Finnigan, is this a question
13 that the witness should refer to Ms. Ingram that she can
14 be prepared for by tomorrow morning?

15 MR. FINNIGAN: What we would be happy to do is
16 if the Bench requires that, we would respond to a Bench
17 Request and respond to that.

18 JUDGE SCHAER: There's a second part. We would
19 also like to have the Company's depreciation as of the
20 latest known 12-month period.

21 MR. FINNIGAN: So composite rate for the test
22 period --

23 JUDGE SCHAER: For the test year 2000.

24 MR. FINNIGAN: And for the latest 12 months.

25 JUDGE SCHAER: For the latest known 12-month

0202

1 period. Are those numbers that you could produce?

2 MR. FINNIGAN: I will talk to the Company, and
3 we will let you know, one, if we can produce them, and
4 two, when.

5 JUDGE SCHAER: Okay. See if perhaps we could
6 have them by Monday.

7 MS. TENNYSON: That's a holiday.

8 JUDGE SCHAER: Well, I don't want to ruin the
9 holiday weekend. How about by Wednesday.

10 MR. FINNIGAN: We will have to talk and see
11 what we have, and we will let you know in the morning
12 what we have available, and what we can produce by next
13 Wednesday.

14 JUDGE SCHAER: And if not, what you can and
15 when you can.

16 MR. FINNIGAN: Your Honor, I do have one more
17 thing related to this. Once we had a substantial amount
18 of testimony and referred to Mr. Ault's testimony
19 concerning three checks written to the Internal Revenue
20 Service. And if it would assist the record, we're
21 perfectly willing to make them an exhibit.

22 JUDGE SCHAER: I think there's sufficient
23 testimony in the record to identify the amounts, and the
24 checks were -- I am not certain that we have any need
25 beyond that for copies of the documents.

0203

1 MR. FINNIGAN: That's fine. It was just an
2 offer if it would be of assistance.

3 JUDGE SCHAER: Thank you.

4 Is there anything else for this witness,
5 Ms. Tennyson?

6 MS. TENNYSON: I have nothing.

7 JUDGE SCHAER: Mr. Finnigan?

8 MR. FINNIGAN: No, Your Honor.

9 JUDGE SCHAER: Mr. Ault, thank you for your
10 testimony and for helping us in this proceeding.

11 Let's go off the record for a minute.

12 (Discussion off the record.)

13

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15

16 HERTA INGRAM,
17 produced as a witness in behalf of the Respondent,
18 having been first duly sworn, was examined and testified
19 as follows:

20

21 JUDGE SCHAER: Let's be back on the record.

22 While we were off the record we had a discussion of
23 scheduling going forward in this matter.

24 Would you like to call your next witness,

25 Mr. Finnigan?

0204

1 MR. FINNIGAN: Yes. We will call Ms. Ingram,
2 please.

3 JUDGE SCHAER: Thank you. Would you like me to
4 identify this witness' testimony and exhibits,
5 Mr. Finnigan?

6 MR. FINNIGAN: Yes, please.

7 JUDGE SCHAER: I am going to mark for
8 identification as Exhibit T-45 the rebuttal testimony of
9 Herta Ingram. I am going to mark for identification as
10 Exhibit 46 what has been identified as HMI-2, and
11 appears to be a tariff sheet regarding service
12 connection charges.

13 Are those the only exhibits you have prepared
14 for this witness?

15 MR. FINNIGAN: Those are the exhibits.

16 JUDGE SCHAER: Go ahead.

17

18 DIRECT EXAMINATION

19

20 BY MR. FINNIGAN:

21 Q Ms. Ingram, do you have what is before you as
22 Exhibit 45 and 46?

23 A I do.

24 Q Do you have any changes or corrections to make
25 to those exhibits?

0205

1 A No.

2 Q I believe we discussed a possible change to --

3 A A typo.

4 Q Yes, to page 7 of 17, line 3?

5 A Yes. Do you want me to say it?

6 Q Yes, please.

7 A On page 7 of 17, line 3, at about the middle,
8 there's another sentence that begins -- that currently
9 reads, "There is not difference in entity status," and
10 it should read, "There is no difference in entity
11 status."

12 Q Were these exhibits prepared by you, or at your
13 supervision and direction?

14 A Yes.

15 Q With the one change we discussed just now, is
16 the substance and contents of T-45 and 46 true and
17 correct, to the best of your information and belief?

18 A Yes.

19 Q If you were asked the questions today that are
20 contained in Exhibit T-45, would your answers be the
21 same?

22 A Yes.

23 MR. FINNIGAN: I will offer Exhibits T-45 and
24 46, and Ms. Ingram will be available in the morning for
25 cross examination.

0206

1 JUDGE SCHAER: Any objection?

2 MS. TENNYSON: No.

3 JUDGE SCHAER: The documents are admitted.

4 (EXHIBITS ADMITTED)

5 MR. FINNIGAN: Do we have any cross exhibits
6 that need to be marked?

7 JUDGE SCHAER: Ms. Tennyson, do you have
8 anything? You have one document identified.

9 MS. TENNYSON: The response to DR-36, and I
10 have a couple of others. But I am trying to figure out
11 why I have one of them. That's part of my problem.
12 Yes, it might be that it's for Ms. Parker.

13 JUDGE SCHAER: Go ahead and take a moment.

14 MS. TENNYSON: I do have two that I can
15 distribute for Ms. Ingram, in addition to the response
16 to DR-36.

17 JUDGE SCHAER: Did you have an order you wanted
18 these in, Ms. Tennyson?

19 MS. TENNYSON: I believe that is the order.

20 MR. FINNIGAN: Since they were handed to me in
21 two separate orders, one for me --

22 MS. TENNYSON: The Data Request Response first.

23 JUDGE SCHAER: Okay.

24 MS. TENNYSON: And the other one is the
25 response to DR-36. And I don't know where that fits in

0207

1 the order at this point.

2 MR. FINNIGAN: That was marked as Exhibit 44.

3 JUDGE SCHAER: So you handed me two documents.

4 First one indicates that it is a Response to Data

5 Request No. 2. And we will mark that as Exhibit 47 for

6 identification.

7 And the second one appears to be a Commission

8 Open Meeting Memorandum, dated September 28, 1994, lead

9 Staff being Herta Fairbanks, and regarding Rainier View

10 Water Company. I will mark that as Exhibit 48 for

11 identification.

12 Did you have anything else to distribute at

13 this time?

14 MS. TENNYSON: I don't believe so. If I did

15 have any other exhibits, it would be a copy of the

16 company's financial reports for the year 2000. I can

17 give that to you. I believe the questions are for

18 Ms. Parker, and not Ms. Ingram. But just in case,

19 I will provide you with a copy of it.

20 JUDGE SCHAER: Would you like us to mark that

21 now, so if you need to use it with this witness, or

22 should we just leave it and if we need to take it, we

23 will take it then?

24 MS. TENNYSON: Let's wait.

25 JUDGE SCHAER: Okay. Is there anything further

0208

1 that we need to do today?

2 MR. FINNIGAN: I don't think so.

3 MS. TENNYSON: I don't believe so.

4 JUDGE SCHAER: The room is reserved for us, and

5 it will be locked tonight. So if there's anything you

6 want to leave here, you are welcome to do so. And we

7 will start at 9:00 a.m. tomorrow. We're off the record.

8 (The hearing was adjourned at 5:00 p.m.)

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