BEFORE THE WASHINGTON STATE

UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
)
Complainant,)
)
vs.) DOCKET UW-110054
)
RAINIER VIEW WATER) Pages 9-78
COMPANY, INC.)
)
Respondent.)

SETTLEMENT HEARING, (Volume II)

PAGES 9-78

ADMINISTRATIVE LAW JUDGE MARGUERITE FRIEDLANDER

1:32 P.M.

AUGUST 14, 2012

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OLYMPIA, WASHINGTON; AUGUST 14, 2012
1:32 P.M.

P R O C E E D I N G S

JUDGE FRIEDLANDER: Let's go on the record. Good afternoon. The Washington Utilities and Transportation Commission has convened this hearing in Docket UW-110054 to discuss a proposed settlement between Rainier View Water Company and the Commission's Regulatory Staff.

I am Administrative Law Judge Marguerite Friedlander. With me are Chairman Goltz, Commissioner Oshie and Commissioner Jones. Let's begin with abbreviated appearances. If we could begin with Mr. Finnigan.

MR. FINNIGAN: Thank you. Richard Finnigan, appearing on behalf of Rainier View Water Company, Inc.

JUDGE FRIEDLANDER: Thank you.

MR. FASSIO: Michael Fassio, Assistant Attorney General, appearing on behalf of the Commission Staff, and also I'll just note for the record that Mr. Gene Eckhardt is also with me at the table and is available for questions.

JUDGE FRIEDLANDER: Thank you. I don't see anyone else in the hearing room who would be wanting to make an appearance. Is there anyone on the conference bridge? All right, then. At this time, the witness panel has been seated.

I'll note for the record that we have Ms. Amy White and Mr. Jim Ward appearing on behalf of Staff in support of the settlement agreement, and then we have I believe Mr. Douglas Fisher --

MR. FISHER: That's correct.

JUDGE FRIEDLANDER: -- appearing on behalf of Rainier View Water Company as it relates to the settlement agreement. So if you all would stand and raise your right hands.

(Jim Ward, Amy White and Douglas Fisher sworn.)

JUDGE FRIEDLANDER: All right. Please be seated.

Before we get into questioning from the Bench, I think it would be helpful to have the witnesses on behalf of the parties give a brief opening statement as to the public interest of the settlement agreement. I know there's been a lot of bench requests that have been entered already, and I don't expect any of you to repeat that information, but this is certainly an opportunity to give us anything additional you think might be helpful in making a determination, and I have no preference of who goes first.

MR. FISHER: On behalf of Rainier View, of course we're in favor as it gives us the source -- an additional source of water that's difficult to get in these times with water rights and other issues affecting available sources difficult to come by and only getting very, very, very expensive. So it is very important to us to have an additional source of water.

JUDGE FRIEDLANDER: Okay. Thank you. And either of you for Staff?

MR. WARD: Jim Ward for Staff. Essentially Staff analyzed the cost of this project as best we could, recognizing projected costs and applied that cost equally out to the customers that would benefit from that cost.

JUDGE FRIEDLANDER: Thank you. Ms. White, did you have anything to add?

MS. WHITE: Staff's analysis did -- was really extensive, and we compared the infrastructure cost to the cost savings achieved by buying water from the Lakewood Water District as opposed to Tacoma, and in a remarkably short time, the entire cost is recovered and then becomes ongoing savings to the customers, which we felt was greatly in the public interest.

JUDGE FRIEDLANDER: Thank you. And we'll begin with questions from the Bench now.

CHAIRMAN GOLTZ: Okay. I'll go first. I abhor silence.

Thank you for the -- your settlement narrative and that brief restatement. So I understand this, there's -- what's being proposed is a Lakewood Pipeline Surcharge; is that correct? And that's to go on -- that would be applied to all existing customers?

MR. WARD: Yes.

CHAIRMAN GOLTZ: And that surcharge is designed to -- there's a Phase I, which is $2 per month, and then there is a Phase -- I guess it's Phase II, which would be actually for the construction -- pay for the construction, and also to reimburse the company for its interest costs during the construction phase.

MR. WARD: Yes, that is correct.

CHAIRMAN GOLTZ: And the surcharge that you start off with in Phase I is $2 per month per customer; is that correct?

MR. WARD: Yes, that is projected.

CHAIRMAN GOLTZ: And the other -- the remainder is estimated at 5.40 per month, but you don't know what that is yet?

MR. WARD: No, we don't.

CHAIRMAN GOLTZ: And so is that part of the proposal or not because I believe the draft tariff has that as a placeholder, but I'm not sure what that means.

MR. WARD: We wanted to recognize that both surcharges would be applied to customers for the company recoupment of its costs. The $2 per month surcharge would be implemented upon this settlement. The $5.40 or Phase II surcharge would be held as a placeholder, you're correct, for future.

CHAIRMAN GOLTZ: So the tariff, then, should not reflect anything for Phase II?

MR. WARD: At this point, no, it should not. However, it could overlap with Phase I at some point.

CHAIRMAN GOLTZ: Right, but the Phase II surcharge is to be determined later?

MR. WARD: Yes.

CHAIRMAN GOLTZ: And did the Commission Staff review the $5.40 amount as -- to analyze whether that's the appropriate amount based on what you know now?

MR. WARD: Based on what we know now, the 5.40 is the projected amount, yes.

CHAIRMAN GOLTZ: Do you have any idea what the upper limit is or do you know?

MR. WARD: I'll defer to the company on that one.

CHAIRMAN GOLTZ: Mr. Price? Mr. Fisher, I mean. I'm sorry.

MR. FISHER: Based on, you know, current interest rates and so forth and even projected in the next few years, I doubt it will be much different than that.

CHAIRMAN GOLTZ: But that's assuming that your construction costs are what -- are 11.95 million; is that right?

MR. FISHER: Uh-huh, correct.

CHAIRMAN GOLTZ: And do you have a bid on the construction costs?

MR. FISHER: We have a fairly decent estimate from engineers, and we've put some contingency there so we'll --

CHAIRMAN GOLTZ: So there's no bid yet?

MR. FISHER: No bid yet. We'd have to get -- go through the first phase, which is the engineering collection of data and so forth to be able to put the documents together.

CHAIRMAN GOLTZ: And then as I understand it, in addition to the Lakewood Pipeline Surcharge -- that's what you're calling it, correct?

MR. FISHER: Uh-huh.

CHAIRMAN GOLTZ: There's also a Lakewood Pipeline Facilities Charge, which is different; is that correct, Mr. Fisher?

MR. FISHER: Correct.

CHAIRMAN GOLTZ: And then that is intended to be applied -- or to be imposed on new customers?

MR. FISHER: New developments that come in and request water.

CHAIRMAN GOLTZ: On new developments or --

MR. FISHER: On new development, new customer.

CHAIRMAN GOLTZ: Well, I guess that's my question. Let's say a developer develops 100 -- has a 100-lot subdivision.

MR. FISHER: Correct, and then it would be 100 lots that would be subject to this.

CHAIRMAN GOLTZ: So, in other words, there's 100 lots, nobody is -- has purchased a lot yet.

MR. FISHER: Correct.

CHAIRMAN GOLTZ: But there's 100 lots developed with 100 for sale signs in front of them. The facilities charge would be imposed on the developer or the owner of the lots, even though they have not yet been sold.

MR. FISHER: They would be imposed on the developer.

CHAIRMAN GOLTZ: Okay. Sort of a -- basically a regular surcharge.

MR. FISHER: It would be a lump-sum fee, which we call a supplemental developer fee, plus the general facility fee at that point in time.

CHAIRMAN GOLTZ: And is that the $5,556.

MR. FISHER: Correct, plus the 1547 that's proposed. I believe that's the --

CHAIRMAN GOLTZ: What's the 1547?

MR. FISHER: That's the general facilities charge.

CHAIRMAN GOLTZ: Okay. So that's -- you mean that's 1,547?

MR. FISHER: Correct.

CHAIRMAN GOLTZ: 1,549? If we give them $3 in this, we're probably doing fine.

MR. FISHER: Oh, excuse me. It's 1572 and then the -- and I don't remember, the $5, whatever.

CHAIRMAN GOLTZ: I just want to make sure -- so 1572 -- 1,572. We want to get our decimal points right for the court reporter.

MR. FISHER: Correct.

CHAIRMAN GOLTZ: So it would be -- at what point does that Lakewood Pipeline Facilities Charge be imposed? When do you collect money from the developer?

MR. FISHER: Usually on the approval from the Department of Health, we collect it upfront.

CHAIRMAN GOLTZ: Is the developer required to have the water facilities in place, and therefore, the fees paid before the developer can subdivide it?

MR. FISHER: No. The -- it would be an agreement between us and them to supply water. That would get them -- that would get them to the county to get approvals, and then they would get into the construction process.

CHAIRMAN GOLTZ: So they need approvals -- in order for them to get approval from the county, they need to have an assured source of water, and that's you?

MR. FISHER: Correct.

CHAIRMAN GOLTZ: Okay. So -- and this facilities charge would be applied to the first 2,280 customers?

MR. FISHER: Correct, I believe.

CHAIRMAN GOLTZ: And then -- and then as that money comes in in chunks, I gather, that would be credited back to the customers that pay the Lakewood Pipeline Surcharge?

MR. FISHER: That would go against the total fees, and if we don't have to -- if we get enough development, we won't need to borrow as much and pay it off sooner. All fees would go towards the total bill.

CHAIRMAN GOLTZ: And so if you get the full 2,280 customers, then either you would stop collecting the Lakewood Pipeline Surcharge, or if you've already collected more than you need, you would give a refund to the payers of the Lakewood Pipeline Surcharge?

MR. FISHER: Correct.

CHAIRMAN GOLTZ: So how do you -- where do you get the number 2,280 for the new construction?

MR. FISHER: I believe that was based on 223 customers for ten years originally, but I believe this --

CHAIRMAN GOLTZ: Wait. Wait. Hold it. 223 customers for ten years, that sounds like -- is it 2,280 customers or 228?

MR. FISHER: What was it?

MR. WARD: Can I interject here?

CHAIRMAN GOLTZ: Absolutely.

MR. WARD: The number is 2,228 customers over a ten-year period. This came from the company's water system plan they had proposed based on several other items in that plan what their projected growth rate would be.

CHAIRMAN GOLTZ: Okay. So I'm sorry, so it's 2,228?

MR. WARD: Over a ten-year period.

CHAIRMAN GOLTZ: Right, but that means that at the end of ten years, you would have 2,228 customers?

MR. WARD: Yes.

CHAIRMAN GOLTZ: Okay. And they would -- each of them would pay or the developer would pay on their behalf the $5,756 facilities charge?

MR. WARD: Yes.

CHAIRMAN GOLTZ: Okay. And what happens if you -- I mean, how do you know that that many customers are going to show up and build, the developers are going to build there?

MR. FISHER: We don't. It's just the history has said that this is a projection by Pierce County as to what the future population will require, so we've taken that information and applied it to our Comprehensive Water Plan.

CHAIRMAN GOLTZ: Mr. Finnigan, do you have a comment?

MR. FINNIGAN: Yes, if I could. In the Comprehensive Water Plan that's submitted to the Department of Health, Department of Health has certain standards that they require for certain elements. For projected growth, they require the company to go to the county in which the county operates and growth estimates from the county sources and that's what goes into the plan, so it's based on growth estimates from Pierce County.

CHAIRMAN GOLTZ: And the growth estimates from Pierce County -- and there's an Apex study; is that correct?

MR. FISHER: Correct.

CHAIRMAN GOLTZ: Which is Attachment 11.a.-2 to something, right? It's an answer to a bench request?

JUDGE FRIEDLANDER: Uh-huh.

CHAIRMAN GOLTZ: And that says on page 5, "Applying the yearly growth rate derived from the 2010-2020 growth rates for Southwood/Sound, above, RVWC" -- I guess Rainier View Water Company -- "can expect 8.9% growth over the next six years. This equates to approximately 228 ERUs" as residential -- ERU stands for equivalent residential use -- "per year for a total of approximately 1,365 new ERUs over six years."

So that was 2010 to 2020, so we're a little ways into that now. So where is Rainier View as an expansion over the last year? How many new customers do you have in this area?

MR. FISHER: I believe we've had -- actually looked up in the last six months, we've had 22 new -- most of it was commercial customers request service. We've had no new developments in the past six months. I believe we had one or two last year.

CHAIRMAN GOLTZ: So these that you just mentioned, would those count as part of the 2,228 new customers?

MR. FISHER: No, not at this point in time.

CHAIRMAN GOLTZ: So how are these new customers getting -- what's the source of their water if you don't have a Lakewood Pipeline?

MR. FISHER: Well, we have the ability through the Tacoma Intertie Agreement and Wheeling Agreement to continue to fund growth, let's say, but the additional -- and with our conservation program and so forth, we have time to get to the point where we'll need the water, which we figure, you know, six to seven years.

CHAIRMAN GOLTZ: So if you were to look ahead now for the next year, do you think you're going to be getting 228 ERUs growth each year for the next couple of years?

MR. FISHER: I don't believe in the next year or two. That will have to go -- the inventories are going down and the short sales and all the other nonsense that's happening in that area is kind of weeding itself out now.

CHAIRMAN GOLTZ: Okay. So -- but the way this project is envisioned, how long would it take to build the Lakewood Pipeline?

MR. FISHER: Our estimate is it's going to take a year or year and a half to put the engineering and construction documents, you know, plan the route properly and put the construction docs together so it can be bid, and you're probably a two-year construction process.

CHAIRMAN GOLTZ: Okay. So about three years out?

MR. FISHER: Three to four years.

CHAIRMAN GOLTZ: And what's the capacity of the pipeline?

MR. FISHER: The capacity of the pipeline will be 2 million gallons a day.

CHAIRMAN GOLTZ: And how does that translate into ERUs?

MR. FISHER: That's kind of a rolling question now days. It's -- ERUs are based off of peak datamans and some other issues, and --

CHAIRMAN GOLTZ: I guess what I mean is how many -- is it -- when you get to 2,228 new customers, are you full or do you have extra capacity?

MR. FISHER: At that point in time, it will be based on, there again, peak demand and so forth, and then with conservation and the other things, it can be more.

CHAIRMAN GOLTZ: Is it designed to serve more than 2,228 customers?

MR. FISHER: It's 2 million gallons a day, and that is where the struggle is as to how many true customers you would get at that point in time.

CHAIRMAN GOLTZ: Right. Do you know how many customers it's designed to serve?

MR. FISHER: Right now, it would be approximately that 2500 customers.

CHAIRMAN GOLTZ: So if you don't get the customers at the pace you are expecting, then the existing customers in your other service areas would be basically funding this pipeline?

MR. FISHER: Well, the history would tell me that at some point in time, the highest growth area we have is where this pipeline will affect, and that's where most land is that's available for development so...

CHAIRMAN GOLTZ: So who owns the property where this development is anticipated now?

MR. FISHER: Multiple people.

CHAIRMAN GOLTZ: So are the developers kind of pushing you, pushing the county in any way to develop this at this time?

MR. FISHER: Not at this time.

CHAIRMAN GOLTZ: So there's no developers that are coming to you and saying: Please provide the infrastructure to serve us?

MR. FISHER: No.

CHAIRMAN GOLTZ: And so tell me a little bit about the existing Tacoma Intertie. Is that being used now?

MR. FISHER: Yes, it is.

CHAIRMAN GOLTZ: And is that being used to capacity now?

MR. FISHER: No, it's not.

CHAIRMAN GOLTZ: And was the initial purpose of the

Tacoma Intertie to serve the same geographic area as this proposed Lakewood Pipeline would serve?

MR. FISHER: Yes, it is.

CHAIRMAN GOLTZ: And so if you get the Lakewood Pipeline constructed, would you use the Tacoma Intertie at all?

MR. FISHER: Probably for peaking.

CHAIRMAN GOLTZ: And that was all built with ratepayer funds, correct? There's no investor funds in this Tacoma Intertie?

MR. FISHER: No.

CHAIRMAN GOLTZ: And that's now -- the ownership of the intertie is the City of Tacoma?

MR. FISHER: The ownership of the intertie is joint ownership between us and the City of Tacoma.

CHAIRMAN GOLTZ: What do you mean "joint ownership"?

MR. FISHER: Well, we have the connection where Tacoma meets our system. We have joint facilities there for us to take the water and for them to deliver it.

CHAIRMAN GOLTZ: And so explain to me why that Tacoma Intertie doesn't do the job and won't do the job for this extra anticipated growth.

MR. FISHER: Well, the Tacoma Intertie is pretty much used up, and even though we're not using the water for available sources, we've been able through conservation to use it minimally, mainly because it costs us more to use that water than what we can sell it for, so it's always been, if it's an emergency, we use it.

CHAIRMAN GOLTZ: So if you -- I've been reading in the paper, it strikes me that the -- it strikes me that this is true, and if it's not true, I would like to hear it -- that if you received water from the City of Tacoma at a reasonable price, you wouldn't be doing this project; is that true?

MR. FISHER: No, we would still be doing this project. I need additional water. The water is -- you know, basically we're unable to get additional sources. We've had a USDA study that said that the basin that we're in is used up in source, so I cannot drill anymore wells. I can't find additional sources, other than these types, the Lakewood water, and we've looked at every water right in the whole county that's near us, and there's none available.

CHAIRMAN GOLTZ: So the -- but this Tacoma Intertie was designed in part to serve the customers that you were proposing to serve with the Lakewood Pipeline though?

MR. FISHER: No.

CHAIRMAN GOLTZ: It wasn't?

MR. FISHER: It was to serve the ones that we've already currently received, which we've had about 2500 connections off the approval of the City of Tacoma.

CHAIRMAN GOLTZ: So what's the current capacity of the Tacoma Intertie then? I mean, I'm sorry, what's the -- yes, what's the capacity and how much of it is being used?

MR. FISHER: We have the ability to take 1.5 million gallons a day.

CHAIRMAN GOLTZ: I'm sorry one-point what?

MR. FISHER: 1.5 million gallons a day.

CHAIRMAN GOLTZ: Okay.

MR. FISHER: With a peaking I believe at 3,000 gallons a minute at a certain period of time for a certain duration, and we've used it in the past few months. Summertime peaking is difficult, so we've been using the water.

CHAIRMAN GOLTZ: In response to Bench Request 15, you stated that the project benefits customers at the expense of the City of Tacoma. What do you mean by that?

MR. FISHER: Well, it allows me to use Lakewood waters first, and Tacoma's second.

CHAIRMAN GOLTZ: Right. But it's at the expense of the City of Tacoma, so are you basically saying that it's against Tacoma's -- the City of Tacoma's economic interests for you to build this pipeline?

MR. FISHER: It would be -- yes.

CHAIRMAN GOLTZ: And that's because they won't -- you won't buy the water from them?

MR. FISHER: It will be because, yes, if we can, we would buy less water from them.

CHAIRMAN GOLTZ: And would it be fair to say that if the -- is there some point at which if the City of Tacoma reduced its water charges to you, that it would be -- is there a win-win here at some point, where it's still in their economic interests, but it's not -- and it would be in your economic interest as well?

MR. FISHER: Well, if they were to reduce their rates. I don't believe they could ever get to the rate that Lakewood is willing to sell their water for.

CHAIRMAN GOLTZ: So is it the water rate or the wheeling rate?

MR. FISHER: It's the water rate. And basically -- and this -- and with their wheeling agreement, I have to use 100 percent of Tacoma water before I can use any of the Lakewood water, and --

CHAIRMAN GOLTZ: Under your agreement with them?

MR. FISHER: Under our wheeling agreement with Tacoma.

CHAIRMAN GOLTZ: And have you tried to change that wheeling agreement?

MR. FISHER: No. That was the negotiation. They would not budge unless they were willing to do that.

CHAIRMAN GOLTZ: So if they changed the wheeling agreement, if they were to change that to make that more reasonable, in your view, would that change the necessity of the Lakewood Pipeline project?

MR. FISHER: No. No. It's the -- the other side of it is, of course, if I put all my eggs in one basket, meaning all water comes through the Tacoma Intertie, now if anything happens at all with the Tacoma water and they can't serve me, I lose both Lakewood and Tacoma. So --

CHAIRMAN GOLTZ: So here's -- I have a concern that we're building -- you want to build a pipeline, the Lakewood Pipeline, and there's not -- you don't have any developers asking you -- putting pressure on you to do it now, that it's going to be paid for by the existing ratepayers in order to serve new customers, and the new customers are -- estimate is based on an evaluation by the county that so far at least hasn't been accurate. There isn't as much development now because of the economic situation.

MR. FISHER: Uh-huh.

CHAIRMAN GOLTZ: So I'm concerned that at some point, if we were to approve this, you build the pipeline, you got your bank financing because you've got a secure revenue source from the existing customers, and we build a pipeline and then it's empty. It's not like if you build it, they will come. It's they may or may not come.

MR. FISHER: Yes. And originally, we wanted development to pay for development. Our original proposal was to let new development pay for this, and, you know, put the funds in a secure account and do it as we had the funds available from those new developments asking for increases.

And based on -- in our negotiations with Staff, based on current construction costs and climate that, you know, in the future, you know, ten years, say, it took us to collect these funds to get this project done, it's going to be an unknown requirement, plus they were a little worried about having that much money sitting in one account waiting for something to happen.

CHAIRMAN GOLTZ: So in your view, was that a better -- a better financing mechanism or a better proposal than the one that's being proposed in the settlement?

MR. FISHER: Well, I agree that to get it done in a sooner fashion, a quicker construction schedule, it's going to save multiple millions of dollars probably. Construction rates right now are really favorable.

CHAIRMAN GOLTZ: Other than that, though, I mean, you know -- I mean, how would you -- it's hard to say -- to justify an unused pipeline with the argument that it was cheaper to build now than later?

MR. FISHER: Well, Tacoma charged us $10 million upfront without nothing. I got absolutely nothing for it, other than the right to take 1.5 gallons. I also had to spend a million dollars to get their pipeline to me, plus the construction costs for the intertie and some other things. So in reality, it's not unfair, let's say, and it's more water.

CHAIRMAN GOLTZ: If it's used.

MR. FISHER: Correct. And it's -- at the rates that this water is available to us, it gives us a big advantage in, you know, in being able to rest some wells that struggle in late summertime, you know, some other advantages that we've -- we felt was very, very important to all our customers.

CHAIRMAN GOLTZ: So in the financing idea, which is Lakewood Pipeline Surcharge, which is imposed on all -- am I correct -- on all your existing customers?

MR. FISHER: Correct.

CHAIRMAN GOLTZ: Okay. That they will -- will those existing customers -- assuming that all 2,228 new customers buy new homes there and are hooked up to your system and pay the Lakewood Pipeline Facilities Charge, would the existing customers be in effect made whole for their contributions upfront to get that going?

MR. FISHER: If I understand the question, are they going to receive something back?

CHAIRMAN GOLTZ: Yes.

MR. FISHER: They're going to receive a -- less period of time in collecting sur charges because the -- those funds would go directly against the, let's say, $11 million, and the sooner I get there and it's paid for, everything stops, the Lakewood --

CHAIRMAN GOLTZ: Right. But I guess also, the existing customers will be paying the surcharge, and if it --

if the county study is correct, by the time you get this pipeline built, you will have a number of new customers, but it may be that you don't get the new customers until -- all of them until 10 or 15 years from now; is that correct?

MR. FISHER: Correct. But it could be fully paid off way before that.

CHAIRMAN GOLTZ: I understand that. And if it is fully paid off before that, are you still getting new customers to get you up to the 2,228, they're still paying the $5,756 facilities charge?

MR. FISHER: I believe that stops when this is all paid off. Isn't that correct?

MR. WARD: That is correct. Can I interject here and summarize? Essentially what we did when we looked at the project cost, we funded it twice, once by surcharge, once by facility charge. The surcharge funding was to provide a source of money that a bank could use as a secure source to repay a loan. That was the surcharge. The initial attempt by the company -- and it's still supported by Staff -- is that the growth pays for this project through the pipeline facility charge.

CHAIRMAN GOLTZ: Right.

MR. WARD: Once that project is paid for by either the surcharge or the facility charge, any excess money goes back to the surcharge customers. If the plan works the way we've projected it to work, the current customers would be made whole again.

CHAIRMAN GOLTZ: So in other words, the answer to my question of whether if the customers are equally brought in the system over a 20-year period and the pipeline is built in the next five years, and I gather that the -- and paid for by the facilities surcharge, that the -- as extra money comes in from the Lakewood Pipeline Facilities Charge, that will be credited back to the existing customers?

MR. WARD: Yes. And once the full amount has been collected of 2,228 customers worth of facility charges, that facility charge would stop.

CHAIRMAN GOLTZ: Right. And that was estimated to be 2,228, but it might be, if the construction costs go up, that might be more customers, I gather?

MR. WARD: Yes.

CHAIRMAN GOLTZ: So, Mr. Ward or Ms. White, it sounds like the original proposal was to basically have the new customers pay for it, and as new customers come online, there would -- they would pay a facilities charge that would be banked, and then at some point, they get enough money to build it; is that the way it works?

MR. WARD: Yes.

CHAIRMAN GOLTZ: What was the problem with that?

MR. WARD: One, you could end up with this taking forever based on growth; two, we didn't want large sums of money being taken from new customers and held by the company. There's risk involved with large sums of money.

CHAIRMAN GOLTZ: I don't understand that.

MR. WARD: Well, the money could somehow go away. It could be used for other facilities, or if it was put in a bank, a bank could fail. We were looking to ensure that the money received from customers was used to the customer benefit of some form of construction or capital improvement.

CHAIRMAN GOLTZ: Right. But the flip side of that, is that the existing customers who have already paid for their own growth, I assume, would be paying for some future growth of customers that might not come around for a while.

MR. WARD: True. We looked at that alternative, and the current customers, if they do, in fact, pay and don't get reimbursed, they will benefit at some point when the construction is completed and we can purchase water from a cheaper source, Lakewood Water District, as opposed to Tacoma.

CHAIRMAN GOLTZ: So why is water so much cheaper from Lakewood than Tacoma?

MR. FISHER: Their facilities were -- their actual purchase of Abitibi Water Right is --

CHAIRMAN GOLTZ: I'm sorry, what?

MR. FISHER: It's called the Abitibi Water Right.

CHAIRMAN GOLTZ: You might want to spell that for the court reporter.

MR. FISHER: I don't know. I've heard the word a hundred times. It's the old -- it's an old -- I believe a water -- or a wood plan of some sort, but they got -- they had 7 million gallons. They kept a million for themselves, and they were selling 6 million of them to -- and it's pretty much all taken up already. I believe we took the last 2 million.

CHAIRMAN GOLTZ: So it's just basically cheaper water because their costs are lower?

MR. FISHER: Correct.

CHAIRMAN GOLTZ: But at some point, looking ahead over this area, someone is going to need that Tacoma water, aren't they, if they have water available?

MR. FISHER: Well, Tacoma's Intertie Agreements with all their wholesale water customers are not much different than us. We're all the same. The water that we sell is about a third of the price that we have to pay from Tacoma so --

CHAIRMAN GOLTZ: I'm sorry, water you sell is a third of the price. You pay higher wholesale than you charge retail?

MR. FISHER: They do.

CHAIRMAN GOLTZ: I'm sorry.

MR. FISHER: Tacoma's wholesale water is more than their basic retail costs that they sell to their own customers.

CHAIRMAN GOLTZ: Okay. So they charge more to you per cubic foot than they sell to their retail customers -- they charge to their retail customers?

MR. FISHER: Correct, correct.

CHAIRMAN GOLTZ: And that's because their purpose is to serve their -- the city residents first?

MR. FISHER: Correct.

CHAIRMAN GOLTZ: I'll let someone else go on for a while.

COMMISSIONER OSHIE: Thank you, Mr. Chairman. This is Commissioner Oshie.

So a couple things. Let's go back. I want to ask Mr. Ward, this statement that Staff was -- the reason that they felt comfortable I guess with the settlement is that you were afraid that there could be large sums of money that would be perhaps in jeopardy if this pipeline were not built. Did I understand you correctly?

MR. WARD: Yes.

COMMISSIONER OSHIE: And so your answer to that was to then just begin to collect the money from the existing customers because they were a secure source of money, so to speak, and what if the pipeline doesn't get built in that circumstance? Let's say that there's -- you know, the growth is really negligible for a long period of time, and the company decides, you know, we're just not going to build it right now. What happens to the money and to the surcharge at that point? Doesn't it just accumulate into a fund?

MR. WARD: It would, yes. And the fund is monitored by quarterly reporting.

COMMISSIONER OSHIE: Wouldn't that be monitored -- wouldn't some kind of development fee, surcharge be, you know, monitored?

MR. WARD: Yes, they both would be.

COMMISSIONER OSHIE: Then I don't really grasp the distinction then between either a developer charge and the surcharge to existing customers with regard to its safety.

MR. WARD: The original proposal was to accumulate all the funds prior to construction. Our proposal that you have now is funds are accumulated and used for construction.

COMMISSIONER OSHIE: Well, wouldn't it be safer for customers just to go with the company's original proposal? I mean, obviously they're not going to collect it -- I mean, their growth rates have been abysmally low over the last few years and not really projected to increase. In that circumstance, isn't the pipeline then built according to the needs of the customers that are going to use the service instead of building it and hoping that they'll show up?

MR. WARD: That's one way to look at it in hoping that the futures will show up, but also recognizing that Lakewood has a lower price for the actual water as opposed to Tacoma. So even if no future customers do come, they can still have an alternative source to purchase water from.

COMMISSIONER OSHIE: Well, you did hear -- and I think I heard it right -- Mr. Fisher say they have to take 100 percent of the Tacoma water that's available to them, 1.5 million gallons, before taking Lakewood water. Did I misunderstand you, Mr. Fisher?

MR. FINNIGAN: Your Honor, only under the current wheeling agreement, not if a new pipeline is built.

COMMISSIONER OSHIE: I see. So what happens to the current wheeling agreement if the new pipeline is built?

MR. FISHER: It won't be needed.

COMMISSIONER OSHIE: Well, okay. So then you're going to abandon it, except for, you know, maybe using it for some peaking purpose or to recharge wells, if you think that that's necessary.

MR. FISHER: The wheeling agreement is a separate agreement from our City of Tacoma agreement that allows us to take 1.5 million gallons. The pipeline that Lakewood brought intersects with the City of Tacoma. There's a connection there that has to be made, and then the wheeling agreement would take effect, and they would be able to deliver us the water from Lakewood to us if we used more than 100 percent of their water first. That would not be -- the connection between Lakewood and Tacoma would not be needed if this pipeline was built.

COMMISSIONER OSHIE: So what happens to both -- you have a wheeling contract and a resource contract with Tacoma, correct?

MR. FISHER: Correct.

COMMISSIONER OSHIE: Okay. Help me understand again, you build a pipeline that interconnects with Lakewood, so what happens to your existing agreements with Tacoma? Do they stay in place?

MR. FISHER: Yes, they do.

COMMISSIONER OSHIE: But the terms and conditions are going to be modified?

MR. FISHER: Not that we've seen yet, no.

COMMISSIONER OSHIE: Now -- so let's go back to it. You say you have to take 100 percent Tacoma water before Lakewood. That's under your current agreement, correct?

MR. FISHER: Only if the wheeling agreement goes into play.

COMMISSIONER OSHIE: Okay. But the wheeling agreement terms and conditions state in effect --

MR. FINNIGAN: Let me interject here.

COMMISSIONER OSHIE: Yeah. Maybe you can explain, Mr. Finnigan.

MR. FINNIGAN: Thank you. The wheeling agreement is a separate agreement under which City of Tacoma said it will send Lakewood water to Rainier View, separate and apart from the resource agreement between Rainier View and the City of Tacoma.

COMMISSIONER OSHIE: Okay.

MR. FINNIGAN: So it will -- that agreement, the wheeling agreement, would not exist with its condition of having to use 1.5 million gallons of Tacoma water once the Lakewood agreement is in place. I mean, it will still exist on paper, but it's not something that would be used.

COMMISSIONER OSHIE: Okay. So basically what you're saying is that Rainier View has an option that they can either take Lakewood water or Tacoma water, but if they take Lakewood water, then they have to pay Tacoma to wheel it.

MR. FINNIGAN: Correct.

COMMISSIONER OSHIE: Okay. And that exists right now?

MR. FINNIGAN: Correct.

COMMISSIONER OSHIE: And so your pipeline would avoid that, okay. It's clearer to me. Now let's go back to Staff.

So what happens -- are you prepared to make in some future rate case that the Lakewood Pipeline is not used and useful, and therefore, shouldn't be allowed in the rates because nobody is using it? It might have 10 percent capacity, even if they have to recharge wells or kind of rebalance their water system?

No, no, Lakewood. This is the Lakewood Pipeline. I mean, you know, I think one of the critical issues here is when it's going to come into play. They can build it, but if nobody uses it, are you prepared to make a used and useful argument to say, this was a risk that the developer took. Now, I don't know how exactly that works since there's no equity in the darn thing, and that's the problem as well. I mean, how do you get your arms around that? I mean, to allow them, you know -- a builder with no equity. There's no developer stake in this whatsoever, and it's all burdened on the customers, but, you know, you're willing to take the risk as Staff that there's going to be some risk for this pipeline in the future, even given the studies that it's really not going to be needed for a number of years, so how do you respond to that? I mean, just rolling the dice, just like the company?

MR. WARD: With either option, the original option where it was fully funded by a facility charge or this option under the settlement agreement, all sources of money from customers are considered contributions in aid of construction. None of this would be allowed in rate base in any future proceeding because it's already now defined as a contribution. Used and useful will not play into that at a later rate case.

COMMISSIONER OSHIE: That gets back to the question, how then do you -- how is there any real enforcement here of, you know -- or how -- how is the risk being segregated between customer and company in this situation? It appears to me that Staff is saying 100 percent of the risk is borne by the customers, but that's okay because -- because the company can't whatever. I mean, they can't finance it any other way. Is that --

MR. WARD: I'm not sure what term of risk you're using. Risk that it would be used or risk that it would be completed?

COMMISSIONER OSHIE: Both.

MR. WARD: Under the terms --

COMMISSIONER OSHIE: I mean, you have risk of completion, and then you have risk of use. I mean, under traditional ratemaking, you know, the -- as you know, Mr. Ward, you know, the company is really at risk until the -- until the facility is used and useful. They're also at risk if, in its use, it is not used and useful over a period of time. And so it really encourages I think investors to think through, do we really want to make this investment or not? Do we have the growth necessary so that we can make our investment, have it be somewhere safe, provide the service that's required and make money over a period of time. But here, none of that exists.

MR. WARD: True. What we have here is a source of funding from the customers, considered to be contribution in aid of construction with no business risk or financial risk on the company's part.

COMMISSIONER OSHIE: Okay. And what would happen to the investment made in the Lakewood facility if Rainier View decided to sell to the City of Lakewood? Would the equity that the company -- that the customers have paid for then just become a source of cash for Rainier View in the sale?

MR. WARD: In the settlement agreement, part of that was discussed on what would be -- or what would happen, how it would be treated. It would be treated as part of the company money. If the company was still regulated to some portion, we might have some say over it at that point. If it went to an unregulated source, such as Lakewood Water District, I can't say what would happen to the funds.

MR. FINNIGAN: I'm sorry, but the settlement agreement actually does cover it, and it does say that part of what the company, Rainier View, is agreeing to in the settlement agreement is that as a condition of the sale to any buyer, whether regulated or unregulated, it will require that if there are any unused funds, that they go back to the customers. But if, under your hypothetical, if it was purchased by the City of Lakewood, that pipeline would still be needed to serve those same customers, so it would be used for the benefit of those customers. I mean, that's why it's being constructed.

And one other thing that -- I think there's a slight misconception. There's a question of whether the pipeline would be used -- there was two parts to that. One is the capacity, do you need it to be able to issue water availability letters to show that you have the paper ability to serve, and that may not happen, depending on growth. But the pipeline itself is going to be used. I mean, water will be delivered through that pipeline for any number of purposes. The -- for actual service to customers.

Rainier View has some wells that are shallow wells and are in danger of contamination issues, so it provides backup in a reservoir for essentially water for customers if Rainier has to take its plant offline permanently in some instances. It also allows the company, as Mr. Fisher said, to rest wells, extend their lives, extend the lives of the equipment that's in place and helps lower the cost to customers that way -- existing customers that way. So it's not that it would set empty under any scenario. It would be used.

COMMISSIONER JONES: Mr. Finnigan -- excuse me, Mr. Oshie, what part of the settlement agreement deals with the sale? Could you refer us to the section?

MR. FASSIO: Commissioner Jones, I can do that. That is in paragraphs 39 and paragraphs 55.

COMMISSIONER JONES: 39.

MR. FASSIO: Yeah. Which is --

COMMISSIONER JONES: All right. So it starts under sub C, "After the sale or transfer of the company."

MR. FASSIO: Surcharge. The Lakewood Pipeline Surcharge is addressed in paragraph 39, and the Pipeline Facilities Charge is addressed in paragraph 55.

CHAIRMAN GOLTZ: But those items refer to the funds. They don't talk about if the pipelines were $15 million. Six years from now, it's all built, and there's $15 million in --

of customer funds that go into building that and Rainier sells it, does -- and the fair market value is $15 million, does Rainier View receive from the City of Lakewood $15 million?

MR. FINNIGAN: Are you talking about selling the pipeline on a stand-alone basis?

CHAIRMAN GOLTZ: No, selling -- either one, the pipeline or the system.

MR. FINNIGAN: If you sell the system, the pipeline is there to serve the same set of customers.

CHAIRMAN GOLTZ: That's not my question. The question is, if you sell the system, would included in the value of the sale be the $15 million of the pipeline? I said yes.

MR. FINNIGAN: Yeah. I mean, it's an asset.

CHAIRMAN GOLTZ: And then all those customers are being served -- would be served by Lakewood, and Lakewood would have to recover the costs of the purchase from their customers, which have already paid for the pipeline -- some of whom have already paid for the pipeline.

MR. FINNIGAN: Oh, I see what you're saying.

CHAIRMAN GOLTZ: How do you avoid that?

MR. FINNIGAN: It has zero value for ratemaking purposes, so if it was sold to an investor-owned, it would have zero transfer -- zero value for transfer purposes. Because the Commission says that with a new -- almost 100 percent of the time with a new owner coming in, it cannot change the value of the rate base for --

CHAIRMAN GOLTZ: If you sell it to a regulated company, that's true. If you sell it to a nonregulated company, like the City of Lakewood, then I don't think that's true.

MR. FINNIGAN: I agree. And the way -- this is what I'm struggling with -- is that they don't use -- they don't necessarily buy on asset value. If I'm a -- if -- the PUDs that I've dealt with in water and sales transactions, they look at times earnings, you know, revenues, and that's how they calculate what they're willing to pay. They don't look at it in the same terms that we look at it here in terms of what's the plant value, and they don't make offers based on plant value. But it would be an asset that's transferred, and whatever the purchase price, however it was derived, presumably they would have taken into account whether or not they can recover that amount through the sales of water.

CHAIRMAN GOLTZ: Right. But if it did have a value of more than zero, and the ratepayers have already paid for that already, that the company got a value of more than zero, then the new owner -- hypothesizing Lakewood -- would recover that value from their ratepayers in some way. They'd have to.

MR. FINNIGAN: Right. I mean, it flows that way. I'm just saying that it doesn't -- it doesn't -- it's sort of an apples and oranges way to look at it, like I said. They would be buying an asset, and what they would be looking at when I've dealt with the public entities, is they're looking at revenue stream. And so they're looking at what value is that revenue stream. They want the assets to be in a particular condition. They don't want it to be rundown and a piece of junk, but they're looking at revenue. So, yes, it -- in essence, some portion of that could be said to be revenue that they're paying for the asset, but I don't know how you would identify that amount in any way because it's just done so differently than when you sell it to an investor-owned entity where there, they're looking at rate base and calculating the sales price based on rate base. It's just complete apples and oranges type of review. But the underlying premises, yes, it would be an asset that's transferred and would still serve them.

COMMISSIONER OSHIE: I have a couple follow-up questions with Staff. So with the -- I just don't recall the exact circumstances of the construction of the Tacoma Intertie. So was that paid for by customers as well?

MR. WARD: That was paid through what was called a supplemental developer's fee, which is a form of a facility charge previously.

COMMISSIONER OSHIE: Yeah. So I mean, I guess what -- maybe Staff can comment on this. I mean, are we really -- I mean, is this really a company that is -- I know it's labeled that, but is it really running itself like an investor-owned utility? Isn't it really running itself as a co-op, where the customers all pay for new development, and then the only difference is, is that they don't -- the customers don't hire the owner and the operators. Isn't that a bit of a charade here the way that we're treating not just this company but others who do not really fit the mold of an investor-owned utility in my mind?

MR. WARD: In terms of what you're saying, yes, but I also would like to refer back to regulatory principle, is the customer would pay for rate base over time. So if a company did put in 100 percent of all its assets Day 1, 50 years later, they would have recovered all that cost, the company would own that asset, the customer would have paid for that.

COMMISSIONER OSHIE: I fully understand that, Mr. Ward, but that's -- but here, it's really being operated as a co-op. I mean --

MR. WARD: It is being paid for by the customer upfront instead of over time.

COMMISSIONER OSHIE: Yeah. I mean, it's not just a portion of it that's being paid for by the customer. I mean, it's all of it upfront. In other words, it's not 30 percent equity and 70 percent debt, or 20 percent equity and 80 percent debt. It is entirely paid for by the customer.

MR. WARD: This pipeline is 100 percent CIAC funded.

COMMISSIONER OSHIE: Okay. So Tacoma. Let's go back to Tacoma. So what happens to the ratepayers' deal, if you will, in that circumstance? They pay money for the Tacoma Intertie. The company is saying, well, it's really not economically feasible to use it much. We'll use it as necessary to meet the peak load or we'll use it minimally. So where is the customers' investment there, and is that -- did Staff do an economic analysis to determine whether the Staff's investment in that -- in the Tacoma Intertie is cost-effective, given the forecasted use of it given the Lakewood Intertie?

MR. WARD: I don't believe we did this type of an analysis on the Tacoma Intertie.

COMMISSIONER OSHIE: So what do customers do in that situation, even if you had, Mr. Ward or Ms. White, what do customers do there; in other words, what's their recourse? They paid for a facility, and now it's not going to be used because the company argues that it found something better.

MR. WARD: As Mr. Finnigan pointed out, what was purchased in the Tacoma Intertie was actually two things: Thing one was a source capacity or resource; and then the second thing was the actual water they're purchasing now for their peaking demand. The source capacity would still be there, would still be used by the water company. The actual water usage is not being used because of conservation and reduction in other uses.

COMMISSIONER OSHIE: Well, are you saying that it is still used and useful if Lakewood wouldn't be built?

MR. WARD: It is, in the sense of a resource capacity, yes, that is Staff's understanding.

COMMISSIONER OSHIE: So let's go back to -- if I can, Mr. Finnigan. You can -- okay. So let's go back then to Staff's basic premise here, it's cheaper for basic ratepayers. Now, let's -- did you do some kind of -- not necessarily regression analysis, that's not the correct use of the term. But basically did you look at the forecasted growths and, you know, the small number of customers coming on over a period of time when you made your cost benefit analysis, or did you just assume that, you know, 2200 -- whatever it is.

CHAIRMAN GOLTZ: 2228.

COMMISSIONER OSHIE: 2228 customers were going to be on board, and you look at all those customers, and then it's cheaper to go with Lakewood. I'm trying to figure out -- I mean, this is a sum cost, and the sum cost has value. And so how long is it going to take to recoup that value, given these, you know, I would think very low growth rates compared to what the company forecast might be available to it over a longer period of time.

MR. WARD: That was one you did.

COMMISSIONER OSHIE: I mean, I guess maybe all I'm saying -- maybe you have some questions -- did you look at that scenario or not?

MR. WARD: We looked at two scenarios essentially, but we based both scenarios on 228 customers per year growth rate.

COMMISSIONER OSHIE: Okay. Thank you. Mr. Finnigan, did you --

MR. FINNIGAN: Yes, Your Honor. It was on the City of Tacoma, since I'm probably a little more familiar with its history, is that at the time, Rainier View was out of capacity, so the value of the agreement was in getting the capacity so additional developments could come on and be -- and be there, so the value to the customers were that the houses were built and people were allowed to serve. Rainier View went into that contract knowing full well that it would not need City of Tacoma water for many years, and it would be a ramping up on it. So what was really being purchased at the time of value was the capacity, and then -- and a part of getting that capacity is you have to pay to have facilities put in so DOH will approve it, and then you can enter into contracts with developers, and they can market their lots and people can move in and have homes and water.

So that's essentially what was going on with the City of Tacoma.

COMMISSIONER JONES: So I'm going to jump around here a little bit, but I'll start with this Tacoma Intertie purchase. So you said you spent $9 million for the right to purchase capacity?

MR. FISHER: Just under 10 million.

COMMISSIONER JONES: Okay. Then on the balance sheet that is submitted as part of this record, classified as your annual report that you submitted, you have 14,011,453, roughly $14 million sitting on the balance sheet as an "other asset." So I'm just having a problem meshing the numbers here. What's the buildup of this 14 million?

MR. FISHER: 14 million was the purchase of the actual right to have 1.5 million gallons a day from City of Tacoma. Nothing other than it's a right, and the rest of it is the cost of the intertie, the actual extending City of Tacoma lines to meet where our lines were. Construction of a pumping plant --

COMMISSIONER JONES: Which is a -- excuse me -- that's a capital expenditure?

MR. FISHER: Correct.

COMMISSIONER JONES: Okay.

MR. FISHER: Yeah. So there's a net CIAC of the same dollar amount on that same balance sheet you're looking at on the CIAC.

COMMISSIONER JONES: And in general, who paid for this? Was this paid for through -- this has nothing to do with the proposed LPS or the LPFC, correct?

MR. FISHER: Correct.

COMMISSIONER JONES: So how was this paid for? Out of general rates?

MR. FISHER: Out of that supplemental development fee of approximately 52 --

COMMISSIONER JONES: Is that also called a contingency fee or is it supplemental? We went back and looked at the 2002 open meeting memo.

MR. FINNIGAN: It's the supplemental developer charge, I believe is how it's labeled.

COMMISSIONER JONES: Okay.

Mr. Fisher, you've referred to the benefits of this pipeline, Lakewood Pipeline, being an alternative transmission route, which deals I think with both -- that's a siting issue, and then you talked about the redundancy of the water capacity. So the question I have is, how do you quantify that? I know some of it is subjective, but it gets to the question of how much should customers pay for, quote, redundancy?

MR. FISHER: Well, it's no different than a well field. It's -- you know, it's the ability to have, you know, one well in multiple places than to have five wells in one spot. It's the same thing. It gives us the ability to separate and, you know, have the ability to serve in multiple points, let's say, and not have all your eggs in one basket, especially in the water business. So it gives us the ability to -- like I say, you know, I'm still contingent on City of Tacoma not having an event, a backing problem or something like that where they would have to shut the intertie down, and of course, if it was on the Tacoma side and we're wheeling the Lakewood waters through their system, of course it would affect both -- all the water, by separating it, and now I've -- I can take one or the other and not have an issue.

COMMISSIONER JONES: Okay. But it's difficult to quantify.

MR. FISHER: It's difficult, but it's the -- the price of water today is fairly inexpensive than what it's going to be, even ten years from now, so with the finding of new water sources is -- you know, we've been trying for 20 years. Our choices have been City of Tacoma and now Lakewood.

COMMISSIONER JONES: Right. The idea to go to CoBank and get a -- have a surcharge paid for, and then go to CoBank and get a loan for approximately, what, $15 million, did that come from Staff or you?

MR. FISHER: Well, it was a suggestion as to how to bring it up immediately, and of course CoBank has been a very good customer -- or we've been a good customer of CoBank.

COMMISSIONER JONES: So you've worked with them before?

MR. FISHER: Many times.

COMMISSIONER JONES: Okay. Many times. And in terms of your equity, I think you responded to Bench Request No. 15 -- yeah, no, excuse me, Bench Request No. 12. As I understand it, Mr. Fisher, you're unwilling to put in any contributed capital costs -- what I would call equity -- into this deal, correct?

MR. FISHER: It would be very difficult in these types of dollars.

COMMISSIONER JONES: So why is that? It's just too much, or the owners, including yourself -- you own about 14 percent of the system, correct?

MR. FISHER: Correct. And water rates are minimal because of the exact reason -- and even in our situation, yes, most of the capital comes from whoever demands the product, and we have to, you know -- we're still in a competitive world, and, you know, when you're getting $15 a month with water rates, it's pretty tough to put those kind of dollars together.

COMMISSIONER JONES: Right. So it's an expensive project, and the owners just don't have the equity to inject in the deal.

For Staff here, why were you an advocate of -- I think you responded to Commissioner -- or Chairman Goltz question on -- I think, Mr. Ward, you said the buildup of this large reserve on the balance sheet could be used for other purposes and if construction didn't start right away. Were those the primary reasons that you kind of urged the company to go to CoBank and finance it through the LPC, the surcharge?

MR. WARD: That was part of it. Also construction cost. Now is a better time to construct as opposed to later.

Now, interest rates are lower as opposed to later. So it was more a known type of information due to the time factor. So large sums of money was one. The other was what it would cost in the future.

COMMISSIONER JONES: So, Mr. Ward, you're not in the construction business, are you?

MR. WARD: No, I'm not.

COMMISSIONER JONES: And didn't Mr. Fisher say that the engineering and permitting, some has been done, but there hasn't been a bid issued yet, right?

MR. WARD: Right.

COMMISSIONER JONES: So there's no facts on the record to support your contention that things are -- I think in a general sense, I agree with you. You know, of course interest rates are cheap. Look at the rates of the Federal Reserve Bank, and of course we're still in a recession, but there's nothing in this record that would support an assertion that construction costs are going to be cheaper because no bid's been let.

MR. WARD: No. There's nothing in the record.

COMMISSIONER JONES: Okay. But I think I would agree with your assessment that equity is more expensive than debt, and debt is cheap now.

MR. WARD: Yes.

COMMISSIONER JONES: Okay. But I guess the issue that

I'm kind of grappling with, and perhaps my colleagues as well, is this surcharge mechanism to pay for it is kind of complicated. You have two, you have the LPC and the LPFC, you have two surcharges, and is this the best way to do it. But I guess what you're saying is for the two or three reasons you stated, you went back to the company and said why don't you try to go to CoBank. Here's a surcharge mechanism, and this is a better way to do it. Is that generally correct?

MR. WARD: Yes, generally correct.

COMMISSIONER JONES: Okay. Just a couple more. This is for Mr. Ward. Is there ever a time from an economic regulatory policy perspective that current customers should pay for some impact of growth? We do that in electric and gas cases I think all the time or frequently.

MR. WARD: I think if we can push that on to economies of scale, that more customers can share the base cost of the company. It is better then, those customers pay also.

COMMISSIONER JONES: And is there a risk to the company and thus the ratepayers of having a capital structure that uses CIAC and such a -- well, as you said in response to Commissioner Oshie, 100 percent CIAC, C-I-A-C, to finance the majority of its plan, and if so, is that risk significant or insignificant?

MR. WARD: Can you rephrase that in shorter questions?

COMMISSIONER JONES: Is there a significant risk to the company in your view, and therefore, the ratepayers who are funding this, of having such a high -- of having a 100 percent CIAC finance this Lakewood project?

MR. WARD: I don't believe there is a risk in that case there. If you look at a financial market, this is termed usually as equity on the part of the company. It's in the regulatory world that we have this as contributions in aid of construction and don't allow the recovery over the return on that. But in a standard financial market, this would be considered equity and might actually strengthen the company in that respect because they would have debt -- some debt and a lot of equity on the books.

COMMISSIONER OSHIE: Well, in the financial world, Mr. Ward, who usually contributes that equity, the customer or the owners of the company?

MR. WARD: Typically, it is both. It would be the owners initially and the customers through retained earnings or income.

COMMISSIONER OSHIE: Exactly. In other words, that's -- the company can do what it will with its income. If it wants to retain it, it's equity. If it wants to spend it or invest it, it isn't.

MR. WARD: Yes.

COMMISSIONER OSHIE: Okay.

COMMISSIONER JONES: I just have one, Mr. Ward, and then back to Commissioner Oshie.

Did Staff have any discussions, informal or formal, with the City of Tacoma regarding the negotiated rates for Rainier View water?

MR. WARD: Did you?

MS. WHITE: I had one phone call.

MR. WARD: I did not. Ms. Amy White might have.

COMMISSIONER JONES: Miss White?

MS. WHITE: I had one phone call from a City of Tacoma employee who stated he was unhappy with the arrangement, and I invited him to comment through the formal process, and we never heard back from him again.

COMMISSIONER JONES: Okay. I'm done.

COMMISSIONER OSHIE: I just have a couple follow-up questions, and first for Mr. Fisher.

I think I heard you say this, and I just want to be clear. Does the company have the financial capacity to commit equity of some material amount to this project in order to get it built?

MR. FISHER: Probably not this project.

COMMISSIONER OSHIE: Okay. And so -- and what would, in your mind, be if you -- a typical equity investment in your line of business; do you know?

MR. FISHER: I believe it's -- we're real similar to all the other utilities in the area, so I don't -- I think, you know, we strive for that 30 percent. It goes up, it goes down based on certain factors, but we strive for that.

COMMISSIONER OSHIE: And although you did make a comment about how rates are low, of course if you had equity in the company, you would earn a return on that, would you not?

MR. FISHER: Correct.

COMMISSIONER OSHIE: And if I'm not mistaken, I believe Staff assigns a value to that equity of 11.25 percent as the return on equity?

MR. WARD: Currently return on equity for water companies is 12 percent.

COMMISSIONER OSHIE: 12 percent. That's right, okay.

MR. FINNIGAN: 11.25 is telephone.

COMMISSIONER JONES: That was this morning.

COMMISSIONER OSHIE: Yeah. Yes, Mr. Fisher, welcome to commissioners that already -- and an attorney on your side -- that's already been through three hours of essentially hearing.

And let me go back to one question with Staff, and then I think I'm finished then.

So when you evaluated the Tacoma Intertie for its approval and the rates and the approval of the funding mechanism, you know, did Staff consider at that time that it would be used in a -- just for additional redundancy in some diminished capacity less than 10 years later?

MR. WARD: No. It was not envisioned at that time. The review involved the source or capacity of water and the availability of actual water.

COMMISSIONER OSHIE: Okay. I have no other questions.

JUDGE FRIEDLANDER: Are there any other questions?

CHAIRMAN GOLTZ: I just have a couple. First of all, for Ms. White or Mr. Ward, did Commission Staff receive any customer comments?

MR. WARD: Yes. There were six comments received through consumer affairs.

CHAIRMAN GOLTZ: And are those in the record?

MR. FASSIO: I don't believe they're in the record at this time, but Staff can certainly supplement.

CHAIRMAN GOLTZ: Do you recall the substance of the comments?

MR. WARD: Yes. I reviewed those. In fact, this morning, there were a couple of customers that did comment on this was not part of their water system, why should they pay the surcharge. A couple of the comments referred to why should we pay any increased amount. We just had a rate case approximately a year ago.

CHAIRMAN GOLTZ: Okay. So currently there's a -- you have in place a contract with Lakewood for the purchase of water.

MR. FISHER: Correct.

CHAIRMAN GOLTZ: Is that with the City of Lakewood or Lakewood Water District?

MR. FISHER: Excuse me. It's with the City of Lakewood -- or Lakewood Water District, excuse me.

CHAIRMAN GOLTZ: And as I am just reviewing this, because it was an attachment to 3.d.-1, it's a 50-year contract; do you recall?

MR. FISHER: I don't recall what the time limit is.

CHAIRMAN GOLTZ: And --

MR. FISHER: If there is one. I don't know.

CHAIRMAN GOLTZ: And currently, that's independent with the -- and that contract applies whether or not you get the water wheeled through Tacoma or whether it's piped directly to you?

MR. FISHER: Correct.

CHAIRMAN GOLTZ: And so there's an existing pipeline between Lakewood and Tacoma?

MR. FISHER: Yes.

CHAIRMAN GOLTZ: And who owns that pipeline?

MR. FISHER: Lakewood.

CHAIRMAN GOLTZ: Lakewood owns that pipeline. So is -- so currently you receive from the -- water from Lakewood, and that includes the transport of the water to Tacoma?

MR. FISHER: Correct.

CHAIRMAN GOLTZ: And then you pay Tacoma for the wheeling charge to you?

MR. FISHER: Correct.

CHAIRMAN GOLTZ: Is the cost of the water that would be sent directly to you the same as it would be -- as it is under the existing system?

MR. FISHER: The Tacoma water?

CHAIRMAN GOLTZ: The Lakewood water; in other words, is the contract applied equally? I gather this contract has a cost --

MR. FISHER: Yeah. It would be their charge and then the wheeling charge, which Tacoma would bill the wheeling charge separately from --

CHAIRMAN GOLTZ: No, no. I'm talking about the new system, where you get it straight down your pipeline.

MR. FISHER: Straight down the pipeline, then it would be strictly from Lakewood, no wheeling charge.

CHAIRMAN GOLTZ: Right. And currently, is the charge that you're paying Lakewood, that includes water and some transport?

MR. FISHER: Yes.

CHAIRMAN GOLTZ: And is that cost of transport built into their general rate?

MR. FISHER: Yes.

CHAIRMAN GOLTZ: And now with the new rate, it would just be the same rate, but they don't have to pay any transport because you're paying for that?

MR. FISHER: Correct.

CHAIRMAN GOLTZ: So you don't get a discount because you aren't using their pipeline anymore?

MR. FISHER: No.

CHAIRMAN GOLTZ: If this transaction were to be done the way you originally proposed it, which was to assess a pipeline facilities charge on all new customers and have that accumulate, and then when you have not built the pipeline -- I mean, that's the basic mechanism that you proposed, right?

MR. FISHER: Correct.

CHAIRMAN GOLTZ: And at what point would you be able to build the pipeline or do you know?

MR. FISHER: I don't know at this point in time whether you could do it in phases or --

CHAIRMAN GOLTZ: Right. Okay. But in the meantime, you would be getting in dozens, if not hundreds or even a thousand, customers in paying the facilities charge that would require water, but you wouldn't have the Lakewood Pipeline in, correct?

MR. FISHER: Correct.

CHAIRMAN GOLTZ: And how would they get water or how would you provide water to them?

MR. FISHER: Well, we could use the -- I mean, we still have the ability to have the wheeling agreement in the same time this is happening.

CHAIRMAN GOLTZ: Right. So you would get it through the Tacoma Intertie?

MR. FISHER: Correct.

CHAIRMAN GOLTZ: And at what point does the capacity of the Tacoma Intertie get reached so you couldn't use -- so you couldn't serve all the customers, the new customers? See what I'm saying?

MR. FISHER: No, I'm not sure.

CHAIRMAN GOLTZ: So, in other words, you have 2,228 new customers that you're expecting to serve from this Lakewood Pipeline.

MR. FISHER: Correct.

CHAIRMAN GOLTZ: And I'm hypothesizing that you don't do it the way the settlement proposes, but the way that you had originally proposed it, which is you assess these 2,228 new customers $5,756 when they come up -- when the development's built, and then you -- at some point, you're able to -- you have enough money accumulated, you can build the project, but until that time, you're going to be serving a number of them with water from the Tacoma intertie.

MR. FISHER: Correct.

CHAIRMAN GOLTZ: My question is, how many of those 2,228 new customers can you serve with water before you hit the peak of your Tacoma intertie?

MR. FISHER: The -- and just the intertie itself Tacoma water, not both the 3.5 -- we would be allowed to take 3.5 million gallons through the Tacoma intertie once we -- if we were meeting our 100 percent of Tacoma water.

CHAIRMAN GOLTZ: Right. In other words, you could serve all of the --

MR. FISHER: All the new customers would be served through that --

CHAIRMAN GOLTZ: Through the Tacoma intertie?

MR. FISHER: Through that intertie.

CHAIRMAN GOLTZ: Okay. Now, do you know -- this is assuming that you did that. Do you know what the -- and would that price that you charged them be the same as your current rates are or do you know?

MR. FISHER: Probably not. If we had to use 100 percent of Tacoma water, the rate is going to be considerably higher.

CHAIRMAN GOLTZ: Okay. What I'm trying to figure out is what the rate differential is if you just served everybody with the Tacoma intertie with existing Tacoma water rates or whether you built a pipeline. Did Staff do that analysis?

MR. FISHER: I think the Staff did.

MR. WARD: I believe we looked at it, but I don't recall the results.

CHAIRMAN GOLTZ: So maybe you could recall the results and get them to us.

MR. WARD: We will recall the results.

JUDGE FRIEDLANDER: I was just going to add, as far as the consumer comments, why don't we have Staff go ahead and designate that as Bench Request Response 16, and then for this response, why don't we go ahead and make that 17, just so that we have it clear as to what Staff is responding to.

CHAIRMAN GOLTZ: So your current contract with the City of Tacoma for water, do you have a rate set by contract for that?

MR. FISHER: It -- no. It's set I believe by city ordinance.

MR. FINNIGAN: Yeah. I think the contract calls for the company to pay the rates set by ordinance, and so it's set by ordinance, and they have been changing that rate on an annual basis.

CHAIRMAN GOLTZ: And the rates with your contract with the Lakewood Water District are set in contract?

MR. FINNIGAN: Those rates are set in contract.

COMMISSIONER OSHIE: I have one more question. Mr. Finnigan, by law, is the city required to -- City of Tacoma required to dispose of its excess water, you know, through a tariff that's set by ordinance or can they enter into an individual contract on a purveyor's agreement with those outside the city?

MR. FINNIGAN: I don't know the answer to that question.

COMMISSIONER OSHIE: Thanks.

MR. FINNIGAN: I just don't know.

CHAIRMAN GOLTZ: So, Ms. White, you said that the City of Tacoma was unhappy with the arrangement. Is that this proposed arrangement that we're -- that's the subject of the settlement hearing?

MS. WHITE: Commissioner, could you clarify, here during the hearing?

CHAIRMAN GOLTZ: Didn't you say you talked to someone at the City of Tacoma and the employee said that he or she is unhappy or the city is unhappy? I don't know what you said.

MS. WHITE: He said that he was personally unhappy because he had worked with the company for a long time in a different public capacity and felt like what he -- he -- I believe he was a customer of the company as well. And like I said, I invited him to make a formal comment through consumer protection, and we never heard back from him.

CHAIRMAN GOLTZ: When you say he was unhappy with the arrangement, he as a customer was unhappy with the arrangement or he as a representative of the city, with or without authority, was unhappy with the arrangement. Was he speaking from the city's point of view or from his personal point of view?

MS. WHITE: I think it was more from his personal point of view, and he was unhappy with the proposal to clarify for the Lakewood Pipeline.

CHAIRMAN GOLTZ: He was unhappy with that because?

MS. WHITE: Largely on the basis of his own personal experiences with the company. He -- he personally felt mistrustful.

CHAIRMAN GOLTZ: So we don't have -- pardon me -- Commission Staff does not have any view, formal or informal, from the city as to their view of this proposed transaction?

MS. WHITE: That is correct.

CHAIRMAN GOLTZ: Does the company have any understanding of the city's view of this proposed transaction?

MR. FISHER: Our comments from their staff has been, yeah, they're -- they heard that we were in discussion of getting this pipeline built and, yeah, they're not pleased.

CHAIRMAN GOLTZ: They're not pleased because it's against their economic interests?

MR. FISHER: Correct.

CHAIRMAN GOLTZ: At what level of staff did you have those conversations?

MR. FISHER: I believe not all the way up there, but who we would discuss the -- you know, wheeling agreements and so forth with.

CHAIRMAN GOLTZ: Okay. So Mr. Ward got into this a little bit with Commissioner Oshie about the lack of equity investment in this. Isn't it true that if a -- in a regulated utility -- and I'm thinking primarily probably electric or gas, but the fact that the company makes the capital investment, that means they take the risk of the facilities not being used; in other words, they do get a return that they bear the risk, and as a result of that, they want to make sure they are appropriately sized, and because they're taking some risk, financial risk, they want to make sure that they're not gold-plated. They're basically built to meet the needs and no more. Wouldn't you agree with that?

MR. WARD: Yes, I would.

CHAIRMAN GOLTZ: But here -- and sort of the regulatory system for that model, we have the incentives such that the utility has an incentive to control its costs, to not overspend, to not overbuild. That's inherent in the system. But here, if it's all customer-financed, where are the incentives? What takes the place of that regulatory incentive that we have with the investor and utilities that actually use investor-supplied capital to build things? What's controlling to make sure this pipeline is appropriately sized; to make sure it's not overbuilt; to make sure that they get the most economical deal or is that enhanced Staff oversight? Where is it?

MR. WARD: I think the only incentive they have is whether or not they get rates at this point to even fund it, because it is 100 percent contribution in aid of construction.

CHAIRMAN GOLTZ: Right, but they're getting rates subject to after we give the first -- if we were to approve the Phase I surcharge of $2 per month and then it comes in and it might be 5.40, it might be 5.80, it might be 5.20, it might be 6.50 for the Phase II construction. We don't know that yet, but how do we ensure that the price and size of the pipeline project and the -- and the whole construction costs are the minimal necessary consistent with reliability and safety standards? I mean, how do we know that 5.40 is right and they could have gotten it for 5.20 and who cares?

MR. WARD: I don't know that.

CHAIRMAN GOLTZ: Yeah. Does the company have a comment on that?

MR. FISHER: I would say that, well, the whole pipeline has to be approved by the Department of Health, so we're going to have a very -- that part of this engineering process is a lengthy process for approval from them to even, you know, as to materials and sizing and so forth.

CHAIRMAN GOLTZ: Right. The Department of Health's interests are to make sure that it's safe. I mean, it provides safe water and meets standards, and if they meet their standards, and it costs 12 million, that's fine. If it meets the same standards and it costs 14 million, they aren't going to say, hey, we can see how you can cut $2 million off the project.

MR. FISHER: That's true.

CHAIRMAN GOLTZ: And one last question, I hope, and that's with the contract with this Lakewood Water District. Do you happen to recall the pricing terms with that? Is that -- is that just fixed for the next 50 years or is there some escalator provision?

MR. FISHER: They have an escalator provision, but it's based off of their investment or replacement costs and keeps the same formula, I believe, through the whole process.

CHAIRMAN GOLTZ: So you have some peace of mind with that.

MR. FISHER: Yes, we do.

CHAIRMAN GOLTZ: But you're saying with the City of Tacoma, it's a little bit more subject to the City Council process?

MR. FISHER: Yes.

CHAIRMAN GOLTZ: I have no more questions. Do you have any?

JUDGE FRIEDLANDER: I do. Any other questions from the Bench?

I have just a couple for Mr. Fisher. In Bench Request Response 13, you indicated that the company at that point had not looked at what CoBank would offer a fixed rate loan at. Has the company since explored that option?

MR. FISHER: Yes, we did. I did ask the question of them. The current rate right now is about 4.3, I believe is what I got the answer as, and we're currently paying 3.5.

JUDGE FRIEDLANDER: Gotcha. Okay. So 4.3.

And then also there was an option that the company had from CoBank of turning $100,000 increments into fixed rates. Can you explain how or when the company might choose to do something like that?

MR. FISHER: Well, it's their denomination as to, you know, like turn a $500,000 loan and fix a portion of it or all $500,000 of it at any point in time, depending on the rate at that point in time.

JUDGE FRIEDLANDER: I see. So as long as it's in $100,000 increments, it doesn't matter if it's part or the whole thing?

MR. FISHER: Correct.

JUDGE FRIEDLANDER: Okay. Those are the only questions that I had. If there's nothing further.

CHAIRMAN GOLTZ: Did we need to set a bench request number for our questions to warrant for that cost comparison, that rate comparison?

JUDGE FRIEDLANDER: Oh, yes.

MR. WARD: I have that as Bench Request No. 17.

JUDGE FRIEDLANDER: That's right. That's right. And so with that, would Staff have a problem getting the responses to Bench Request 16 and 17 to us within a week?

MR. WARD: It shouldn't be a problem on that, seven days.

JUDGE FRIEDLANDER: That's fine, so it would be the 21st. And also assuming that a letter does go out to the City of Tacoma, we will allow parties to respond to that, and we'll alert the parties when we receive something if that letter goes out. So if there's nothing further.

Mr. Finnigan?

MR. FINNIGAN: Thank you. Just two items. One was Commissioner Oshie asked Staff questions about the Tacoma intertie, and had it been reviewed before it was included in rates. I just want to make sure people understand that it's never been in rates. That's part of our agreement there was that it would be -- it would have zero rate impact on existing customers.

COMMISSIONER OSHIE: Mr. Finnigan, I apologize, and I didn't -- I'm sure I said that, but what I think I intended to say was before the customers paid for it.

MR. FINNIGAN: Okay.

COMMISSIONER OSHIE: I was really looking at the long-term viability of the project.

MR. FINNIGAN: Okay.

COMMISSIONER OSHIE: And not necessarily its rates, because I do understand when the customers pay for it, it's not going to be in rates, other than the initial charges to recoup the cost.

MR. FINNIGAN: Okay. Thank you.

COMMISSIONER OSHIE: But it's a good point. Thank you.

MR. FINNIGAN: And then there's also -- I think it was Chairman Goltz that asked this question about the Lakewood contract. It is actually a fairly complex pricing formula, but it does have a capacity charge that when, as Lakewood describes it, a shift to the utility model. That element of the charges to Rainier View will go down, and it has to do with how much water you're actually drawing from the city. Once you meet a certain threshold, it doesn't affect the per-unit price, but the capacity charge actually decreases, because you reach that threshold. So there's a small aspect of the agreement, but I want to make sure it was correct.

JUDGE FRIEDLANDER: Thank you. Is there anything further before we adjourn, Mr. Fassio?

MR. FASSIO: I have one point of clarification just for the record. I believe at certain times, someone mentioned 2,228 over the course of ten years, and I did look back, and actually the settlement agreement is 2,280, so just clarifications for the record on that.

And I did have one I guess clarifying question for

Mr. Fisher. Earlier in response to a question, you had indicated I believe that -- correct me if I'm wrong -- 22 customers had connected in the last six months?

MR. FISHER: From January of this year until June 30th of this year.

MR. FASSIO: And how many ERUs do those customers represent? Do you have an estimate?

MR. FISHER: That's the 22 ERUs.

MR. FASSIO: So that would be ERUs?

MR. FISHER: Uh-huh.

MR. FASSIO: Okay.

CHAIRMAN GOLTZ: And that may be fewer than 22 customers. If they're commercial customers, they would be fewer than 22 ERUs -- fewer than 22 customers.

MR. FISHER: Yeah, I can't answer because I only looked at it real quick to get an idea of the number so -- and it looked like individuals to me, so...

MR. FASSIO: So when we're talking about 228 per year, we're actually talking about the ERUs as a measure?

MR. FISHER: Yeah, correct.

MR. FASSIO: Okay. I didn't have any further questions.

JUDGE FRIEDLANDER: Okay. Thank you. If there's nothing further, then we are adjourned. Thank you everyone for participating. I appreciate it.

MR. FINNIGAN: Thank you.

(Hearing concluded at 3:07 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON
COUNTY OF KING

I, Lisa Buell, a Certified Shorthand Reporter and Notary Public in and for the State of Washington, do hereby certify that the foregoing transcript of the proceedings on August 14, 2012, is true and accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 28th day of August, 2012.

LISA BUELL, RPR, CRR, CCR

My commission expires:
DECEMBER 2014