

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION)
4 Complainant,) Hearing No. UW-951483
vs.) Volume V
5 ROSARIO UTILITIES, LLC,) pages 551 - 657
Respondent,)
6 -----)

7 A hearing in the above matter was held on
8 August 20, 1996 at 5:06 p.m., at 1300 South Evergreen
9 Park Drive Southwest, Olympia, Washington, before
10 Administrative Law Judge C. ROBERT WALLIS.

11 The parties were present as follows:

12 WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION by JEFFREY D. GOLTZ and ANN RENDAHL,
13 Assistant Attorneys General, 1400 South Evergreen Park
Drive Southwest, Olympia, Washington, 98504.

14 ROSARIO UTILITIES by FREDERICK O. FREDERICKSON,
15 Attorney at Law, 1420 Fifth Avenue, 33rd Floor, Seattle,
Washington, 98101.

16 ORCAS HIGHLANDS ASSOCIATION, VUSARIO
17 MAINTENANCE ASSOCIATION, ROSARIO HOMEOWNERS ASSOCIATION
by ROBERT E. LUNDGAARD, Attorney at Law, 1400 Bristol
18 Court Southwest, Olympia, Washington, 98502.

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25 Margaret Bustos, CSR
Court Reporter

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I N D E X

2 WITNESS: DIRECT CROSS REDIRECT RECROSS EXAM REBUT

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4 INGRAM 580 587/637 648 650 653 583

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7 EXHIBIT MARKED ADMITTED

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

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3 JUDGE WALLIS: Okay. Let's be back on the
4 record, please.

5 We're resuming this hearing in Olympia in
6 order to complete the examination of Mr. Jones and to
7 hear Ms. Ingram and resolve any procedural matters
8 that need resolution.

9 At this point we're going to take up and
10 resume the examination of Mr. Jones by Mr. Lundgaard.

11 Mr. Lundgaard, please proceed.

12

13 CROSS-EXAMINATION

14 BY MR. LUNDGAARD:

15 Q. Mr. Jones, do you know the gallons per day
16 that was used in the water system plan to arrive at
17 109 R.E.U.'s for the resort?

18 MR. GOLTZ: I'm going to object based on
19 -- he may or may not know -- based on the relevancy in
20 the sense that it's beyond the scope of his direct
21 examination, R.E.U. analysis. If from this you're
22 going to the E.R.U. analysis, then that's beyond the
23 scope of his direct examination.

24 MR. LUNDGAARD: Okay. So he was not a
25 sponsor at all of -- I had understood from Ms.

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1 Ingram's testimony that Al had something to do with
2 the selection of the R.E.U.'s.

3 MR. GOLTZ: I don't think so.

4 MR. LUNDGAARD: I can ask her.

5 Q. Do you recall attending a conversation at
6 the UTC on June 3rd that was attended by Ann Rendahl
7 and Ms. Ingram and John Echard, Dan Donahoe and Jim
8 Bacon, George Jenkins, Gunther Eschenbrenner, and
9 myself?

10 A. Yes.

11 Q. And do you recall being asked to get
12 together with Mr. Donahoe and the interveners'
13 engineers to see if an agreement could be reached on
14 the water system operator hours?

15 A. Was that the meeting where I left --

16 Q. Yes.

17 A. -- at the beginning?

18 Q. I think it's the only meeting that I know
19 of that those people were all in attendance.

20 A. I believe I was there only about two
21 minutes into the meeting and then left.

22 Q. Well, it may have been longer. But do you
23 recall that you were asked to see if the engineers
24 could get together and reach an agreement on the
25 operator's hours?

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1 A. I believe there may have been some
2 discussion that I was to assist in looking at the
3 operator's duties and put that in exhibit form.

4 Q. And you had, in fact, already put one
5 -- had you already made one in an exhibit form before
6 that or not?

7 A. I think that's why I left that meeting,
8 because there was no completed study done at that
9 time.

10 Q. Okay.

11 A. And I had no input to that meeting; therefore,
12 my presence was not needed.

13 Q. Okay. Did you, after that meeting, contact
14 Mr. Donahoe and/or Mr. Cavalli to discuss operator's
15 hours?

16 A. There were conference calls with Commission
17 Staff and the company regarding the manager's
18 operator's hours.

19 Q. And who with the company were you talking
20 to?

21 A. Mr. Cavalli, Mr. Donahoe.

22 Q. How many times did you have conversations
23 with them regarding that issue?

24 A. I don't recall how often or the frequency.

25 Q. Okay. And do you recall when those

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1 occurred?

2 A. No.

3 Q. Okay. Did you ever contact either Mr.
4 Jenkins or Mr. Eschenbrenner for the same purpose?

5 A. No.

6 Q. Did you later prepare a salary analysis for
7 the operator?

8 A. Yes. An annual salary analysis was
9 provided, and it's in my testimony as Exhibit 53.

10 Q. And there's been an exhibit marked but not
11 admitted, Exhibit 54, that I asked you some questions
12 about last time. And you questioned whether I had
13 gotten that document from your wastebasket. Do you
14 remember that you had made the same -- or made similar
15 calculations of the operator's hours --

16 A. Would you --

17 Q. -- on June 20th '96?

18 A. Is that the exhibit that you referred to
19 the date --

20 Q. Exhibit 54.

21 A. I don't have a copy of -- I'm not aware
22 that that's an exhibit.

23 Q. It's been marked, but it was -- the
24 admission was denied.

25 Does that have a date of June 20th on it?

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1 A. Yes, it has.

2 MR. LUNDGAARD: Your Honor, just to clear
3 the record on this, I would like to offer a new exhibit
4 with a cover -- this is the original fax paper. That's
5 a fax from Ann Rendahl to me on June 21st, '96, which
6 states Al Jones' analysis -- or we're transmitting Al
7 Jones' analysis of the calculation -- or the time for
8 the facility manager of Rosario Utilities. We're
9 waiting for a response from Mr. Donahoe. I'll call
10 later this morning. And attached to that is the
11 document that was previously rejected as Exhibit 54.

12 JUDGE WALLIS: I'm marking this two page
13 document as Exhibit 55.

14 (Marked Hearing Exhibit 55.)

15 JUDGE WALLIS: Do parties have a copy of
16 this?

17 MR. GOLTZ: We have one now.

18 JUDGE WALLIS: Mr. Goltz?

19 MR. GOLTZ: I again object. It's even more
20 clearly a -- as a matter of fact, when Ms. Ingram is
21 -- Mr. Jones already testified that at that meeting he
22 left briefly because his presence was not needed.

23 And Ms. Ingram will testify -- will be able
24 to testify about other things that transpired at that
25 June 3rd meeting and what was the understanding of the

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1 parties at that meeting.

2 Particularly after that testimony, but even
3 without it, it is obvious that this is a -- not the
4 final filing. It is not the final submittal. It is
5 not the final analysis. It is, as Mr. Jones testified
6 to last week, an early draft.

7 So again I just repeat the objection I made
8 last time, which was sustained, that, you know, draft
9 spread sheets aren't relevant when they're produced
10 for discussion purposes.

11 If that were true -- I mean, if they were
12 relevant, then just imagine the flood of computer
13 files and computer drafts that we would have in every
14 single rate case.

15 And we would be subjecting not just Staff
16 witnesses, but company witnesses, intervener witnesses
17 to what their thought processes were every stage of
18 the way and what their tentative conclusions were
19 every stage of the way and comparing one to another.
20 And that -- just as a matter of policy, that's wrong.
21 As a matter of evidentiary law, that's wrong.

22 MR. LUNDGAARD: Your Honor, this is not just
23 some draft. This is one that was sent out to the
24 parties. It's not something that says this is for
25 settlement purposes only.

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1 We do have documents that were sent to us
2 with that type of notation on them. There's nothing
3 here that indicates at all that this is not something
4 that we were entitled to use and rely on.

5 My second purpose in submitting this was to
6 clear the record as to how this came into my hands,
7 and I want this transmittal fax to be a part of the
8 record for identification as to where this came from.

9 I strongly resent the statements that were
10 made by Mr. Jones regarding that somehow I surreptitiously
11 obtained this document.

12 JUDGE WALLIS: Mr. Frederickson, do you
13 have any comment?

14 MR. FREDERICKSON: I would join in Mr.
15 Goltz objection and note that it would have a very
16 chilling effect on discussions between any parties in
17 one of these proceedings if it were not possible to
18 freely exchange documents and have some basis for
19 discussion.

20 It would simply mean that the Staff and all
21 other parties are not going to communicate with one
22 another for fear that they're going to create a
23 document that is going to go into the record on equal
24 basis with a final product.

25 MR. GOLTZ: May I add one more thing?

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1 JUDGE WALLIS: Okay.

2 MR. GOLTZ: We'll stipulate this was
3 transmitted to Mr. Lundgaard by Ms. Rendahl by
4 facsimile on June 21. I would also -- and that should
5 take care of Mr. Lundgaard's concern about his
6 integrity being infringed upon.

7 But, also, it does say that this message is
8 privileged and confidential and intended solely for
9 the use of the individual named above.

10 MR. LUNDGAARD: And that means the recipient.
11 And I'm the recipient of it. That's the purpose of this,
12 if it's get into the wrong hands of some other person.
13 That block does not indicate that I'm -- that I can't use
14 this particular document.

15 I would like to add that the record is full
16 of documents that were submitted back and forth that
17 are not part of the pre-filed testimony. There's
18 letters from Mr. Eschenbrenner to me that I put in.
19 There are documents from MPD that were sent to Mr.
20 Donahoe that have been put in.

21 If we were to strip everything from this
22 record except pre-filed testimony and exhibits, we
23 would have probably a lot less than the number --
24 maybe half the number of exhibits that we have now.

25 Certainly if somebody wants to submit

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1 something and they're concerned about its use, they
2 can do what they did with the later submittals when
3 they said to us that this was for discussion and
4 settlement purposes only and was not to be used.
5 There's nothing of that nature on this transmittal.

6 JUDGE WALLIS: I'm going to sustain the
7 objection at this point on the same basis as the
8 earlier objection was sustained; that this is a
9 preliminary document.

10 And I think it's doubly apparent from the
11 text on the transmittal page that it is a preliminary
12 document. The language that you read into the record,
13 Mr. Lundgaard, says we're waiting for a response from
14 Mr. Donahoe to the document, which certainly implies to
15 me that this is intended to be preliminary and subject
16 to further discussion.

17 In terms of the concerns regarding your
18 integrity, I certainly interpreted the witness'
19 comment to be facetious rather than serious.

20 And, again, I believe that you've read
21 information into the record and the assistant attorney
22 general has stipulated sufficient information that it
23 is clear that you were not engaged in any surreptitious
24 or improper activity.

25 Q. Okay. On to another subject.

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1 Mr. Jones, referring you to your AAJ-3 or
2 Exhibit 28 that has been admitted through, I think,
3 another witness.

4 Excuse me. That's not -- I want to be
5 sure that we've identified some of the tanks that are
6 on that exhibit. And on Exhibit 28 or AAJ-3, there's
7 a reference under account No. 304 of two, 146,000
8 lined steel tanks, 1985?

9 A. Yes.

10 Q. If you would -- also if -- maybe I can just
11 show these to you. Are those Scafco liquid storage
12 tanks, No. 4204, which is a reference I'm reading from
13 on Exhibit 36 --

14 A. I've got Exhibit 36.

15 Q. Okay. -- and also referred to on Exhibit
16 3, which was the group of invoices that came from
17 Chris Vierthaler to Ann Rendahl -- do you have that --
18 yes, I think that's what you have right in front of
19 you there. That's Exhibit 3 for the record.

20 Would you verify that those references are
21 one in the same?

22 MR. GOLTZ: Are you looking at page 5 of
23 10? I'm referring the fax numbers in the upper
24 right-hand corner of Exhibit No. 3, Mr. Lundgaard.

25 MR. LUNDGAARD: Yes.

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1 MR. GOLTZ: Okay.

2 MR. LUNDGAARD: That's -- yeah, Exhibit 3.

3 And I'm referring also to the first page of Exhibit 36.

4 THE WITNESS: Would you restate your
5 question, please?

6 Q. Are all those references in Exhibit 28 to
7 the stainless steel, 146,000, lined steel tanks on
8 Exhibit 28, are those the tanks that are referred to
9 on page 5 of 10 on Exhibit 36 -- or, excuse me,
10 Exhibit 3 and on the first page of Exhibit 36?

11 A. I believe they are subject to check.

12 Q. And referring you to Exhibit 8, the seventh
13 page in, the caption on the page is Rosario Water
14 System Preliminary Construction Estimate and Timing
15 Sequence.

16 A. Exhibit 8, is that an exhibit by Cavalli?

17 Q. That's another -- it's from Drahn to Dan,
18 August 7th, '96.

19 MR. GOLTZ: I can show you mine.

20 THE WITNESS: I think I got it.

21 What about Exhibit 8?

22 Q. Is the reference on page 7 of Exhibit 8
23 also a reference to the steel storage tanks? That's
24 the one that is entitled Rosario Water System
25 Preliminary Construction Estimate June 27, '84,

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1 revised July 17, '84.

2 MR. GOLTZ: Is your page enumeration the
3 fax machine page in the upper right-hand corner?

4 MR. LUNDGAARD: No. I'm starting with the
5 first page is the letter from Drahn to Dan -- yeah, I
6 think you've got -- it's the page you're looking at.

7 MR. GOLTZ: This one. Okay.

8 THE WITNESS: Could you restate your
9 question?

10 Q. The reference that you're looking at on the
11 seventh page of Exhibit 8, is that referring to the
12 steel storage tanks -- a preliminary estimate for
13 steel tanks that ultimately resulted in the tanks
14 that have been referred to in the other exhibits we
15 just discussed?

16 A. This speaks of a 250,000 gallon storage
17 reservoir. I see it's different in size. And you're
18 correct, it was revised July 17th of '84.

19 Q. Would it appear that the revisions are
20 what's in the handwriting?

21 A. Yes.

22 Q. So the reference to steel storage was
23 presumably put on by the revision and with some new
24 figures in writing?

25 A. The document dated June 27th of '84 is

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1 typewritten. And the 250,000 gallon storage reservoir
2 is also typewritten. There are some numbers written
3 in the lower right-hand side of this document.

4 Q. If I could refer you now to Exhibit 53,
5 your AAJ-4.

6 MR. GOLTZ: I'm sorry, which exhibit now?

7 MR. LUNDGAARD: 53, his AAJ-4.

8 Q. Is that -- you had actually worked up those
9 identical numbers in this same format but on more
10 pages at an earlier date; had you not?

11 A. Are we talking about the steel tank or
12 exhibit --

13 Q. No, Exhibit 53.

14 A. Exhibit 53 deals with the facilities
15 manager certified operator.

16 Q. I'm sorry. I've got the wrong -- I mean
17 your Exhibit 52. Do you have that document before
18 you?

19 A. Exhibit 52?

20 Q. Yes.

21 A. No. One moment, please. Okay, I have
22 Exhibit 52, which is marked as AAJ-2.

23 Q. Right. And it has a date of July 10th,
24 '96?

25 A. This was printed July 10th of '96.

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1 Q. My question was: Had you actually made
2 that compilation much earlier and had made a similar
3 chart of those costs in March of '96, and those
4 numbers didn't change, but you merely consolidated and
5 printed it smaller so that instead of it taking three
6 pages, it covered two pages but had the same identical
7 information?

8 A. I may have. I don't recall. Do you
9 have --

10 Q. I'm not asking to offer -- I'm not going to
11 offer this. I just want to show you if looking at
12 the date -- it appears to me that the numbers are
13 identical. My only point in asking the question is
14 that apparently you were able to assemble that type of
15 information as early as March 7th of '96, correct?

16 A. It appears that way.

17 Q. And was that information that you collected
18 while you were at the resort and water system
19 facilities in, I believe it was, January of '96?

20 A. This exhibit reflects the items that were
21 identified on receipts at the company office.

22 Q. That you saw on your visit on January 17th
23 and 19th?

24 A. Yes.

25 Q. Okay. And there have been a number of

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1 other receipts that were faxed to the parties by
2 either the engineering firm or by Mr. Donahoe in
3 August that are also exhibits, but I take it that you
4 -- those are things that came in much later than your
5 preparation of your exhibit?

6 A. Some of those are duplications of what is
7 in Exhibit 52.

8 Q. And the duplication in part was the '92
9 service connection figure that came from Exhibit 3?

10 A. Could you show me Exhibit 3, and perhaps I
11 could identify some of those for you.

12 Q. Looking at the last three pages of that
13 document, are those all invoices for '92?

14 A. The last three invoices are dated for 1992.

15 Q. And do they cover the same things that you
16 have in your Exhibit 52 for '92?

17 A. The first invoice for March 17th of '92 is
18 included in my Exhibit 52? And I believe exhibits on
19 Exhibit 3, the second and third pages, are a
20 continuation of a receipt of March 13th of '92.
21 And it appears that they are included in my Exhibit 52
22 as well.

23 Q. Okay. And the only other duplicate in that
24 Exhibit 3 with your Exhibit 52 would be the 1985 --
25 I'll strike that. I think we covered that last time.

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1 MR. LUNDGAARD: I have nothing further.

2 JUDGE WALLIS: Mr. Frederickson, do you
3 have any questions?

4 MR. FREDERICKSON: Yes, I do.

5

6 CROSS-EXAMINATION

7 BY MR. FREDERICKSON:

8 Q. Mr. Jones, can I ask you to look at Exhibit
9 53.

10 A. Yes.

11 Q. Could you give me just a thumbnail sketch
12 of what Exhibit 53 is?

13 A. It's the duties and responsibilities for
14 the facilities manager and certified operator at the
15 Rosario Utilities. It's broken down by daily, weekly,
16 monthly, yearly activities, plus the coordination and
17 supervisory duties, plus a number of other duties.

18 Q. And this is your assessment of the amount
19 of time that reasonably should be allocated to each of
20 the functions that are reflected on Exhibit 53?

21 A. Yes.

22 Q. Okay. If you would look at -- let's see.
23 You see where it says No. 1, daily at the top, and
24 then it goes down to a sub-A, monitoring of water
25 quality and storage?

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1 A. Yes.

2 Q. Is that based on a 50-week year?

3 A. It's listed as seven days per week and
4 50 weeks per year. It is -- correction. It's -- the
5 seven days is for the entire year that an operator has
6 to be there seven days a week per year.

7 Q. Seven days a week, fifty-two weeks a year?

8 A. Correct.

9 Q. I can offer you my calculator if you would
10 like to try it, but I came up with a number higher
11 than 262.5.

12 A. At seven days per week --

13 MR. FREDERICKSON: May I, your Honor?

14 JUDGE WALLIS: Yes.

15 Q. If you would like to use that.

16 A. Can I get mine? Mine has reversed polish
17 notation.

18 JUDGE WALLIS: Let's be off the record,
19 please.

20 (Discussion off the record.)

21 Q. Maybe, sir, if I could start over again, I
22 could pose the question, and you could perform the
23 calculation that is reflected on 1-A on Exhibit 53 and
24 speak to us as you go through this on your calculator
25 what numbers you're multiplying by and so forth?

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1 A. Yes. I took the .75 hours per day times 7
2 days a week times 50 weeks and arrived at 262.5 hours
3 per year, and that is 50 weeks per year.

4 Q. Is the monitoring of water quality and
5 storage a function that should be performed 52 weeks a
6 year, 7 days a week?

7 A. I believe the Department of Health requires
8 data be collected, and that needs to be confirmed as
9 to the frequency of that data from the Department of
10 Health.

11 Q. Well, I gather then your answer is you
12 don't know whether this is a 50-week-per-year
13 requirement or a 52-week-per-year requirement?

14 A. Yes.

15 MR. FREDERICKSON: Is it permissible to
16 make a record requisition in this proceeding, your
17 Honor?

18 JUDGE WALLIS: It is, but in light of the
19 timing, we'll have to take a look at how to implement
20 it. Why don't you state for the record what it is you
21 would like to have, and then we'll talk about the
22 mechanics of dealing with it.

23 MR. FREDERICKSON: Well, what I would like
24 to have would be a determination or an answer from the
25 witness after he checks whatever sources he needs to

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1 check so that he can answer the question as to whether
2 the monitoring of water quality and storage is a
3 function that is required to be done 52 weeks a year,
4 7 days a week, or whether it's only required to be
5 done 50 weeks a year, 7 days a week.

6 JUDGE WALLIS: What I'm going to suggest
7 as a stop gap measure is perhaps when other questions
8 are completed for this witness, he might be able to
9 check the administrative code which might provide an
10 answer. And if that's not sufficient, we can take
11 it from there.

12 Would that be acceptable?

13 MR. GOLTZ: That would be fine. Another
14 way to do it would be to ask a subject-to-check
15 question, basically would you accept subject-to-check
16 that it's a 52-week-a-year job, then we would have to
17 get back.

18 MR. FREDERICKSON: I certainly would accept
19 that, your Honor.

20 JUDGE WALLIS: Very well.

21 MR. FREDERICKSON: However is the most
22 convenient for the witness. I think it's clear what
23 I'm after.

24 JUDGE WALLIS: Very well. Why don't we
25 treat it as subject to check. And it's possible that

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1 the witness will be able to check that before the
2 proceeding is done this evening.

3 Q. Now, this Exhibit 53 that we're on, this is
4 tailored to the operations of Rosario but not
5 necessarily to any particular human being; it's just
6 to the generic human being that performs these various
7 functions; is that correct?

8 A. Could you clarify that?

9 Q. Sure. What I'm getting at is that if for
10 whatever reason Mr. Cavalli was replaced by someone
11 else tomorrow, this same information that is set forth
12 on Exhibit 53 would still be accurate as to the
13 Rosario Utilities?

14 A. Yes.

15 Q. Now, the operator at this utility, is there
16 a home base where -- or someplace where that
17 individual starts out each day or must go each day?

18 A. I don't know if he starts out there, but
19 the company has an office, and some of these duties
20 could be addressed on the way to his office. Whether
21 he has to check into the office first, I -- some of
22 these would not require that. We --

23 Q. But -- excuse me. Am I interrupting?

24 A. We recognize that these duties are
25 sometimes multi-tasked, I refer to them as, that he

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1 would not necessarily have to return to the office on
2 the times, for example, when he would do monthly
3 duties, such as collect field data, distribution
4 services. That could be done in route to the water
5 treatment plant when he records, for example, 2-A the
6 calibration of turbidity meters that date. So some of
7 these are telescoped duties, and it wouldn't mean
8 he would return to the office and begin a new task
9 over again.

10 Q. Based on your familiarity with the
11 operations of Rosario Utilities, would it be accurate
12 to say that on most routine business days the operator
13 would spend at least some time in the normal course of
14 duties at his office?

15 A. Yes.

16 Q. What is the distance between the office and
17 the location where he would perform the water quality
18 and storage functions?

19 A. A ten minute drive from the office complex
20 to the storage facility would be generous, and this
21 would be a consideration of winter conditions.

22 Q. Okay. Now, the .75 that you refer to in
23 the time column, is that the -- your best judgment as
24 to the amount of time that would actually be spent
25 on the monitoring of water quality and storage

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1 function? I understand that maybe one day it's more,
2 and one day it's less, but this is your best judgment
3 as to perhaps what an average day is?

4 A. The three-quarters of an hour that is
5 indicated for monitoring water quality and the storage
6 facility encompasses those details that are done
7 weekly as well, and it includes the travel time. And
8 it is an estimate that I feel comfortable with.

9 Q. So the answer to my question is that the
10 .75 in your judgment then takes into account some
11 activities other than monitoring of water quality and
12 storage?

13 A. That .75 hours includes travel time to and
14 from the facility. And it was pointed out to me that
15 the monitoring of storage is done by driving by the
16 storage tanks, or as he would leave the vehicle, he
17 would look at the targets that are located on the
18 storage tank to see what level the water is at. And
19 there's a number of duties that are further explained
20 in part two of the water quality monitoring.

21 Q. Well, I'm taking all of the storage
22 monitoring and all of the water quality monitoring,
23 and understanding that any given day might vary, but
24 what I'm trying to find out is that as to that
25 function -- or those two functions alone, whether your

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1 standardized time estimate is .75 hours?

2 A. It's an average realizing some days there
3 would be less time given to that.

4 Q. That's fine. And presumably on some days
5 more?

6 A. Right.

7 Q. Okay. And there is no specific item that I
8 see any place on Exhibit 53 for transportation time;
9 is that correct?

10 A. Transportation to the treatment plant and
11 storage was included in the three-quarters of an hour
12 on item 1-A, and it always has been from the very
13 beginning.

14 Q. I don't -- from the very beginning of what?

15 A. From the very beginning of putting together
16 Mr. Cavalli's time of identifying for Mr. Cavalli
17 the time to do monitoring of water quality at the
18 storage, I recognize that there is time involved
19 with transporting himself from the office to that
20 location. It is inclusive. It was not singled out as
21 a single line item, transportation, because I
22 recognize that these are done on a daily basis, and
23 it's routine for him to drive to this location.

24 Q. Have you completed your answer?

25 A. Yes.

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1 MR. FREDERICKSON: Forgive me, your Honor.
2 I want to refer to JCC-2, and I don't have the exhibit
3 number, but it's an exhibit to Mr. Cavalli's testimony.

4 JUDGE WALLIS: That's Exhibit 5.

5 MR. FREDERICKSON: Thank you, your Honor.

6 Q. Do you have Exhibit 5 in front of you, sir?

7 A. It's JCC-2?

8 Q. Yes, sir.

9 A. Yes, I have it.

10 Q. And in JCC-2 or Exhibit 5, the top item,
11 Mr. Cavalli reached the same conclusion that you
12 did as to the total per-year time of 262.5 hours for
13 the treatment of plant monitoring and water quality
14 and storage; is that correct, sir?

15 A. Yes.

16 Q. But also Mr. Cavalli under his weekly items
17 indicated that he had .05 hours travel time times
18 seven days a week for a total of 175 hours per year.
19 Do you see that?

20 A. Yes. I see that's based on a 50-week year.

21 Q. Correct. So I guess then you and Mr.
22 Cavalli just simply disagree as to the amount of time
23 that is spent on travel; is that correct?

24 A. Yes, because it's included in what I call
25 item 1-A for treatment plant monitoring water quality.

00577

1 I recognize in order for him to get there, there's
2 travel time involved.

3 MR. FREDERICKSON: Thank you, your Honor.
4 I think -- bear with me just a second.

5 Other than the subject-to-check question,
6 your Honor, I have nothing further.

7 JUDGE WALLIS: Very well, Mr. Goltz?

8 MR. GOLTZ: I have no questions.

9 JUDGE WALLIS: Mr. Lundgaard, do you have
10 anything further?

11 MR. LUNDGAARD: Nothing further.

12 JUDGE WALLIS: Very well. I'm going to ask
13 the witness to follow-up on the subject-to-check
14 question, and if you're able to find the answer this
15 evening, report back to counsel and provide that
16 information if it's other than your answer.

17 And with that, I believe that there are no
18 further questions for you. You're excused from the
19 stand.

20 Let's be off the record.

21 (Discussion off the record.)

22 (Marked Hearing Exhibits 56, 57, 58, 59,
23 60, 61, and 62.)

24 JUDGE WALLIS: Let's be back on the record,
25 please.

00578

1 The Commission Staff has called to the
2 stand at this time as its concluding witness Ms. Herta
3 M. Ingram.

4 Ms. Ingram, would you rise and be sworn,
5 please.

6 Whereupon,

7 HERTA INGRAM,

8 having been first duly sworn, was called as a witness
9 herein and was examined and testified as follows:

10 JUDGE WALLIS: Please be seated.

11 In conjunction with Ms. Ingram's appearance,
12 the following documents have been presented for
13 introduction through her testimony: First is a
14 document designated HMI-1 consisting of the pre-filed
15 testimony of Herta M. Ingram, and that document is
16 marked as Exhibit 56 for identification; next is a
17 document designated HMI-2 consisting of the Results of
18 Operations for Ratemaking Purposes for the 12 months
19 ended September 30, 1995 marked as 57 for identification;
20 I'm marking as Exhibit 58 for identification a document
21 designated HMI-3 consisting of two pages, the second of
22 which is entitled Total Compensation; marking as
23 Exhibit 59 for identification a document designated
24 HMI-4 consisting of a table headed Typical Average
25 Service Lives, Salvage Rates and Depreciation Rates,

00579

1 Small Water Utilities; marking as Exhibit 60 for
2 identification a three-page document including a table
3 designated Schedule 3.1, paren, lower case C, end
4 paren, Allocation of Purchase Price; and I'm marking as
5 Exhibit 61 for identification a document designated
6 HMI-6 consisting of text entitled Basic Service Charge
7 Allowance Rate Design.

8 In addition Mr. Lundgaard has indicated he
9 may wish to introduce through the testimony of this
10 witness a document -- a multipage document consisting
11 of a letter on stationary of the Washington Utilities
12 and Transportation Commission under date of May 28,
13 1996 with attached tables, and that's identified as 62
14 for identification.

15 MR. GOLTZ: As a preliminary matter, this
16 witness, and I will ask her, does have a few
17 corrections. I apologize. I overlooked your request
18 at the last session to provide corrected copies.

19 I believe the corrections she makes are
20 fairly minor and could be done just orally, but if
21 your Honor wishes to have a corrected copy, we could
22 supply that.

23 JUDGE WALLIS: My preference is to have a
24 corrected copy provided to all parties unless it's a
25 matter of substance. Then I would like to have it

00580

1 done today.

2 MR. GOLTZ: Well, these things do merit at
3 least mention because there are some typographical
4 errors that should be corrected. I will get to that.

5

6 DIRECT EXAMINATION

7 BY MR. GOLTZ:

8 Q. Could you state your name, please.

9 A. My name is Herta Ingram.

10 Q. And in conjunction with this proceeding,
11 did you prepare some pre-filed written testimony?

12 A. Yes.

13 Q. And has that been marked as Exhibit 56?

14 A. Yes.

15 Q. And in conjunction with your pre-filed
16 written testimony, did you prepare several exhibits
17 which have been marked as Exhibits 57 through 61?

18 A. Yes.

19 Q. And were those -- was that testimony and
20 exhibits prepared by you or under your supervision?

21 A. Yes.

22 Q. Do you have any corrections to your
23 testimony?

24 A. Yes.

25 Q. Could you state that concisely, please.

00581

1 A. The first correction I have relates to page
2 1 of my pre-filed testimony, line 2 and then again on
3 line 7 and then again on line 12. They're all
4 related. As of August 1st, 1996 I was no longer
5 employed by the Utilities Commission. I have obtained
6 employment elsewhere, and for the purposes of this
7 hearing, I'm working as an independent contractor
8 for the Utilities Commission since I was the person
9 who prepared the majority of the analysis in this
10 case.

11 Q. Do you have any other corrections to your
12 testimony?

13 A. Yes, I do. On page 10 of my pre-filed
14 testimony, line 25 contains a typo. The percentage at
15 the end of that line should read 45.6 instead of 46.5.

16 And then on page 18, line 20, I inadvertently
17 took the wrong number for the revenue requirement for
18 the company. The number stated on that line as 22,815
19 should be 109,695.

20 MR. LUNDGAARD: What was the number again on
21 line 20, page 18?

22 THE WITNESS: 109,695.

23 Q. And why -- could you explain to me why
24 there is that discrepancy?

25 A. The number that I used -- if you look on

00582

1 the Results of Operations, Exhibit 57, I looked in the
2 wrong column, and the 22,815 is an addition to revenue
3 requirement to reach the total revenue requirement.

4 Q. I understand. Any other corrections?

5 A. No.

6 Q. Okay. With the corrections you have just
7 stated, if you were to prepare this testimony today,
8 would it be the same as it was when it was pre-filed?

9 A. Yes.

10 Q. And it's true and correct to the best of
11 your knowledge?

12 A. Yes.

13 MR. GOLTZ: I would like to offer Exhibits
14 57 through 61.

15 JUDGE WALLIS: 56 through 61.

16 Is there objection?

17 MR. LUNDGAARD: No objection.

18 MR. FREDERICKSON: No objection.

19 JUDGE WALLIS: Exhibits 56 through 61 are
20 received.

21 (Admitted Hearing Exhibits 56, 57, 58, 59,
22 60, and 61.)

23 MR. GOLTZ: Mr. Wallis, before I tender the
24 witness for cross-examination, there has been, at
25 least in this case, a little bit of a practice of

00583

1 rebuttal testimony.

2 I do have at least one question for the
3 witness. It might be useful to put that on the record
4 now. I expect Mr. Lundgaard to ask about it, and this
5 might expedite it.

6 JUDGE WALLIS: Mr. Frederickson, we have
7 followed that practice to let everyone examine the
8 totality of the presentation. Is that acceptable to
9 you?

10 MR. FREDERICKSON: Yes, your Honor.

11 JUDGE WALLIS: Please proceed.

12

13 REBUTTAL EXAMINATION

14 BY MR. GOLTZ:

15 Q. Referring to the pre-file and now admitted
16 testimony of Mr. Bacon, which is Exhibit 46, and
17 referring to page 3, and page 3, line 8, Mr. Bacon
18 refers to a pre-hearing conference. Were you at that
19 meeting?

20 A. Yes.

21 Q. And how would you characterize that
22 meeting?

23 A. That meeting was a meeting of the parties
24 involved in this proceeding who were formally accepted
25 by the Commission in the pre-hearing conference of May

00584

1 28th. And it was a meeting for the purposes of
2 negotiating a potential settlement.

3 Q. Was it a formal pre-hearing conference?

4 A. No.

5 Q. And the date of that meeting referred to on
6 page 3, line 8 to your recollection was what?

7 A. That was June 3rd, 1996.

8 Q. And the date of formal pre-hearing
9 conference was what?

10 A. May 28th, 1996.

11 Q. Also on page -- Mr. Eschenbrenner's
12 testimony, Exhibit 30 -- I'm sorry, Exhibit 29, on
13 page 7 -- do you see that?

14 A. Uh-huh. Yes.

15 Q. On line 2 you figure 250 gallons per home?

16 A. Yes.

17 Q. Is that the approximate equivalent to
18 1,000 cubic feet per month?

19 A. Yes.

20 Q. And do you recall communicating anything to
21 Mr. Eschenbrenner about the average consumption of a
22 home --

23 MR. LUNDGAARD: I'll object to this. This
24 is the very thing that -- that conversation took place
25 in the June 3rd meeting. Either we're going to talk

00585

1 about it, or we're not. And now counsel is
2 interjecting what took place at that meeting.

3 MR. GOLTZ: I believe Mr. Eschenbrenner
4 testified that he received information from Ms. Ingram
5 about the average consumption. I was inquiring about
6 that. If you wish -- I mean, I would be happy to have
7 it either way on that communication.

8 MR. LUNDGAARD: Before she answers the
9 question, I would like to voir dire her to ask her if
10 that conversation -- the only time she had a discussion
11 with Mr. Eschenbrenner was at the June 3rd meeting.

12 MR. GOLTZ: Okay.

13 JUDGE WALLIS: I'm not sure what the
14 relevance of that would be, Mr. Lundgaard.

15 MR. LUNDGAARD: Well, I've tried to
16 introduce matters that came out of that June 3rd
17 meeting, and I've been denied that opportunity. And if
18 -- I don't think that she has ever talked to Mr.
19 Eschenbrenner except at the June 3rd meeting. And
20 we're going to -- then that's -- I just want to
21 establish that point.

22 JUDGE WALLIS: What I see going on here is
23 that Mr. Eschenbrenner did offer some testimony, and
24 Mr. Goltz is asking a question as a follow-up or
25 rebuttal to the answer to that question.

00586

1 I would like Mr. Goltz to complete his
2 question so that we can see whether it's tied to that
3 earlier testimony, and then we'll consider the
4 objection.

5 Q. Ms. Ingram, did you communicate information
6 to Mr. Eschenbrenner regarding a 250 gallon per home
7 or a 1,000 cubic foot per month usage per residence
8 in the state of Washington as you recall?

9 A. Not in that context.

10 MR. GOLTZ: No question then.

11 MR. LUNDGAARD: Well, when did that
12 conversation take place?

13 THE WITNESS: I don't recollect.

14 MR. LUNDGAARD: When you say not in that
15 context, in what context was the figure of 250 gallons
16 per day discussed by you with Mr. Eschenbrenner?

17 THE WITNESS: I don't use the -- I have not
18 used the term gallons per day or unit gallons per
19 day. I use the unit cubic feet per month because
20 the context in which I discussed 1,000 cubic feet was
21 in the context of devising a potential metered rate
22 for this company.

23 The reason I stated not in that context was
24 that Mr. Goltz included the wording for an average
25 residential home in Washington. I did not use -- it

00587

1 is not average for residential homes in Washington.
2 And if it is, it is purely by coincidence. It is an
3 average of the usage that I have seen in the metered
4 companies that I have done audits on in the recent
5 past.

6 MR. GOLTZ: I have no further questions. I
7 tender the witness for cross-examination.

8 JUDGE WALLIS: Mr. Lundgaard?

9 MR. LUNDGAARD: Thank you.

10

11 CROSS-EXAMINATION

12 BY MR. LUNDGAARD:

13 Q. Did you ask the company for a copy of the
14 purchase and sale agreement?

15 A. Yes.

16 Q. Did you receive one?

17 A. No.

18 Q. What response did you receive?

19 A. The company's response to my request for a
20 copy of the purchase and sale agreement was, and I
21 quote, the entire Rosario property and all its assets
22 were purchased for 5.1 million dollars from Geiser
23 Land and the Meade Rosario Trust. There was no
24 separate water company and all assets of the seller
25 were combined. The water system assets were given a

00588

1 value for tax purposes of 346,480 based upon the
2 seller's allocation.

3 Q. And you've quoted that in your pre-filed
4 testimony, page 27 I believe?

5 A. Yes.

6 Q. Did you examine the books and records of
7 the company?

8 A. I examined the records that were provided
9 to Staff in the course of this process, yes.

10 Q. You indicate that the duties of a revenue
11 requirement specialist are to inspect and verify and
12 audit the books and records of a regulated company.
13 Is that something you did in this case?

14 A. The duties of a revenue requirement
15 specialist do include verifying and auditing the books
16 and records of a regulated company. When books and
17 records are not available or have not been kept for
18 historical purposes, Staff, in other words the revenue
19 requirement specialist, reviews the documentation that
20 is available. If you would like to consider that
21 documentation books and records, then the answer would
22 be yes.

23 Q. Did you ever see a document in the records
24 of the company that were provided to you that showed a
25 purchase price of \$346,480 for the water system?

00589

1 A. Not to my recollection.

2 Q. Did you ever see any document that
3 supported an allocation of that amount?

4 A. Not to my recollection.

5 Q. Now, do you recall submitting a data
6 request of June 6th to the company?

7 A. Yes.

8 Q. And your first question, 1-A, was to
9 provide substantiation for the rate base amount
10 requested by the company?

11 A. Yes.

12 Q. And was the rate base amount that had been
13 requested of that company \$346,480?

14 A. No.

15 Q. Was that the plant in service figure?

16 A. Yes.

17 Q. Okay. Did they show you any documents to
18 support the plant in service of 346,480?

19 A. Not that total, no.

20 Q. And in response to that data request, did
21 you receive a document which has been put in evidence
22 as Exhibit 28, an identical exhibit as AAJ-3?

23 A. I'm not sure I have Exhibit 28.

24 MR. GOLTZ: Here.

25 THE WITNESS: Could you repeat the

00590

1 question, please?

2 Q. Was the response to the data request that I
3 just read the providing to you of what's been marked
4 Exhibit 28?

5 A. Yes.

6 Q. Is there any calculation on that document
7 which -- or does the figure \$346,480 appear on that
8 document?

9 A. No.

10 Q. And I don't know if you were present during
11 the time that there was questioning of, I believe, Mr.
12 Drahn and also maybe Mr. Jones to the effect that
13 there is a group of numbers here that are in the asset
14 cost column that actually were numbers assembled by
15 Mr. Jones.

16 A. Is that a question.

17 Q. Yeah.

18 A. What you are asking me is was I present
19 during that testimony?

20 Q. Yeah. Did you hear that testimony?

21 A. I was present for Mr. Drahn's testimony for
22 the first portion of it on Thursday.

23 Q. Do you recall that the asset cost column in
24 Exhibit 28 actually has numbers that were put together
25 by Al Jones?

00591

1 A. No, I don't recall.

2 Q. Would you look at -- do you have the
3 response of the company dated June 11th to your data
4 request of June 6th that we've been talking about?

5 A. Yes.

6 Q. And we've read your request No. 1-A. And
7 in response to that, didn't Mr. Donahoe say the
8 information on the attached spread sheet, which
9 follows your format, is compiled from those figures
10 provided by Al Jones from 1985 to 1995 and the balance
11 from the engineering firm of MPD, which has been
12 involved with the Rosario Water System for years?

13 A. Yes.

14 Q. And the spread sheet that he's referring to
15 is what later has become Exhibit 28; isn't that
16 correct?

17 A. Yes.

18 Q. Since that document was developed after Mr.
19 Jones had provided his figures and includes his
20 figures, then I take it it wouldn't be possible that
21 that document, Exhibit 28, was even in existence in --
22 at the time that the sale took place, the sale of the
23 water system; wouldn't that follow?

24 A. It would seem.

25 Q. Okay. Did you hear the testimony of Chris

00592

1 Vierthaler?

2 A. Yes.

3 Q. Okay. And did you hear her testify that
4 the Rosario Utilities, LLC included not only the water
5 system but also the sewer system and the hydroelectric
6 plant and the irrigation system?

7 A. Yes.

8 Q. Were you aware of that prior to her
9 testimony?

10 A. Yes.

11 Q. When you were examining the records that
12 were made available to you, did you see any evidence
13 that the developer of the water system and the
14 property had capitalized the water system?

15 A. I did not do the analysis of utility plant
16 in service. I relied on Al Jones' analysis for that.

17 Q. So you relied on his adoption of the asset
18 cost column that's in Exhibit 28?

19 A. I relied on his analysis of that asset cost
20 column.

21 Q. Okay. And have -- subsequent to his
22 accepting the figures of the engineer, have you heard
23 testimony of actual invoices for some of those items
24 that are listed in that column?

25 A. No, I have not heard testimony of that.

00593

1 Q. You weren't present when Exhibit 35, the
2 invoice for a 60 gallon water reservoir, was put in
3 evidence?

4 A. When was that put in evidence?

5 MR. GOLTZ: Your Honor, I believe it was
6 even announced on the record at last Friday's hearing
7 that Ms. Ingram had to leave the hearing last Friday
8 because another one of the Commission Staff people
9 became ill overnight.

10 And so I just wanted it to be clear that in
11 the normal course she would have been present, but
12 because of logistics of getting her off Orcas Island
13 and not having to travel, the ill person, in the auto
14 alone, it was necessary for someone to go with her,
15 and Ms. Ingram did that.

16 MR. LUNDGAARD: I'm just not sure when she
17 was there and when she wasn't in terms of exhibits, so
18 that's the reason for my inquiry. I'm not criticizing
19 her for not being there.

20 Q. I'm showing you Exhibit 35. Have you seen
21 that before?

22 A. No.

23 Q. Okay. You're familiar with Exhibit 28
24 that does show a 60,000 gallon reservoir?

25 A. Which was Exhibit 28 again?

00594

1 Q. That's the document that I said was sent to
2 you with --

3 MR. GOLTZ: AAJ-3.

4 MR. LUNDGAARD: Which is called, interestingly,
5 September 30, '95 Rate Base Calculation.

6 THE WITNESS: Yes, I have it. What was
7 your question, again? I'm sorry.

8 Q. Do you recognize that there is a 60,000
9 gallon concrete tank in the asset cost -- in the asset
10 description column and shown in the asset cost column
11 at \$17,940?

12 A. Yes.

13 Q. Have you seen Exhibit 8, which was a letter
14 from Dan Drahn to Dan Donahoe?

15 A. I have that one.

16 Q. You have that one?

17 A. Yes.

18 Q. Where he indicates that no receipts and
19 invoices were available?

20 A. Yes.

21 Q. Okay. Were you -- do you recall whether
22 you were present when Mr. Eschenbrenner testified?

23 A. No, I wasn't.

24 Q. Referring you to Exhibit 8, starting with
25 the letter as being page 1, page 4, at the top it says

00595

1 account 304?

2 A. Yes.

3 Q. And item F, an estimate of 60,000 gallon
4 concrete tank with a cost of \$50,000?

5 A. Are you asking me to verify that?

6 Q. Yes. Do you see that there?

7 A. Yes.

8 Q. And there was testimony that that's the
9 tank that Mr. Eschenbrenner obtained the invoice for
10 that the actual cost was \$6,825 for the tank?

11 A. I wasn't present for Mr. Eschenbrenner's
12 testimony.

13 Q. Well, assuming that was the testimony,
14 would you acknowledge that that would be one
15 indication that the estimated cost in the asset cost
16 column on Exhibit 28 is suspect?

17 A. I'm not an engineer and can't make that
18 judgment.

19 Q. So you are just accepting Mr. Jones'
20 acceptance of these asset -- of these estimated costs?

21 A. I relied on Mr. Jones' professional
22 background, yes.

23 Q. Exhibit 28 did not include the item of a
24 truck; did it?

25 A. No.

00596

1 Q. So you are the one that added the truck to
2 the asset cost column?

3 A. Yes.

4 Q. Why didn't you rely on Mr. Jones in that
5 instance?

6 A. Because I was the staff person that was
7 made aware of that through my analysis of the
8 expenses, which is where my expertise comes in.

9 Q. Do you understand that these asset cost
10 numbers were based on estimates to the extent that
11 they are figures that came from the engineering firm
12 of MPD?

13 A. The ones on Exhibit 28 are, yes.

14 Q. And the only ones that are based on
15 invoices are those that were provided by Mr. Jones?

16 A. Correct.

17 Q. Your addition to the asset cost column, was
18 that based on historical cost?

19 A. Yes.

20 Q. But none of the other items, except Mr.
21 Jones' items, are based on historical cost?

22 A. I can't make that statement.

23 Q. Well, didn't you just tell me that you
24 understood those were based on estimates and not on
25 invoices?

00597

1 A. I understood that it was based on the
2 information provided by the company's engineer. If
3 the company's engineer is stating that there are no
4 historical cost bases for those amounts, then the
5 answer to your question would be yes.

6 Q. And didn't he state in his letter to Mr.
7 Donahoe that he -- that receipts and invoices were not
8 available?

9 A. Yes.

10 Q. And further that contract bids were not
11 available?

12 MR. GOLTZ: Your Honor, I'm going to
13 object. Maybe this won't go on much further. I think
14 it's pretty clear that Ms. Ingram testified that she
15 relied on the plant in service calculation provided to
16 her by Mr. Jones and then added the truck.

17 And to the extent that, you know, she's
18 being asked to go -- to critique the material
19 contained in Exhibit 28, that's clearly beyond the
20 scope of her direct testimony.

21 JUDGE WALLIS: Mr. Lundgaard?

22 MR. LUNDGAARD: I have no more questions in
23 this field anyway.

24 Q. Would you agree that where a company
25 expenses the development costs, that they should not

00598

1 be included then in the rate base?

2 A. I'm not sure I follow your question.

3 Q. If a company expenses their development
4 costs including the water system, would it be proper
5 for the company to capitalize those development costs?

6 A. I wouldn't understand why a company would
7 expense development costs of a water system.

8 Q. Assuming it wasn't regulated -- are you
9 familiar with the Port Ludlow case?

10 A. No.

11 Q. When assets are sold by a regulated water
12 company and the sale price is greater than the book
13 value of the plant in service, don't you normally use
14 the book value for rate base purposes?

15 A. Yes.

16 Q. And are you aware that in the current sale,
17 this was a sale of assets and not a sale of stock?

18 A. Yes.

19 Q. Would you agree that when it's a sale of
20 stock, that the book value would be the same the
21 day before the sale as the day after the sale?

22 A. Yes.

23 Q. When you said that you wouldn't know why a
24 company would expense their development costs, whether
25 you wouldn't think that's wise to do, if they did

00599

1 expense it, regardless of the reason, then it would
2 not be proper to include those assets or dollars
3 in the rate base; would it?

4 A. What a company does with their financial
5 records for the purposes of internal bookkeeping is
6 different than what they do for the purposes of rate
7 making. Rate making is a completely separate entity
8 in itself, an entity of accounting, wherein we do not
9 recognize the expensing of items that should properly
10 be capitalized.

11 Q. And would your answer be yes to my
12 question?

13 A. Please restate your question?

14 Q. If a company did expense their development
15 costs, would you agree that it would not be proper to
16 include those costs in rate base?

17 MR. FREDERICKSON: Your Honor, I would like
18 to object because I think the term expense is vague,
19 and without a definition, it has no meaning.

20 JUDGE WALLIS: Let me ask if the witness
21 understands the term in the context of the question?

22 THE WITNESS: Yes.

23 JUDGE WALLIS: The witness may respond.

24 A. For rate-making purposes, no, it would not
25 be proper to either expense the item or ignore it as a

00600

1 capitalized item. So for rate-making purposes, we
2 wouldn't recognize the expensing of development costs.
3 We would simply capitalize it.

4 I cannot make a statement on the side of
5 the financial aspects of the company's books. What
6 they do with their own books is up to them and subject
7 to regulation by other entities, like the IRS.

8 Q. So you're saying that even if the company
9 expensed it, you would ignore that, and you would put
10 it in -- you would capitalize that cost?

11 A. That's correct. For rate-making purposes
12 it's appropriately a capitalizable item and, therefore,
13 should be reflected in rate base.

14 Q. And so you're not familiar with the Port
15 Ludlow case?

16 A. That's right.

17 Q. If I could refer you to page 9 of your
18 pre-filed testimony. Referring you to lines 7 through
19 9. You've indicated that the company only recorded
20 \$965 of income from Highlands and Vusario, and that
21 Highlands had in fact during the test year paid
22 \$2,963; is that correct?

23 A. Yes.

24 Q. And was that information provided to you by
25 Orcas Highlands --

00601

1 A. Yes.

2 Q. -- rather than the company?

3 A. It was provided by the interveners.

4 Q. Yes. Okay.

5 JUDGE WALLIS: I'm going to ask, Ms. Ingram,
6 that you wait until the question is complete before you
7 state an answer. It makes it a lot easier on the
8 reporter.

9 Q. You indicate, and I'm referring to your
10 restating adjustment, RA-1. You have -- on line 15 on
11 that same page you indicate that Staff believes the
12 company should have collected from the associations,
13 referring to the Highlands and Vusario I take it --
14 that they should have collected the \$20 tariff rate
15 that was the tariff for the domestic users, being
16 Rosario Homeowners?

17 A. I can't answer that question in the
18 affirmative the way you have it worded.

19 Q. Okay. Did the tariff that was on file
20 prior to this application have a tariff rate for the
21 bulk users for both Vusario or Orcas Highlands?

22 A. The tariff that's on file with the
23 Commission at this point in time has a rate for
24 domestic establishments. It does not differentiate
25 between where that domestic establishment is.

00602

1 Q. And aren't Vusario and Orcas Highlands both
2 bulk users of water from the company?

3 A. We have deemed them bulk users because they
4 maintain their own distribution system. But Staff has
5 interpreted their currently-effective tariff to
6 indicate that it is a charge per domestic
7 establishment connected to the system. We have not
8 differentiated between individual homeowners versus
9 the associations for the purposes of applying the
10 currently-effective
11 tariff.

12 Q. The two associations' subdivisions are
13 outside of the service area of the company; are they
14 not?

15 A. I cannot attest to that. According to the
16 Commission's definition of service area for small
17 water companies, the service area states -- the
18 definition states something to the effect of the
19 service area is where the company serves.

20 Q. And in this particular case, there is a map
21 that goes with the tariff, and the service area is
22 outlined in a bold solid line?

23 A. Nowhere on that page does it indicate that
24 the service area ends at the solid line.

25 Q. You understand that both Vusario and Orcas

00603

1 Highlands receive their water by contract with the
2 company?

3 A. What do you mean by contract?

4 Q. By agreements that are part of the record
5 here -- been pre-filed?

6 A. My understanding is that those contracts
7 give the associations the ability to receive water
8 from the system. If that is your question, then yes.

9 Q. All right. And that's the basis upon which
10 they've been receiving water both before any tariff
11 was filed and even after the Geiser-signed tariff was
12 filed, the original tariff was filed?

13 A. Those contracts were in effect prior to the
14 tariff having been filed.

15 Q. And they continue to be in effect after the
16 first tariff was filed?

17 A. Correct.

18 Q. If it's as you say, that there is a tariff
19 for the consumers, then why did the more recent filing
20 of the tariff specifically include a rate for Vusario
21 and Orcas Highlands?

22 A. It was the interveners' request that a bulk
23 rate be presented by Staff for consideration by the
24 Commission.

25 Q. Excuse me. I'm talking about the tariff.

00604

1 When the tariff revisions were filed by Rosario
2 Utilities, they saw fit to have a specific tariff item
3 for Vusario and Orcas Highlands that was separate and
4 apart from the normal water consumers that were on
5 their system; isn't that true?

6 MR. GOLTZ: I'm going to object for lack of
7 foundation as to whether the witness knows exactly
8 what was in the mind of the company.

9 MR. LUNDGAARD: It's not what was in the
10 mind of the company. It's a matter of what's in the
11 tariff. Look at the tariff. It's --

12 Q. You're familiar with the filing by the
13 company; are you not?

14 A. Yes.

15 Q. And isn't there a specific rate set forth
16 there for Vusario and Orcas Highlands?

17 A. Yes.

18 Q. And that's a different rate than for the
19 consumers generally?

20 A. Yes.

21 Q. And you have recognized that there should
22 be a different rate for, what we refer to as, bulk
23 users, Vusario and Orcas Highlands, because they have
24 their own distribution and storage system, and they
25 bear the cost of maintaining those systems?

00605

1 A. For the purposes of Staff's recommendation,
2 yes.

3 Q. Referring you to the bottom of page 9 the
4 top of page 10, reference to Rosario resort, you've
5 indicated that you've made an adjustment that inputs
6 revenue from the company that should have been
7 collected in order to remove any subsidies. I take it
8 that the resort had not been paying for its water?

9 A. I can't attest to that.

10 Q. Did you see anything on their -- under the
11 income that would indicate that the company was
12 collecting any money from Rosario Resort?

13 I might point out the next sentence in your
14 pre-filed testimony to the effect that the company
15 reported \$11,700 of receivables for this purpose,
16 being the money coming in from the resort. So doesn't
17 that answer the question that --

18 A. No, it doesn't. Receivables are assets and
19 income is an income account. And they're on two
20 separate statements. A receivable cannot be an income
21 at the same time.

22 Q. Well, in this case then you need to look at
23 something to see if they were paying a rate for their
24 water and in addition were including an accounts
25 receivable for the water?

00606

1 A. Well, your original question was whether or
2 not I had received documentation to the fact of having
3 received -- the company having received income, and
4 that's what I was attempting to verify.

5 Q. Okay.

6 A. And they do show that as income on one of
7 their responses to a data request.

8 Q. But they have never paid any cash for that
9 water to your knowledge?

10 A. If it's reflected as a receivable, then
11 the assumption would be no.

12 Q. You have -- going on again on page 10, you
13 have accepted the computation in the water system plan
14 of 109 R.E.U.'s and adopted that in your testimony; is
15 that correct?

16 A. Correct.

17 Q. And do you know the gallons per day that
18 was reflected in the water system plan that was used
19 to arrive at 109 residential units?

20 A. Yes.

21 Q. And what was that figure?

22 A. It appears to be 310 gallons per day.

23 Q. Okay. I would like to refer you to Exhibit
24 10, which is also DET-4. Do you have that before you?

25 A. Yes.

00607

1 Q. Do you see there that they indicate that
2 the resort -- or that the gallons per year for the
3 resort was 13,013,000 gallons per year?

4 A. Yes.

5 Q. And would you accept that if you divide
6 that by 365 days, you would get 35,652 gallons per
7 day?

8 A. Subject to check.

9 Q. Okay.

10 MR. GOLTZ: What was that figure?

11 MR. LUNDGAARD: 35,652.

12 Q. And that figure represents the gallonage
13 that was founded by the meters and does not include
14 non-metered areas, such as the employee housing; is
15 that your understanding?

16 A. If a consumption figure is given, then I
17 would have to assume it was metered.

18 Q. Okay. And if you were to divide the 35,652
19 gallons per day by 250 gallon per day, would you
20 accept that the figure would be 143 R.E.U.'s?

21 A. No. Could you restate that?

22 Q. If you divided the 35,652 gallons per day
23 by 250 gallons per day, you would arrive at 143?

24 A. Subject to check.

25 Q. Okay. Did you hear the testimony that the

00608

1 meter readings on those houses that had been recently
2 metered at the -- by the company, that the average
3 usage was more like 180 gallons per day?

4 A. Do you recall who presented that testimony?

5 Q. I think it was presented by both Mr.
6 Eschenbrenner and by Jim Kidd at the public hearing.

7 A. I may recall -- I did see Jim Kidd's
8 testimony; however, I don't recall that portion of it.

9 Q. Based on the -- if those were -- if the
10 number of 180 gallons per day is what is reflected in
11 the record from those meters for the seven or eight
12 homes that were metered, wouldn't you think that would
13 be a more reliable figure to use to determine R.E.U.'s
14 than to accept the water system plan that was based on
15 310 gallons per day?

16 A. No.

17 Q. Did you do some calculating to arrive at
18 the amount of time to be accredited for the
19 administrative assistant, a reasonable number of hours
20 that you thought an administrative assistant should
21 work to accomplish the tasks required by this company?

22 A. Yes.

23 Q. And you indicate that that was based on
24 Staff's experience. Are you referring to people other
25 than yourself?

00609

1 A. Yes.

2 Q. And who are you referring to?

3 A. Other water section staff with whom I have
4 dealt with over the past four years.

5 Q. And referring you to what's been marked as
6 Exhibit 62, your letter of May 28 to Mr. Donahoe.

7 MR. GOLTZ: Your Honor, I'm going to object
8 to questions about this letter on the same basis that
9 it relates to pre-filing discussions and negotiations,
10 although maybe it's questionable. Maybe it's not
11 related to that. I guess I'm anticipating that's
12 what it's going to be about.

13 MR. LUNDGAARD: I was going to ask her about
14 her statement at the bottom of the letter where she
15 indicates that the times that she has indicated that
16 are reasonable for salaried employees was based upon
17 experience with water system operations -- determined
18 by Staff based upon experience with water system
19 operations.

20 Q. Isn't that basically the same type of
21 experience you were talking about in your pre-filed
22 testimony that you're referring to here in your
23 letter?

24 A. Yes.

25 Q. And didn't you at that time indicate

00610

1 that --

2 MR. GOLTZ: I'm going to renew my
3 objection.

4 JUDGE WALLIS: Mr. Lundgaard, do you have
5 anything further to say?

6 MR. LUNDGAARD: Your Honor, this, I believe,
7 goes to the -- to test the credibility of this witness'
8 testimony as to what she finally arrives at.

9 She has indicated in here to Mr. Donahoe
10 what she believes to be reasonable time for these
11 employees under salaried employees, and she says she
12 has based this upon experience.

13 There is nothing in this letter that
14 indicates or refers to this being for settlement
15 purposes or anything else. It's a very straightforward
16 letter indicating what the Staff's position is.

17 And it says attached you'll find the
18 Results of Operation as prepared by the WUTC Staff.
19 And I think that I should be able to test her ultimate
20 figures by asking her about her prior computations and
21 results that she had arrived at.

22 JUDGE WALLIS: Mr. Frederickson, do you
23 have anything to say?

24 MR. FREDERICKSON: Well, we seem to be
25 bringing into the record this document which hasn't

00611

1 been admitted, and I have some concern that,
2 depending upon whether it's even offered at some
3 point, we have a record that is full of this
4 particular document. So I guess my preference is to
5 see whether it's going to be admitted and then
6 question the witness about the document.

7 I guess I would also point out that the
8 absence of something that's saying it's for settlement
9 purposes only does not -- or for discussion purposes
10 only does not determine the ultimate character of a
11 document. Sometimes people miss and don't stamp
12 something they should or vice versa. But the document
13 has to speak for itself in terms of what it is.

14 JUDGE WALLIS: I'm going to sustain the
15 objection, Mr. Lundgaard, and the reason is as we have
16 discussed before; the preliminary positions, interim
17 positions, interim thinking, interim discussions that
18 go on in furtherance of settlement or in furtherance of
19 preparation of an adequate case are not proper subjects
20 for discussion during the hearing.

21 If you want to explore the basis for the
22 witness' present testimony, you're certainly entitled
23 to look into that basis.

24 But I do believe that it's improper to go
25 back to interim positions or interim documents that

00612

1 are not a part of the party's presentation but were
2 obviously prepared as preliminary to achieving a final
3 position. So on that basis I will sustain the
4 objection.

5 MR. LUNDGAARD: Well, not meaning to argue
6 with you, but this could have been a settlement -- this
7 -- the Staff had arrived at this figure at that point
8 in time, and it was published. It was sent to me. It
9 was sent to Mr. Donahoe.

10 And it's not a draft for consideration by
11 Staff but is -- apparently we're foreclosed from
12 analyzing how they arrived at their ultimate figure
13 based on earlier best-effort proposals in the interim.
14 And I think it's very relevant to test the credibility
15 of what she ultimately came up with.

16 JUDGE WALLIS: You're perfectly entitled to
17 pursue the basis for the witness' testimony and to
18 test her credibility but not by using interim
19 documentation.

20 Did I hear that you were suggesting that
21 there may be some kind of estoppel in presentation of
22 documents that would prevent the Staff from changing
23 on a later filing?

24 MR. LUNDGAARD: No. But I think it affects
25 the weight to be given the testimony that they're

00613

1 presently giving.

2 If an appraiser were to say I think this
3 property is worth \$100,000, and then two weeks later
4 he goes on the witness stand and says I think it's
5 worth \$150,000, I certainly would have an opportunity
6 to question him about the earlier assumption of the
7 value and why he would change his mind in the interim.
8 And that's what I'm being foreclosed from doing here.

9 She has made a statement as to what she
10 thinks would be the proper number of hours and other
11 things and what she thinks would be a proper tariff
12 at that time, and something has happened in the
13 interim, and I'm not being able to ask her about her
14 prior opinion and what changed her mind so
15 dramatically.

16 I think that's legitimate examination of
17 her to test the credibility of what she's now saying.

18 JUDGE WALLIS: I understand your arguments,
19 and I sense the frustration that you're feeling at
20 this time, Mr. Lundgaard, but I do believe that the
21 ruling is correct.

22 I believe, as Mr. Goltz stated earlier,
23 that if we allowed that kind of inquiry, it would --
24 and I believe Mr. Frederickson also mentioned this --
25 that it would chill the parties' willingness to engage

00614

1 in settlement discussions, and it would also
2 substantially extend the time required for hearings.

3 So on all those bases, including the ones
4 earlier stated, I'm going to reaffirm that objection.

5 I do want to emphasize that you're
6 certainly able to enquire into the witness' basis for
7 her presentation and you're also able to inquire into
8 matters relating to credibility, just not based on
9 this particular document.

10 Q. You indicate at the bottom of page 10 that
11 you've allowed 33 percent of a full-time equivalent
12 administrative assistant. And I believe somewhere in
13 your testimony you've indicated that a full-time
14 equivalent for 40 hours a week would be 2,080 hours?

15 A. That's correct.

16 Q. So if we were to take 33 percent of 2,080
17 hours, we would get the number of hours that you're
18 allotting to this administrative assistant?

19 A. That's correct, on an annual basis.

20 Q. And you're deferring to Mr. Jones for the
21 amount of time for the certified water operator?

22 A. That's correct.

23 Q. If you would refer to the testimony of
24 Darlene Thorson, line 7 through 11. And just as a
25 foundation question, this testimony by Ms. Thorson was

00615

1 filed after you had filed your pre-filed testimony; is
2 that correct?

3 A. That's correct.

4 JUDGE WALLIS: Just so the record is clear,
5 I believe that's Exhibit 14; isn't it, Mr. Lundgaard?

6 MR. GOLTZ: Yes.

7 MR. LUNDGAARD: Yes, your Honor.

8 Q. Exhibit 14, page 7, subject of insurance,
9 in your adjustment RA-5, you discuss on page 12 and 13
10 you have used an insurance cost of \$4,552. And my
11 question is: Based on her testimony on page 7,
12 wouldn't it be more proper to use the figure of
13 \$2,474?

14 A. For me to accept that figure, I would
15 prefer to investigate it further before answering that
16 question.

17 Q. It certainly would raise some questions in
18 your mind however as to the accuracy of your own
19 figure; would it not?

20 A. Absolutely.

21 Q. Referring you to page 14 of your testimony,
22 is your depreciation expense based on the estimated
23 plant in service cost that you've used?

24 A. Well, the combination of the estimated and
25 the verified, yes.

00616

1 Q. Okay. And without belaboring the point,
2 you're not going back to that estimated cost to verify
3 that there are invoices that would put some of those
4 estimated costs in question?

5 A. I'm not sure I understand your question.

6 Q. Well, you have indicated you've relied
7 solely on Mr. Jones, and you're not prepared to go
8 back and look at the invoices that have been put in
9 evidence to make any adjustments to that estimated
10 cost?

11 MR. GOLTZ: Your Honor, I believe that
12 question has been asked and answered previously.

13 JUDGE WALLIS: Calls for a yes or no.
14 Let's let the witness respond.

15 THE WITNESS: Could I ask you to restate it
16 one more time, please?

17 MR. GOLTZ: Sorry.

18 Q. I guess the way I stated it last was that
19 you've relied on Al Jones, and you're not making any
20 adjustments to the estimated cost that would be
21 reflected by invoices that have been put in evidence
22 since the time you filed your testimony?

23 A. The first part of that question, yes, I
24 have relied on Mr. Jones and his testimony. The
25 second part about not making any adjustments, I'm not

00617

1 sure I ever said that, and that -- I wouldn't be the
2 one to make those adjustments. It would be Mr. Jones.

3 Q. If adjustments were going to be made, you
4 wouldn't be the one making them?

5 A. That's correct.

6 Q. Regardless of your own knowledge of those
7 -- of whether there are invoices that put the
8 estimated cost in question?

9 A. As I stated before, I'm not an engineer,
10 and, therefore, I'm not qualified to comment on the
11 validity of those invoices as being complete or
12 accurate.

13 Q. Do you think you need to be an engineer to --

14 A. Yes.

15 MR. GOLTZ: Or a lawyer.

16 Q. Referring to page 15, line 18, you indicate
17 that payroll tax is approximately 27 percent of salary
18 expense. Could you tell us how you came up with that
19 percentage?

20 A. In my experience auditing water companies,
21 it has been my experience that payroll tax is
22 approximately 27 percent of salaries. And when
23 calculated for this particular company, that holds
24 true as well.

25 Q. Does the -- are you including withholding?

00618

1 A. I'm including all payroll taxes that the
2 company is liable for.

3 Q. Well, are withholding really part of a
4 person's wages?

5 A. I'm not sure I follow you.

6 Q. Well, are the withholding taxes part of
7 this 27 percent?

8 A. For the purposes of this case, I used the
9 straight percentage of 27 percent because I was not
10 able to arrive at the individual components of their
11 payroll tax, so in general, yes, they are.

12 Q. So in general the withholding taxes are
13 included in this -- in the salary expense. Does it
14 include Federal income tax?

15 A. Federal income tax is generally charged
16 only of business entities, and any individual income
17 tax is paid directly from the individual not through
18 a company.

19 Q. Are you able to tell us what the components
20 are of that percentage even if you can't tell us the
21 percentage of each?

22 A. The components of that percentage are
23 generally FICA, and I'm not -- I don't recall what
24 that acronym stands for, FUTA, which is F U T A,
25 Federal Unemployment something, SUTA, State

00619

1 Unemployment, and L&I, and Workman's Comp.

2 Q. And withholding?

3 A. Now, that I think about it, I don't believe
4 so.

5 Q. Would you agree that FICA is six and a half
6 percent?

7 A. I'm not sure of the exact percentages.

8 MR. FREDERICKSON: Your Honor, could I make
9 a record requisition that she give us the components
10 that are -- that make that up and the percentage of
11 each. We've seriously questioned that it totalled 27
12 percent. We think it's far from it.

13 JUDGE WALLIS: Mr. Goltz?

14 MR. GOLTZ: Well, I don't know if the
15 witness has a record that shows that. I think she
16 testified that this was based on her experience with
17 other water companies, and it may be that that would
18 be the -- ultimately be the response, to basically
19 just renew what the oral testimony would be.

20 But if -- I have no objection if there is a
21 request for a record that would demonstrate or that
22 would break out that 27 percent. But I don't know if
23 there is one is all I'm saying. And that would -- so
24 there might be a response, there is no response to
25 demonstrate that, and then her testimony would rest as

00620

1 it is.

2 MR. LUNDGAARD: I'm satisfied with that.

3 JUDGE WALLIS: On what schedule could that
4 be provided? Tomorrow?

5 Off the record for a second.

6 (Discussion off the record.)

7 JUDGE WALLIS: Let's be back on the record,
8 please.

9 It's been decided that the responses to the
10 record request will be provided no later than Friday
11 of this week.

12 Q. Referring you to page 20 of your testimony,
13 at the bottom of the page you indicate the company has
14 provided you with information stating that the
15 administrative assistant would spend 820 hours per
16 year on water system duties. That was not a test year
17 figure, to your knowledge; was it? It was more of a
18 projection of what they anticipated it would be?

19 A. That's a difficult question to answer.
20 During the test year, there were several employees
21 involved in the tasks that were identified in the
22 justification the company provided for the 820. So I
23 cannot verify that 820 is a test year figure. But
24 similarly I can't identify that it wasn't a test year
25 figure.

00621

1 Q. You didn't have -- the company didn't
2 provide you with accurate hours for an administrative
3 assistant for the test year?

4 A. As I just stated, the company had several
5 employees doing the duties of what is now listed as
6 the administrative assistant. So they did provide a
7 schedule of duties. It was not broken down to be able
8 to give me a total hourly -- or a total yearly figure
9 for the combined sums of all of those duties.

10 Q. Well, then my question to you was whether
11 that was a projection of future amounts. Obviously
12 there wasn't a person who was an administrative
13 assistant during the test year that performed those
14 tasks, but it was made up of several. Then this
15 figure of 820 is a projection; is it not?

16 A. The figure attributable to the administrative
17 assistant is a projection. The fact that the duties
18 and those hours may have been performed in the test
19 year is not a projection.

20 Q. Were you able to determine from the test
21 year what the accumulative number of hours were for
22 people that were doing that task?

23 A. No.

24 Q. Page 22, line 5 and 6, or 4, 5, and 6 I
25 guess, your number of 362 equivalent domestic

00622

1 establishments, is that based on 100 -- in part on
2 109 R.E.U.'s for the resort?

3 A. Yes.

4 Q. Line 9 and 10 you said by then dividing by
5 12, the result is a cost per customer per month. What
6 is that cost?

7 A. On line 4 of that page.

8 Q. The 961?

9 A. Correct.

10 Q. Have you read the testimony of -- the
11 pre-filed testimony of Mr. Jenkins?

12 A. Yes.

13 Q. Do you recall his testimony about the Orcas
14 Highlands having paid for a portion of the treatment
15 plant?

16 A. Yes.

17 Q. Wouldn't it be appropriate to include that
18 in contributions in aid of construction?

19 A. Two parts to my answer. No. 1, again I'm
20 not the engineer, so I can't verify the cost set forth
21 in Mr. Jenkins' testimony. No. 2, a verbal statement
22 is not sufficient evidence for me to be able to
23 include it in a rate base calculation for a regulated
24 company.

25 Q. The only time you received a figure of

00623

1 \$346,480 is strictly verbal; isn't it?

2 A. I didn't use 346-and-whatever for my rate
3 base.

4 Q. You stated that as plant in service per
5 books?

6 A. That is per books of what the company
7 reflects on their books as being their utility plant
8 in service, and I adjusted it from there based upon my
9 analysis.

10 Q. And you accepted that figure without any
11 verification or support for that figure?

12 A. Staff does not verify or support the per
13 books level. The per books level is simply the level
14 at which the company reports their financial situation
15 to be.

16 Q. On page 28, bottom of the page, you refer
17 to the purchase agreement as being unsigned at the
18 time you filed your pre-filed testimony. Have you
19 since been provided with a signed copy of the purchase
20 agreement?

21 A. Was it admitted as an exhibit?

22 Q. Yes.

23 A. What number was that?

24 MR. GOLTZ: 22.

25 THE WITNESS: I personally do not have a

00624

1 copy of that exhibit.

2 JUDGE WALLIS: Do you have a copy available
3 to you now?

4 THE WITNESS: Yes.

5 Q. If you would look starting with page 32,
6 and you see that it's been signed in counterparts that
7 are 32, 33, and that's followed by additional copies
8 of 32 and 33?

9 A. Those pages are here, yeah.

10 Q. Do you see the signature of Mr. Donahoe,
11 and that it's been notarized, and the signature of
12 Robert Crinkley, the conservator, and that that's
13 notarized?

14 A. Yes.

15 Q. And the signature of Sarah Geiser?

16 A. Yes.

17 Q. And that it's also notarized?

18 A. Yes.

19 Q. So would you currently agree that there is
20 a signed purchase agreement?

21 A. If for legal purposes five or six separate
22 pages with individual signatures is considered a
23 signed legal agreement, then yes.

24 Q. I'll refer you to the first page signed
25 by Mr. Donahoe, which is one of the page 32's,

00625

1 paragraph 8/17, Counterparts. This agreement may be
2 executed in counterparts which shall be treated as
3 originals for all intents and purposes.

4 MR. GOLTZ: Your Honor, if he's asking
5 her to reach the legal conclusion if this is a valid
6 legal purchase and sale agreement, it's inappropriate
7 asking for the legal conclusion; otherwise, the
8 document speaks for itself.

9 Q. Were you also aware of Exhibits 23 and 24?
10 Have you seen those exhibits?

11 JUDGE WALLIS: Those be the closing letter
12 and the real estate tax affidavit?

13 MR. LUNDGAARD: Yes.

14 THE WITNESS: I've seen the real estate tax
15 affidavit. I don't recall if I've seen the closing
16 letter.

17 JUDGE WALLIS: The closing letter is
18 Exhibit 23?

19 MR. LUNDGAARD: The closing letter is
20 Exhibit 23.

21 THE WITNESS: Is there a copy that I can
22 look at?

23 MR. GOLTZ: You can look at my copy.
24 That's okay.

25 THE WITNESS: Thank you.

00626

1 Okay. I have it before me.

2 Q. Okay. And that -- just as background, that
3 closing letter is dated February 10th, which is the
4 same day that the real estate tax affidavit was filed.

5 And referring you to that -- to the
6 appendix to that closing letter, do you see the
7 allocation sheet that shows that the water system was
8 allocated at \$65,000 of the 5.1 million purchase
9 price?

10 A. Yes.

11 Q. Okay. And do you recall that that was the
12 same figure that was in the purchase agreement for the
13 water system?

14 A. Yes.

15 Q. You've indicated that you were proposing
16 -- in considering the \$65,000, if that were to be used
17 for rate base, you were using April, 1994 being the
18 date of the purchase agreement. Are you aware of when
19 the company took possession of the water system? Do
20 you recall the testimony of Mr. Donahoe that that was
21 in August of '94?

22 A. The oral testimony of Mr. Donahoe, I wasn't
23 present for that.

24 Q. Oh, okay. If the possession were August --
25 in August of '94 and the final closing was February

00627

1 10th of '95, I'm just wondering what date you would
2 use for rate base purposes?

3 A. I'm not sure I follow what you are asking
4 me.

5 Q. Well, you say the 65,000 could be used as
6 rate base as of April, '94 and Staff proposes April,
7 '94 because that is the date stated on the copy of the
8 unsigned purchase agreement. And then I believe you
9 used contributions then that were added after that
10 time, and any improvements for plant in service was
11 added after that time?

12 A. Correct.

13 Q. And I'm asking you if based on these three
14 documents and the fact that -- accepting the testimony
15 as I represented it to you that Mr. Donahoe said they
16 took possession of the operation in August of '94,
17 would that change whatever date you would use for rate
18 base purposes?

19 A. Assuming I were to use the \$65,000
20 allocation as rate base, the fact that there are three
21 different dates upon which I could base that \$65,000
22 figure, I would attempt to discern which date the
23 \$65,000 figure represents.

24 Q. And you have two documents that both use
25 that figure, one dated April of '94 and the other

00628

1 dated February 10th of 1995; don't you?

2 A. Correct.

3 Q. So which of those two dates would you use?

4 A. I couldn't answer that question without
5 investigating it further. I don't know the basis
6 for the \$65,000, and, therefore, I couldn't choose a
7 date upon which to base.

8 Q. In your pre-filed testimony you chose a
9 date?

10 A. There was only one date available.

11 Q. You have said on page 30 of your testimony,
12 Staff has been unable to verify that 65,000 was the
13 final allocation for the water system. Doesn't
14 Exhibit 23 and -- don't Exhibits 23 and 24 put that
15 question to rest?

16 A. Assuming for legal purposes that that's a
17 viable document, then yes.

18 Q. In order to calculate rate of return, is it
19 proper to use end-of-year rate base or average rate
20 base?

21 A. Both ways have been used for Commission
22 purposes. I don't know that there is an acceptable --
23 that one is more acceptable than the other.

24 Q. Isn't your income generated over the entire
25 year?

00629

1 A. Yes.

2 Q. So in order to determine the rate of
3 return, wouldn't it be more proper to use an average
4 rate base?

5 A. In a perfect world, an average rate base
6 would be calculated over each of the months, and your
7 return would be calculated over each of the months,
8 and then your return would be an average of the 12
9 months. However this isn't a perfect world, and we
10 weren't able to get a complete average on a monthly
11 basis. So for the purposes of this investigation, I
12 chose to use the end-of-year balance instead of the
13 average balance.

14 Q. On page 35, in calculating your reduction
15 for bulk purchasers, you've indicated you've used
16 number of connections this system has been built to
17 serve rather than the number of customers?

18 A. That's correct.

19 Q. The people that haven't built and have
20 vacant property are not causing the costs; are they?
21 They're not using any water?

22 A. If the infrastructure is in the ground for
23 them to connect to the system on a moment's notice,
24 then they have incurred that cost to whoever paid for
25 it whether they are currently on the lot or not. As

00630

1 far as using water, no, they aren't using water unless
2 they have an active connection and they have the
3 ability to use water.

4 Q. Then presumably they would be paying a fee
5 for that water, and they would be considered a
6 customer then?

7 A. If they were receiving water, then they
8 would be considered a customer. However the
9 Commission has ruled that stand-by persons are also
10 customers, for which a stand-by rate is available.

11 Q. All right. But you're not talking about
12 stand-by. You're talking about every conceivable
13 connection. You're counting the number of lots that
14 are in those subdivisions; aren't you?

15 A. No. I'm counting the number of connections
16 not the number of lots. There's a --

17 Q. In the case of Vusario, how many connections
18 are you using?

19 A. Sixteen.

20 Q. And how many lots are there?

21 A. Sixteen.

22 Q. And in Orcas Highlands how many connections
23 are you using?

24 A. 85.

25 Q. And how many connections are there? How

00631

1 many lots are there?

2 A. I don't know how many lots there are. I
3 believe it was stated in one of the intervener's
4 testimony how many lots there are in Orcas.

5 Q. Would it make any difference to you if
6 there's a moratorium and so these vacant lot owners
7 are unable to build and couldn't in a moment's notice
8 become a customer or demand service?

9 A. No. For the purposes of this calculation,
10 I used number of connections because the assumption
11 is that if the connection is there, if the
12 infrastructure has been laid where this customer could
13 go and get water -- whether it was available to get or
14 not, the infrastructure is still there, and, therefore
15 the cost for the infrastructure has been incurred.

16 Q. Referring to page 38 of your testimony,
17 line 10, shouldn't that flat rate be \$22.26 for 500
18 cubic feet of usage and --

19 A. No.

20 Q. -- then they would pay 75 cents per cubic
21 feet beyond 500 cubic feet?

22 A. No.

23 Q. How do you -- what's the rate for 500 cubic
24 feet?

25 A. \$22.26 plus 75 cents.

00632

1 Q. Your testimony is 75 cents per cubic feet
2 beyond 500 cubic feet?

3 A. I meant to say -- I interpret that to mean
4 from 500 on. So up to 400 cubic feet is 22.26. And
5 company's don't bill in increments of one cubic foot.
6 They bill in increments of 100. So once that customer
7 reached 500 cubic feet, they now pays 75 cents on top
8 of the base charge.

9 Q. So if they use 400 cubic --

10 A. No. It's rounded up to 500 cubic feet.
11 That's what I mean when I say or increments thereof.

12 Q. You mean if you use 401 cubic feet, you're
13 billed for 500?

14 A. Yes.

15 Q. How does that wash with the term beyond 500
16 cubic feet?

17 A. Perhaps the wording was not the best that I
18 used there.

19 Q. But it's your interpretation that it would
20 be \$22.26 for 400 cubic feet, and any usage beyond
21 that would be at 75 cents per cubic feet?

22 A. Per hundred cubic feet.

23 Q. Per 100 cubic feet?

24 A. Yes.

25 Q. Doesn't your policy statement, Exhibit 61,

00633

1 indicate that standardized -- under Staff Policy,
2 standardize the water allowance provided in the Basic
3 Service Charge at 400 or 500 cubic feet per month?

4 A. That's correct.

5 Q. So you could have selected 500 cubic feet
6 for your flat rate?

7 A. Yes.

8 Q. In the case of the resort, how would you
9 structure your rate so that it would cover any
10 increased usage of water?

11 A. Are you asking about a metered rate or a
12 flat rate?

13 Q. Well, I guess on a flat -- or a meter rate.
14 It would just be as the usage increases, the rate
15 would increase; is that correct?

16 A. I'm not sure that I agree with your
17 terminology.

18 Q. Okay. If the resort were to add 72 more
19 units, how would -- how would the -- how would that
20 affect the rate that they would be paying under the
21 tariff that you're proposing?

22 A. For a flat rate service?

23 Q. Uh-huh.

24 A. It wouldn't, because flat-rated services
25 don't recognize consumption. There is no means for

00634

1 recognizing consumption. So we go on -- we base a
2 flat rate on the information that is available at the
3 day that you set the flat rate.

4 And so if the company -- if the resort were
5 to add 72 new rooms, we wouldn't have the availability
6 of that information unless the company -- the utility
7 were to file for an adjustment to its flat rate.

8 Q. Which in this case wouldn't be too likely?

9 JUDGE WALLIS: Treat that as a rhetorical
10 question?

11 MR. LUNDGAARD: Right.

12 Q. But the resort is metered, so are you
13 proposing a metered rate for the resort?

14 A. I think we have a difference in definition
15 here.

16 Q. Okay.

17 A. When I say metered, I mean that the utility
18 has placed a meter on the property line of the
19 connection. When you say the resort is metered, it's
20 my understanding that that meter may or may not be
21 owned by the resort. I'm not sure.

22 If it's owned by the resort, then there --
23 the Commission has no jurisdiction over that meter.
24 If it's owned by the utility, then the company has
25 every opportunity to file a metered rate to institute

00635

1 on that meter.

2 Q. Are you aware that there are several meters
3 that meter the different areas within the so-called
4 resort area?

5 A. Yes.

6 Q. And you're not sure whether those meters
7 are owned by the resort or the water system?

8 A. That's correct.

9 Q. Well, when they said that they allocated
10 and set up a different corporation and put the water
11 system -- or not corporation but an LLC, wouldn't you
12 expect that those meters would have gone with the
13 water utility?

14 A. No. It depends upon where the property
15 line is. If the meters are placed within the internal
16 distribution system of the resort beyond the property
17 line distinguishing the resort from the utility,
18 then those meters are not owned by the utility.
19 They're owned by the resort.

20 Q. And in that case a metered rate would not
21 apply?

22 A. Correct.

23 Q. If you would refer to Exhibit 57, that's
24 your Exhibit 2.

25 A. (Witness complies.)

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1 Q. Your pro forma after Staff rates and your
2 net operating income is \$23,367?

3 A. Correct.

4 Q. And if you use the investment of \$65,000 --
5 I'll back off that \$65,000 figure. On page 29 in your
6 testimony, assuming the use of the \$65,000 as rate
7 base, then you would -- there would be depreciation --
8 there would be additional plant in service that was
9 put in after your April, '94 date, and there would be
10 contributions that occurred after that time, and you
11 arrived at a figure of 69,494 at the bottom of 29; is
12 that correct?

13 A. Correct.

14 Q. Okay. And if you divided the net operating
15 income by the 69,494, wouldn't you get a rate of
16 return that would be in excess of 30 percent?

17 A. Subject to check.

18 MR. GOLTZ: Can we get that figure again so
19 we can make sure that we can check it?

20 MR. LUNDGAARD: Sure. Net operating figure
21 of 23,367 divided by her figure at the bottom of page
22 29, 69,494.

23 MR. GOLTZ: And you're calculation was 30
24 what?

25 MR. LUNDGAARD: I didn't calculate it. I

00637

1 calculated the figure if it were divided by 65,000, and
2 if you would accept subject to check that would be
3 35.9-plus percent on 65,000. I hadn't calculated it on
4 69,494.

5 MR. GOLTZ: Do you understand the question?

6 Q. Would you accept subject to check that that
7 rate of return would be 33.6 percent?

8 A. Subject to check, yeah.

9 MR. LUNDGAARD: I have nothing further.

10 JUDGE WALLIS: Mr. Frederickson?

11 MR. FREDERICKSON: I have just a few
12 questions.

13

14 CROSS-EXAMINATION

15 BY MR. FREDERICKSON:

16 Q. Would you -- you have Exhibit 57 before
17 you, and if you would turn to page 17 of that exhibit,
18 I'm going to ask you --

19 MR. GOLTZ: That can't be. You mean her
20 testimony?

21 MR. FREDERICKSON: Yeah. I'm sorry.

22 MR. GOLTZ: 56.

23 MR. FREDERICKSON: 56. You're correct as
24 usual.

25 MR. GOLTZ: Is that on the record?

00638

1 Q. If you would turn to page 17 of your
2 pre-filed testimony, I'm going to ask you some
3 questions about lines 4 through 22, and so you may
4 want to just glance that over, and then I'll go into
5 the distinct parts of it.

6 A. (Witness complies.)

7 MR. GOLTZ: Are we ready?

8 THE WITNESS: Uh-huh.

9 MR. FREDERICKSON: I'm sorry. I thought
10 you were looking at something.

11 Q. Directing your attention to lines 9 and 10,
12 you're speaking of legal fees I believe. And then you
13 say, quote, these fees would not have been incurred if
14 the company had not made an application for rate
15 changes, end quote.

16 And I guess my question is: Isn't it true
17 that legal fees are in the normal course of business
18 incurred when companies make applications for rate
19 changes?

20 A. No.

21 Q. Why is that? Go ahead and answer.

22 A. Not every company is represented, and not
23 every company has the necessity to be represented when
24 they make a rate change application.

25 Q. So sometimes then -- it's true that

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1 sometimes fees are incurred, and sometimes they are
2 not?

3 A. Correct.

4 Q. Okay. And I guess on a but-for test --
5 well, if a company hadn't made an application for a
6 rate change, it would not have incurred legal fees,
7 correct?

8 A. I'm sorry, one more time.

9 Q. On a true causal basis, a but-for basis as
10 lawyers sometimes say, if the application for a rate
11 change had not been made, legal fees would not have
12 been incurred?

13 A. Legal fees for the purposes of the rate
14 application would not have been incurred, correct.

15 Q. But once the application is made, then
16 you're also saying sometimes it's reasonable to incur
17 legal fees; is that correct?

18 A. Yes.

19 Q. Okay. Then directing your attention
20 further down the page, generally to lines, let's see,
21 13 through 19, you say in part, Staff takes issue with
22 this pro forma adjustment. Staff did not make a pro
23 forma adjustment to legal expenses because Staff
24 concludes that the expense the company is incurring is
25 a direct result of its lack of cooperation with the

00640

1 regulatory process. What lack of cooperation are we
2 talking about?

3 A. If you refer to the very next sentence
4 there it says, Staff has requested information that
5 was previously said to be unavailable, which was then
6 quickly produced after this matter had been set for
7 hearing.

8 Q. Okay. So it's some information that was
9 produced by the company that we're talking about in
10 the preceding sentence?

11 A. Correct.

12 Q. Okay. What legal fees were attached to
13 that, the production of those documents, or otherwise
14 referring to the -- your statement in lines 14 through
15 16?

16 A. My understanding of the company's request
17 was that the entire \$6,000 pro forma adjustment,
18 contractual legal, was for the purposes of the cost --
19 compensating them for the costs they will incur in
20 this hearing.

21 Q. Is it the Staff's view that -- or is it
22 your view that no legal fees should be allowed to the
23 company in connection with this hearing?

24 A. That was my statement in my testimony, yes.

25 Q. Is that your position now?

00641

1 A. Yes.

2 Q. You're represented by counsel in this
3 proceeding -- or the Staff is; is that correct --

4 A. That's correct.

5 Q. -- Mr. Goltz?

6 And the interveners are represented by
7 counsel in this proceeding?

8 A. That's correct.

9 Q. Since the Staff has chosen to have a lawyer
10 represent it in this proceeding, is it not fair and
11 reasonable for the company also to be represented by
12 counsel?

13 MR. GOLTZ: Your Honor, I'm going to
14 object. The Legislature in the state of Washington
15 has assigned the Attorney General the responsibility
16 to represent the Commission in proceedings, and that's
17 also been true in representing the Staff in Staff
18 cases before the Commission, so we have a legislative
19 mandate to do so.

20 MR. FREDERICKSON: I will accept Mr.
21 Goltz's conclusions of law, but I don't think that
22 responds to my objection -- or I don't think that's
23 an objection.

24 JUDGE WALLIS: Maybe if you rephrased
25 the question, that would meet Mr. Goltz's concern. I

00642

1 heard him centering in on the phrase Staff has chosen
2 to be represented.

3 MR. GOLTZ: And my objection was they had
4 no choice.

5 MR. FREDERICKSON: I will compose myself.

6 Q. In a contested proceeding, I guess what
7 makes this different -- I mean, the Staff has a
8 lawyer. The interveners have a lawyer. I'm having a
9 hard time understanding why it is that it's the view
10 of the Staff that the company should not also be
11 represented by counsel in a proceeding that is
12 obviously very complex?

13 A. The Staff is not making any judgment on
14 whether or not the company should be or should not be
15 represented. The Staff is making the judgment that
16 the rate payers should not have to pay for the counsel
17 that the company has engaged.

18 Q. And I am assuming I should not take that
19 personally. And that would mean that applies to all
20 counsel; is that correct?

21 A. That's correct.

22 Q. Well, I'm still back to the point of: Is
23 there something that the company has done that takes
24 it out of the category of a situation in which the
25 company reasonably should be allowed to have counsel

00643

1 fees?

2 A. When Staff allows an expense for regulatory
3 purposes, the expense is based upon the fact that
4 there is a cost causer whom that expense can be
5 attributable to for regulatory purposes. An allowable
6 expense is where the cost causer is a customer of the
7 system. That is not to preclude the fact that the
8 company incurs expenses that are not directly
9 attributable to a customer.

10 In this case I have taken the position that
11 the cost causer is the company itself because of the
12 fact that Staff is given a finite amount of time in
13 which they can review a case and reach a settlement
14 with the company, and in this case with the
15 interveners, the lack of availability of information
16 to the Staff in that finite period, in my opinion, is
17 what forced this proceeding into the hearing phase.

18 Had that information been available early
19 on in the rate case review, we may have been able to
20 avoid this situation, and in that case those fees
21 would not have been incurred.

22 Q. And is it true then that Staff does not
23 universally in each and every case take the position
24 that a company that files an application for rate
25 relief is not entitled to have its counsel fees deemed

00644

1 to be a rate payer expense?

2 A. Is there any way you can shorten that
3 question?

4 Q. Probably. What I'm getting at is: It is
5 not a universal position that legal fees in this
6 type of case are never allowed to the company; is that
7 correct?

8 A. That's correct.

9 Q. So there's something about this particular
10 case that has caused the Staff to make the judgment
11 that in this particular case the company should not
12 get legal fees; is that correct?

13 A. That's correct.

14 Q. And the answer to that question I gather
15 is in the next line, that if they had made information
16 available to the Commission, then they would -- or
17 their failure to make information available to the
18 Commission is what triggers the Staff's position that
19 legal fees should not be allowed; is that correct?

20 A. That's correct.

21 Q. And, of course, conversely, if I were to
22 represent to you that they were not getting legal help
23 at that time, and that had legal help been available
24 at that time, you probably would have gotten better
25 and quicker responses to your requests for

00645

1 information, it may well turn out that having counsel
2 on the company's side of the table would have been an
3 advantage to Staff?

4 A. That's a possibility.

5 Q. Okay. Do you consider this to be in any
6 way sort of punitive on the part of Staff?

7 A. I wouldn't consider it punitive. I
8 consider it a prudence review.

9 Q. Having now listened and heard and seen all
10 that is going on, isn't this a reasonable case where
11 all parties ought to be represented by counsel?

12 A. I don't think that that question gets to
13 the basis of my adjustment. My adjustment was that --
14 whether or not we're represented here does not impact
15 my adjustment.

16 My adjustment was based on the fact that I
17 feel it is not the rate payer's responsibility to pay
18 for counsel for the company because it was the
19 company's fault, if you will, that we're in this
20 predicament. I mean, that may be a bit harsh, but
21 that's the basis for my adjustment.

22 MR. GOLTZ: May I ask my question be read
23 back, your Honor?

24 JUDGE WALLIS: Would you read the question
25 back, please.

00646

1 (Record read as requested.)

2 Q. Can you answer that question with either a
3 yes or no?

4 A. Yes.

5 Q. Okay. Now, I think I have to ask the
6 following question: What is the answer to my
7 question?

8 A. Yes.

9 MR. FREDERICKSON: Thank you. I have no
10 further questions.

11 JUDGE WALLIS: Thank you.

12 MR. FREDERICKSON: I do. I'm sorry. I got
13 carried away. But I'm real close to the end.

14 Q. You, on page 21, talked about capitalized
15 labor. And I gather -- and that's between lines 7 and
16 16. Do you see that?

17 A. Yes.

18 Q. Is there some other way of dealing with
19 this labor rather than capitalizing 51 hours?

20 A. No.

21 Q. Okay. Do you have any -- I mean, I guess
22 my question is whether the cost of capitalizing almost
23 outweighs the value of dealing with it at all? Do
24 you have any comment on that?

25 A. If it takes 51 hours to account for 51

00647

1 hours, then you would be correct.

2 Q. Okay. So from your standpoint this has to
3 be capitalized and there is no diminimous number that
4 we could use to avoid going through this accounting
5 effort; is that correct?

6 A. Correct.

7 Q. Then if you would turn to the last page of
8 your testimony, lines 8 through 16.

9 MR. GOLTZ: I'm sorry, which page?

10 MR. FREDERICKSON: It's 41.

11 Q. You talk about a facilities charge. Has
12 the company in this proceeding in your judgment
13 applied to have the Commission determine a facilities
14 charge?

15 A. No.

16 Q. Okay. And so that would necessitate
17 another filing in order for the company to avail
18 itself of charging a facilities charge to a new
19 customer; is that correct?

20 A. Correct.

21 Q. And you at this point I gather -- this
22 would require economic information and other
23 information from the company, so that you don't have
24 an opinion at this point as to whether it would be
25 -- as to whether any facilities charge would be a

00648

1 proper charge; is that correct?

2 A. That's correct.

3 Q. So that's in effect a clean slate and
4 something for another day?

5 A. That's correct.

6 MR. FREDERICKSON: I am finished, your
7 Honor.

8 MR. GOLTZ: I have one question.

9

10 REDIRECT EXAMINATION

11 BY MR. GOLTZ:

12 Q. Mr. Lundgaard asked you about the E.R.U.
13 analysis?

14 A. Yes.

15 Q. And referring to Exhibit 9 -- do you have
16 that?

17 A. Yes.

18 Q. Under the subject heading reference one,
19 was that -- is it your understanding that that is the
20 analysis done which was contained in the water system
21 plan?

22 A. That's correct.

23 Q. And that number is the one which you
24 selected for your analysis?

25 A. That's correct.

00649

1 Q. Okay. And you heard the -- or you read the
2 company's -- I'm sorry, the intervener's testimony and
3 analysis which relied -- which resulted in 143 E.R.U.?

4 A. Correct.

5 Q. Okay. Why did you rely on the Department
6 of Health water system plan number?

7 A. I relied on the water system plan number
8 because it is primarily -- first of all, it is one
9 that has been accepted by the Department of Health as
10 being representative for this company.

11 The difference that I can see between the
12 143 E.R.U. figure that you just stated and the 109
13 E.R.U. figure in the water system plan is the
14 difference in meter readings from one year to another.

15 That will happen every year unless every
16 year is exactly the same as far as weather and, for
17 these purposes, as far as number of people that
18 vacation at Rosario, et cetera. There are a number of
19 factors that can change water consumption from one
20 year to another.

21 I relied on the analysis submitted to
22 the Department of Health and accepted by the
23 Department of Health as being representative because
24 of the fact that they deemed this figure to be
25 approximate for this company, which I have to assume

00650

1 inherent in that acceptance is this approximate for
2 this company over a span of years, with the exception
3 of -- I believe it was Mr. Frederickson's comment
4 about the expansion of the resort. Or was that Mr.
5 Lundgaard's? I don't recall. That obviously would
6 affect the usage, and thereby also effect the number of
7 E.R.U.' over a span of years.

8 MR. GOLTZ: I have no further questions.

9 JUDGE WALLIS: Any follow-up?

10 MR. LUNDGAARD: Yes.

11

12 RE-CROSS-EXAMINATION

13 BY MR. LUNDGAARD:

14 Q. Didn't you say that the difference in meter
15 readings from year to year -- actually one of the
16 major differences between the engineer for the company
17 in their water system plan and the interveners' number
18 was because the company's engineers were passing on
19 all -- everything that wasn't metered and going to the
20 resort by those meters, they passed everything else on
21 to the customers, meaning in particular the water
22 losses?

23 A. I can't testify to the correctness of that
24 statement.

25 Q. Do you recall hearing the testimony of Gary

00651

1 Vaughn, that there was some of the rooms that were
2 being renovated and that accounted for the lower
3 reading, the lower usage?

4 A. I recall that testimony.

5 Q. And is it fair to the customers to stay
6 with a figure of 109 that may be based on a low
7 reading for temporary reasons, and now we'll be
8 forever stuck with whatever R.E.U. is arrived at for
9 the resort, and if that figure is low, the customers
10 are going to be subsidizing the resort?

11 A. If the figure is not close, then the
12 customers would be subsidizing the resort. However, I
13 have to rely on the fact that this number was accepted
14 by another State agency whose task it is to determine
15 stuff like this as being representative for this
16 company, not just for 1994 or 1995 or 1993, but as
17 being representative for the company as a whole.

18 Q. Well, there wasn't anything in particular
19 about accepting that number. They've accepted a water
20 system plan, and their primary concern is capacity and
21 ability to provide the water and good quality water.
22 When they accept the plan, they're not accepting every
23 line or every figure in that water system plan; are
24 they?

25 A. This E.R.U. calculation was done in

00652

1 conjunction with an analysis of system demand and
2 system capacity, which gets at what you were just
3 talking about, and, therefore, my assumption would be
4 that they indeed reviewed this calculation and,
5 therefore, are accepting it as being reasonable for
6 this company.

7 Q. You're aware of the -- of the
8 interrelationship of these -- of Daybreak Investments,
9 Inc. and the Resort Limited Partnership and the LLC
10 --Resort Utility -- or Rosario Utilities, LLC?

11 A. I'm aware of the relationship. I'm not
12 sure I understand the flow of it.

13 Q. Well, isn't there a concern that the
14 engineers who are here for the Rosario Utilities are
15 trying to keep the figure low for the resort so that
16 the resort pays a lower fee, and, therefore, the
17 customers will have to pay a larger fee and in essence
18 subsidize the resort?

19 A. I have to assume since these are contracted
20 engineers that they would be acting under the premise
21 that they are -- what does PE stand for? Public
22 engineers?

23 MR. GOLTZ: Professional.

24 THE WITNESS: -- professional engineers.

25 Thank you. And, therefore, they are using their best

00653

1 judgment as well.

2 MR. LUNDGAARD: I have nothing further of
3 this witness.

4 MR. GOLTZ: This witness? I have nothing
5 further of this witness.

6

7

EXAMINATION

8 BY JUDGE WALLIS:

9 Q. Ms. Ingram, do you know about the
10 moratorium?

11 A. Yes.

12 Q. Can you -- and the reason I'm asking is
13 that on reflection, I'm not sure there is any other
14 witness who has offered the testimony. Can you tell
15 me who is imposing the moratorium, why it's being
16 imposed, and when it might be lifted or under what
17 circumstances?

18 A. No.

19 JUDGE WALLIS: Thank you.

20 Is there anything further for Ms. Ingram?

21 MR. LUNDGAARD: No.

22 JUDGE WALLIS: It appears there is not.

23 Ms. Ingram, thank you for appearing.

24 You're excused from the stand.

25 We'll be off the record for a scheduling

00654

1 discussion.

2 (Marked Hearing Exhibit 63.)

3 (Admitted Hearing Exhibit 63.)

4 JUDGE WALLIS: Back on the record, please.

5 Following the conclusion of the evidentiary
6 portion of the hearing, we've engaged in some
7 procedural discussions.

8 I've had indication that the parties all
9 will waive an initial order and agree that the matter
10 may be sent directly to the Commissioners on the
11 record and with the briefs that the parties may
12 provide.

13 Now, I'm going to ask each of the parties
14 if they confirm that for the record beginning with the
15 company.

16 Mr. Frederickson?

17 MR. FREDERICKSON: Yes, your Honor.

18 MR. LUNDGAARD: Yes, that's acceptable to
19 the interveners.

20 MR. GOLTZ: And for Staff, that's
21 acceptable.

22 JUDGE WALLIS: Very well.

23 In terms of the format of briefs, I have
24 requested that parties be very basic in their
25 presentations and describe specifically references to

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1 the transcript or exhibits so that it will be easier
2 for me and the Commissioners to trace arguments.

3 The Commission's brief length established
4 in rule of 60 pages will apply, and in the unlikely
5 event that anyone might feel the need to exceed that,
6 permission may be requested for an excess of length.

7 The parties have agreed to submit their
8 briefs and tables on disc as well as in hard copy.
9 And Ms. Rendahl has agreed to work with both Mr.
10 Lundgaard and/or Mr. Bacon on Mr. Lundgaard'S behalf
11 and with Mr. Frederickson to verify that the Commission
12 is able to receive documents in the formats that they
13 are able to provide.

14 I have asked that the parties provide an
15 agreed statement as to what the moratorium is to which
16 reference was made on the record by identifying who
17 imposed the moratorium, why, and under what
18 circumstances it might be lifted, and the parties
19 agreed to work on a brief statement to that effect.

20 I have also encouraged the parties to
21 engage in further settlement discussions with a view
22 towards settling the matter globally or various
23 elements prior to submitting briefs so that it's
24 possible that a settlement agreement may be presented.
25 And again I reiterate the Commission's enthusiastic

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1 support for settlement in matters before it.

2 The briefs will be due on October 1, 1996,
3 and there will be an opportunity to respond to those
4 brief's matters that are raised that the parties don't
5 anticipate at the time that they present their brief
6 in chief, and I would expect that those briefs would
7 not exceed five pages in length. And they would be
8 due on October 8th, 1996.

9 Finally, Mr. Lundgaard has prepared a
10 representation of a diagram that was on a flip chart in
11 the hearing room during the examination of Mr. Donahoe,
12 and it represents graphically the relationship
13 between/among Daybreak Investments, Inc., Rosario
14 Resort, LLP, Rosario Utilities, LLC, and Red Rock.

15 And based on the fact that it is offered
16 merely to provide a graphical representation to aid in
17 following the testimony of Mr. Donahoe, no parties
18 have objected, and that would be received as Exhibit
19 63.

20 Is that satisfactory to the parties?

21 MR. GOLTZ: It is.

22 MR. FREDERICKSON: Yes, your Honor.

23 JUDGE WALLIS: Very well. Is there
24 anything that I have forgotten to mention or anything
25 that any of the parties would like to bring up at this

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1 time?

2 (No audible response.)

3 JUDGE WALLIS: Let the record show that
4 there is no response. And I want to thank you all for
5 your flexibility in hearing scheduling.

6 And I want to again encourage you to
7 seriously pursue settlement discussions and hopefully
8 come back with a settlement agreement for the
9 Commissioners.

10 Thank you all, very much.

11 MR. FREDERICKSON: Thank you.

12 MR. LUNDGAARD: Thank you.

13 (Hearing adjourned at 8:56 p.m.)

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