

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

December 13, 2010 - 1:36 p.m.
Concord, New Hampshire



RE: DW 10-141
LAKES REGION WATER COMPANY:
Notice of Intent to File Rate
Schedule. (*Hearing regarding
temporary rates*)

PRESENT: Chairman Thomas B. Getz, Presiding
Commissioner Clifton C. Below
Commissioner Amy L. Ignatius

Sandy Deno, Clerk

APPEARANCES: Reptg. Lakes Region Water Company:
Donald C. Crandlemire, Esq. (Shaheen & Gordon)

Reptg. Property Owners Assn. at Suissevale:
Douglas L. Patch, Esq. (Orr & Reno)

Reptg. Hidden Valley Property Owners Assn.:
Paul Dubuc

Reptg. Residential Ratepayers:
Meredith Hatfield, Esq., Consumer Advocate
Rorie E. P. Hollenberg, Esq.
Stephen Eckberg
Office of Consumer Advocate

Reptg. PUC Staff:
Marcia A. B. Thunberg, Esq.
Mark A. Naylor, Dir./Gas & Water Division
James Lenihan, Gas & Water Division
Douglas Brogan, Gas & Water Division
Jayson LaFlamme, Gas & Water Division

Court Reporter: Steven E. Patnaude, LCR No. 52

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P R O C E E D I N G

CHAIRMAN GETZ: Okay. Good afternoon, everyone. We'll open the hearing in Docket DW 10-141. And, note for the record that on July 19, 2010, Lakes Region filed a proposal for permanent rate and temporary rate increases. The Commission issued an order suspending the tariff and scheduling a prehearing conference. That order was issued on August 17. After a prehearing conference on September 24, a secretarial letter was issued on October 4 that approved a procedural schedule, including a hearing on temporary rates for this afternoon.

I'll note as well that a stipulation was filed on November 18th by Staff and the Company, and a corrected Stipulation was filed on December 10th. We have testimony from the Consumer Advocate filed on November 24th, and a motion to file rebuttal testimony from the Company filed on December 10.

So, with that procedural background, let's take appearances please.

MR. CRANDLEMIRE: Good afternoon. My name is Donald Crandlemire, appearing for Lakes Region Water Company.

CHAIRMAN GETZ: Good afternoon.

MR. CRANDLEMIRE: Good afternoon.

1 MR. PATCH: Douglas Patch, from the law
2 firm of Orr & Reno, on behalf of the Property Owners
3 Association at Suissevale, Inc.

4 CHAIRMAN GETZ: Good afternoon.

5 MS. HATFIELD: Good afternoon,
6 Commissioners. Meredith Hatfield, for the Office of
7 Consumer Advocate, on behalf of residential ratepayers.
8 And, with me for the office are Steve Eckberg and Rorie
9 Hollenberg.

10 CHAIRMAN GETZ: Good afternoon.

11 MS. THUNBERG: Good afternoon. Marcia
12 Thunberg, on behalf of Staff. And, with me today is Mark
13 Naylor, Jayson LaFlamme, Jim Lenihan, and Doug Brogan.
14 And, it is our intent to have Mark Naylor and Jayson
15 LaFlamme join Mr. St. Cyr as a panel later. But I believe
16 Hidden Valley is also an intervenor, and that they are
17 present in the room, if they want to make -- or, Staff
18 would suggest that they also appear today. Thank you.

19 CHAIRMAN GETZ: Yes. Is there somebody
20 appearing on behalf of the -- representing the Hidden
21 Valley Property Owners?

22 MR. DUBUC: I'm Paul Dubuc, Vice
23 President of Hidden Valley Property Owners. And, we've
24 got several members of the Association here with us as

1 well.

2 CHAIRMAN GETZ: Okay. Thank you. And,
3 will you be speaking on behalf of the Association?

4 MR. DUBUC: Yes.

5 CHAIRMAN GETZ: Ms. Hatfield.

6 MS. HATFIELD: Thank you, Mr. Chairman.
7 The OCA is also aware that there are several customers
8 from other systems who are not intervenors, but who may
9 wish to make a public statement at some point during the
10 hearing.

11 CHAIRMAN GETZ: Okay. Are there
12 individuals who would like to make a public statement? I
13 guess the two most likely opportunities are right now,
14 before we begin, or at the very end, before we conclude.

15 MS. ADAMS: At the end would be fine.

16 CHAIRMAN GETZ: Thank you. Okay. Is
17 there anything that we need to address before the Company
18 proceeds?

19 MR. CRANDLEMIRE: Yes. I was going to
20 suggest this morning -- or, this afternoon that we address
21 our Assented to Motion to File Rebuttal Testimony, seems
22 like a good thing to get out of the way before we move
23 onto the case.

24 CHAIRMAN GETZ: Okay. As I understand

1 it, there's no opposition from the Consumer Advocate, but
2 no positions have yet been taken by Suissevale or Hidden
3 Valley, is that correct?

4 MR. CRANDLEMIRE: I think that is
5 correct. I have heard from -- I think we did hear from
6 the Property Owners of Suissevale and we heard from Staff,
7 and I think that the Consumer Advocate indicated no
8 position on our motion. And, we did not hear from anybody
9 else.

10 CHAIRMAN GETZ: Ms. Hatfield.

11 MS. HATFIELD: Thank you, Mr. Chairman.
12 We did let Mr. Crandlemire know that we had no position.
13 But that it was our expectation that, since the Company
14 was filing written rebuttal, which is helpful to get
15 before a hearing, that they wouldn't be doing oral
16 rebuttal on the stand.

17 CHAIRMAN GETZ: Mr. Crandlemire?

18 MR. CRANDLEMIRE: Fine with us, unless
19 the Commissioners think it would be helpful to do some
20 oral rebuttal. But that's totally fine with us. It
21 summarizes our position.

22 CHAIRMAN GETZ: Okay. Thank you. So,
23 is it fair for me to conclude that there is no objection
24 to the rebuttal testimony?

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 MS. HATFIELD: Yes.

2 MR. CRANDLEMIRE: I think so.

3 CHAIRMAN GETZ: Then, hearing no
4 objection, then please proceed, Mr. Crandlemire.

5 MR. CRANDLEMIRE: Okay. Thank you.

6 (Whereupon *Stephen P. St. Cyr, Mark A.*
7 *Naylor, Jayson P. LaFlamme* were duly
8 sworn and cautioned by the Court
9 Reporter.)

10 **STEPHEN P. ST. CYR, SWORN**

11 **MARK A. NAYLOR, SWORN**

12 **JAYSON P. LaFLAMME, SWORN**

13 **DIRECT EXAMINATION**

14 BY MS. THUNBERG:

15 Q. Mr. LaFlamme, I'm going to start with you, and then
16 move onto Mr. Naylor and then Mr. St. Cyr. And,
17 Mr. LaFlamme, if you could please state your name and
18 describe your responsibilities with the Commission
19 please.

20 A. (LaFlamme) My name is Jayson LaFlamme. I'm an Analyst
21 in the Gas & Water Division of the Public Utilities
22 Commission.

23 Q. And, can you please describe your area of expertise?

24 A. (LaFlamme) My area of expertise is in accounting and

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1 finance.

2 Q. And, with respect to your work on the docket that we're
3 here today for, DW 10-141, can you please describe what
4 work you have done on this docket?

5 A. (LaFlamme) I reviewed the Company's filing for
6 temporary rates, as well as their filing for permanent
7 rates. I participated in submitting data requests to
8 the Company, and also participated in the Settlement
9 Agreement that's being presented this afternoon.

10 Q. And, is this work that you just described, do you
11 consider this to be within your area of expertise?

12 A. (LaFlamme) Yes.

13 Q. Mr. Naylor, if I could just get your name and position
14 and responsibilities on the record please.

15 A. (Naylor) Yes. My name is Mark Naylor. I'm the
16 Director of the Gas & Water Division here at the PUC.

17 Q. And, what do you consider to be your area of expertise?

18 A. (Naylor) My background is accounting and finance.

19 Q. And, with respect to this docket, can you please
20 explain what work you have done on this?

21 A. (Naylor) Yes. I have also reviewed the Company's
22 filing, request for temporary rates, and assisted in
23 the preparation of the settlement document, which we
24 are presenting today.

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 Q. Okay. Mr. St. Cyr, if you could please state your name
2 and business.

3 A. (St. Cyr) My name is Stephen P. St. Cyr. And, the name
4 of the business is "St. Cyr & Associates".

5 Q. And, can you please describe your involvement with this
6 docket?

7 A. (St. Cyr) I prepared the initial filing based on the
8 books and records at the Company. I've worked with the
9 Company in responding to data requests, and have worked
10 with the Staff in developing the Stipulation Agreement.

11 Q. And, at this time, I'd like to ask, Mr. St. Cyr, to
12 have you identify this document for the record please.

13 A. (St. Cyr) This is the Company's initial filing in
14 Docket DW 10-141, dated July 16, 2010.

15 Q. And, is this the initial rate filing that you had
16 described that you had created?

17 A. (St. Cyr) Yes, it is.

18 MS. THUNBERG: I'd like to have this
19 document marked for identification as "Exhibit 1".

20 CHAIRMAN GETZ: So marked.

21 (The document, as described, was
22 herewith marked as **Exhibit 1** for
23 identification.)

24 MS. THUNBERG: I understand the

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 Commissioners already have a copy, but this is
2 sequentially numbered, in the event that we are referring
3 to individual pages, you'll have a copy.

4 BY MS. THUNBERG:

5 Q. I'd also like to have, Mr. Naylor, if you could
6 identify this document for the record.

7 A. (Naylor) This is a copy of the Settlement Agreement
8 entered into by Staff and Lakes Region Water Company in
9 the matter of temporary rates in this docket.

10 Q. And, Mr. Naylor, is this document that you participated
11 in drafting?

12 A. (Naylor) Yes.

13 Q. And, are you familiar with the terms of this document?

14 A. (Naylor) Yes, I am.

15 Q. And, Mr. LaFlamme, did you also participate in the
16 drafting of this document?

17 A. (LaFlamme) Yes, I did.

18 Q. And, are you familiar with the content of this
19 document?

20 A. (LaFlamme) Yes.

21 Q. And, Mr. St. Cyr, I have the same two questions for
22 you.

23 A. (St. Cyr) Yes, I was involved in the drafting. And,
24 yes, I'm familiar with the document.

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 MS. THUNBERG: Thank you.

2 CHAIRMAN GETZ: Ms. Thunberg, is this
3 the revised version that was filed on December 10th?

4 MS. THUNBERG: Yes, it is. Staff does
5 not intend on marking the version that was filed on
6 November 18th. Thank you for that clarification.

7 CHAIRMAN GETZ: Okay. We'll mark it for
8 identification as "Exhibit Number 2".

9 (The document, as described, was
10 herewith marked as **Exhibit 2** for
11 identification.)

12 MS. THUNBERG: While we're entering or
13 having -- dealing with the exhibits, I'd like to also mark
14 for identification the Rebuttal Testimony of Stephen
15 St. Cyr, but I'd like to have him just identify it for the
16 record first.

17 BY MS. THUNBERG:

18 Q. Mr. St. Cyr, could you please identify this document
19 for the record.

20 A. (St. Cyr) Yes. This is my rebuttal testimony in this
21 docket, in response to OCA's testimony.

22 CHAIRMAN GETZ: That will be marked for
23 identification as "Exhibit Number 3".

24 (The document, as described, was

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 herewith marked as **Exhibit 3** for
2 identification.)

3 BY MS. THUNBERG:

4 Q. Mr. St. Cyr, with respect to Exhibit 3 that's just been
5 marked, did you prepare this document or was it
6 prepared under your direct control?

7 A. (St. Cyr) I prepared it.

8 Q. You prepared it. Do you have any changes or
9 corrections to make to this document?

10 A. (St. Cyr) No, I do not.

11 Q. And, if you were asked the questions contained in this
12 rebuttal testimony today, would your answers be the
13 same?

14 A. (St. Cyr) Yes, they would be.

15 Q. And, do you adopt that testimony as part of your
16 testimony today?

17 A. (St. Cyr) I do.

18 Q. Thank you. With respect to the Settlement Agreement,
19 Mr. LaFlamme, do you have any changes or corrections to
20 that document?

21 A. (LaFlamme) No, I don't.

22 Q. And, Mr. Naylor, do you have any changes or corrections
23 to make to the Settlement Agreement?

24 A. (Naylor) No.

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 Q. And, Mr. St. Cyr, are you aware of any corrections or
2 changes that need to be made to the Settlement
3 Agreement?

4 A. (St. Cyr) No, I'm not.

5 Q. Thank you. I'd like you to turn your attention to
6 Page 2 of the Stipulation Agreement, and specifically
7 the "Revenue Requirement" section. And, Mr. LaFlamme,
8 I'd like to start with you. Could you please describe
9 the basis for this proposed temporary revenue
10 requirement.

11 A. (LaFlamme) Yes. The Settlement Agreement is proposing
12 an increase in revenues for temporary rates of
13 "\$143,964", which equals an "18.51 percent" increase.
14 The total revenue requirement being recommended by this
15 Settlement Agreement is "\$921,829". The basis for
16 deriving that amount is found on Schedule 1 to the
17 Settlement Agreement. And, there it indicates that the
18 revenue requirement was based on an agreed upon rate
19 base of \$2,324,509, a rate of return of 8.23 percent,
20 and which yielded the \$921,829 revenue requirement, and
21 resulted in the proposed increase of \$143,964.

22 Q. I'd like to just continue on with you, Mr. LaFlamme,
23 with just a couple more questions. Did Staff propose
24 any specific adjustments from the Company's initial

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 filing in determining this revenue requirement? And,
2 if so, why?

3 A. (LaFlamme) Yes. Most of the adjustments that Staff
4 proposed pertain to the Company's rate base. When the
5 Company submitted their filing, their rate base was
6 determined based upon a two-point average, taking the
7 rate base as of 12/31/08 and averaging that with the
8 rate base at 12/31/09, and coming up with an average
9 rate base amount of \$2,395,540. The majority of
10 Staff's adjustments resulted from that Staff used a
11 five quarter average for the determination of rate
12 base. And, in addition to that, Staff also made a
13 number of adjustments, which mirrored adjustments made
14 to the plant that the Company placed in service and is
15 proposing to recover in the DW 08-070 docket.

16 Staff, and with regards to operating
17 income, the most significant adjustment that Staff made
18 was the elimination of the Company's adjustment for
19 income taxes. And, that's found on Schedule 3 to the
20 Settlement Agreement.

21 Q. And, in total, were there about 20 adjustments that
22 Staff made in these schedules?

23 A. (LaFlamme) That is correct.

24 Q. Okay. And, with respect to the plant in service -- or,

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 actually, let me strike that question. Thanks. The
2 information, Mr. LaFlamme, that you relied upon in
3 creating these schedules, was it derived from the books
4 and records on file with the Commission?

5 A. (LaFlamme) Yes.

6 Q. And, Mr. Naylor, I'd like to ask you a general question
7 as to why Staff is supportive of temporary rates for
8 Lakes Region?

9 A. (Naylor) We're supportive of temporary rates for the
10 Company largely because the level of plant additions
11 that the Company has been required to make is quite
12 significant. The Company's permanent rate filing in
13 this case is for an increase in revenues of about
14 40 percent. And, in addition, the Company is
15 requesting a consideration of a step adjustment beyond
16 that for additional plant, which would, if approved,
17 result in an increase of about another 32 percent. So,
18 while those, the permanent and the step adjustment
19 requests, will be evaluated in the coming months in the
20 permanent rate phase of this proceeding, it's quite
21 clear that, based on the capital that the Company has
22 invested, that the Company will require an increase in
23 rates, purely based on capital requirements. So, we
24 believe that an increase in rates for temporary rates

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 at this time of about 18 percent is reasonable,
2 considering what may ultimately come.

3 MS. THUNBERG: Mr. Chairman, to
4 facilitate presentation today, counsel for the Company and
5 Staff coordinated our direct. And, at this point,
6 Attorney Crandlemire has a few questions.

7 MR. CRANDLEMIRE: Thank you.

8 BY MR. CRANDLEMIRE:

9 Q. Mr. St. Cyr, can you speak to why you believe that this
10 Stipulation is a reasonable agreement for temporary
11 rates from the Company's perspective?

12 A. (St. Cyr) Yes. The test year that's being used in this
13 proceeding is 2009. During 2009, the Company
14 experienced a net loss of over 200,000. Its net
15 operating loss for the year was approximately \$2,500.
16 This is a company that's in a cash-strapped position.
17 Its existing revenues are inadequate to cover its
18 expenses and to meet its obligations. And, the Company
19 believes that these assets are in service, they're used
20 and useful, they're providing service to the Company's
21 customers, and believes that the Settlement Agreement
22 that the Company and the Staff has reached is a fair
23 compromise, in order to enable the Company to receive
24 some revenue on a temporary basis and begin to allow it

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 to earn a rate of return.

2 Q. Can you just speak to the issue of rate of return,
3 given where the Company is now and what this Temporary
4 Stipulation would provide for?

5 A. (St. Cyr) Well, as I said, the Company's net operating
6 loss, which is specifically identified on Schedule 3 on
7 the schedules to the Stipulation, the "Actual Test
8 Year" is the first column of numbers on that schedule.
9 You know, we had revenues of 990,000, expenses of
10 991,000, some income taxes, resulting in a net
11 operating loss of "\$2,539". This is an indication that
12 the Company has not earned any return on its invested
13 -- its invested plant. On the earlier schedule, you
14 can see that the Company's had \$2.3 million invested in
15 plant. And, during 2009, the Company did not earn a
16 return on that plant.

17 Q. And, finally, could you just speak to the issue of the
18 public interest, as it relates to this temporary
19 filing, in your view?

20 A. (St. Cyr) I believe it's in the public interest for
21 these temporary rates to be approved. Without these
22 rates, the revenue is inadequate to allow the Company
23 to earn a return. When it's unable to earn a return,
24 it's unable to access capital markets, and it's at risk

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 of not meeting some of its financial obligations.

2 MR. CRANDLEMIRE: Thank you. I have no
3 further questions at this time.

4 BY MS. THUNBERG:

5 Q. Mr. Naylor, I'd like to just ask you, if the Commission
6 were to approve this Temporary Rate Stipulation, do you
7 have an opinion as to whether there's any risk of the
8 company over-earning?

9 A. (Naylor) No. The Company would not over-earn with an
10 approval of these, this level of temporary rates.

11 Q. Mr. LaFlamme, I'd like to ask, with respect to the
12 rates for this Company, under this Temporary Rate
13 Stipulation, do you know what the impact in a dollar
14 amount would be to the customers?

15 A. (LaFlamme) Yes.

16 Q. I'm just trying to get a correlation between this
17 "18.51 percent" temporary rate increase to what the
18 customers may actually see.

19 A. (LaFlamme) A calculation of the rates appears on
20 Schedule 5 to the Settlement Agreement. And, that
21 will, if temporary rates are approved, it will result
22 in an average annual charge to customers of \$562.98 per
23 year. That's compared to the present average annual
24 charge to customers of \$469.57 per year, or a \$93.41

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 increase on an annual basis; \$7.78 per month.

2 Q. Thank you. Mr. LaFlamme, do you have an opinion at
3 this juncture of the proceeding as to whether the Staff
4 will be recommending the same rate design be held?

5 A. (LaFlamme) Yes.

6 Q. And, I'm sorry, I asked you a multipart question. What
7 is Staff's opinion as to the rate design?

8 A. (LaFlamme) That the rate design will continue as it has
9 been for temporary rates.

10 Q. Let me ask it a different way. If permanent rates are
11 finally determined, and they are using a rate design
12 that's different than what is employed with the
13 temporary rates, is that something that can be easily
14 reconciled by Staff, so that there's no subsidy between
15 classes?

16 A. (LaFlamme) Yes.

17 Q. Okay. Thank you. Mr. St. Cyr, I'd like to move to you
18 and question you about, on Page 3 of the Agreement,
19 regarding the "Effective Date and Recoupment", it
20 states that "all customers were notified of the
21 proposed rate increases", that's the third sentence in
22 that paragraph on Page 3. And, I'd like to just have
23 you describe how customers were notified and when?

24 A. (St. Cyr) The Company went ahead and prepared a display

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 advertisement, which was sent to all of its customers
2 around September 15th. It was required to provide that
3 to customers by no later than September 17th. The
4 notice included an indication that the Company was
5 seeking an increase in its permanent rates, and
6 included consideration of Gunstock Glen customers being
7 incorporated into that consolidated rate. It provided
8 a table which showed what the existing rates were and
9 what the proposed rates were, and what the increase
10 was, both in terms of dollars and percentage. And, it
11 notified customers of the prehearing conference and
12 their ability to participate in the proceeding at that
13 time.

14 Q. And, Mr. Naylor, a question to you about the
15 September 17th, 2010 effective date. Is it Staff's
16 position that all customers were notified effective or
17 by that date of the permanent rate increase request?

18 A. (Naylor) Yes, it is.

19 Q. I'd like to move onto the issue of reconciliation.
20 And, Mr. LaFlamme, just ask you a few questions about
21 that. Are you familiar with the reconciliation
22 provision under RSA 378 of temporary and permanent
23 rates?

24 A. (LaFlamme) Yes.

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 Q. And, can you just please briefly describe, at the
2 conclusion of this docket, we're asking for temporary
3 -- or, Staff is asking for temporary rates at this
4 point, at the conclusion of this proceeding, can you
5 please explain what's going to happen to these
6 temporary rates?

7 A. (LaFlamme) If the Commission approves permanent rates
8 in this docket, then the amount of temporary rates
9 collected by the Company will be compared to what the
10 rates would have been under permanent rates. And, the
11 difference between permanent rates and temporary rates
12 will either be refunded to customers or recouped from
13 customers depending upon the level of permanent rates.

14 Q. Okay. And, one other follow-up question on this point.
15 So, today, Staff and the Company are not asking the
16 Commission for approval of any specific
17 temporary/permanent recoupment amount, is that correct?

18 A. (LaFlamme) That is correct.

19 Q. That would require additional approval from the
20 Commission?

21 A. (LaFlamme) Yes.

22 Q. Mr. Naylor, one question about Mr. LaFlamme's response
23 of reconciliation truing up permanent rates to
24 temporary rates, and the possibility of a refund. That

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 may be something that's allowed in the statute, but can
2 you apply to this particular proceeding and offer an
3 opinion as to the likelihood of a refund under
4 reconciliation?

5 A. (Naylor) Well, it doesn't seem likely, given the --
6 given the magnitude of the permanent rate increase
7 request. But we don't know that yet. We still have to
8 do a full review of the Company's permanent rate filing
9 before we can offer an opinion on that. But, as I
10 indicated in earlier testimony, the Company has
11 requested, for permanent rates, an increase of
12 40 percent. What we're supporting today, for temporary
13 rates, is an increase of about 18 percent.

14 Q. Thank you. Mr. LaFlamme, do you have an opinion as to
15 the just and reasonableness of the temporary rates
16 proposed in the Stipulation?

17 A. (LaFlamme) Yes. I believe that the rates being
18 proposed are just and reasonable.

19 Q. And, Mr. Naylor, the same question to you.

20 A. (Naylor) Yes. I believe what we're supporting today is
21 a reasonable level of increase for temporary rates for
22 the Company.

23 Q. And, would you agree that customer rates resulting from
24 this Temporary Stipulation, if approved, would be just

{DW 10-141} (Re: Temporary Rates) {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 and reasonable?

2 A. (Naylor) Yes, I do.

3 Q. And, Mr. St. Cyr, do you have an opinion as to the just
4 and reasonableness of the temporary rates proposed in
5 the Stipulation?

6 A. (St. Cyr) I do. I believe they're just and reasonable.
7 I believe the Company is employing significant assets
8 that are in service, they're used and useful, and
9 providing service to customers. This will give us the
10 opportunity to earn a rate of return. And, I do
11 believe it's in the public interest.

12 MS. THUNBERG: That concludes our
13 direct. Thank you.

14 CHAIRMAN GETZ: Mr. Crandlemire?

15 MR. CRANDLEMIRE: Yes. We have no
16 follow-up questions either.

17 CHAIRMAN GETZ: Okay. It concludes
18 direct. So, I take it that neither of you have
19 cross-examination for one another's witnesses, is that
20 correct?

21 MR. CRANDLEMIRE: That's correct.

22 MS. THUNBERG: That's okay.

23 CHAIRMAN GETZ: Okay. Mr. Patch?

24 MR. PATCH: No questions. Thank you.

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 CHAIRMAN GETZ: Mr. Dubuc?

2 MR. DUBUC: No questions. Thank you.

3 CHAIRMAN GETZ: Ms. Hatfield?

4 MS. HATFIELD: Thank you, Mr. Chairman.

5 Good afternoon, gentlemen.

6 WITNESS ST. CYR: Good afternoon.

7 WITNESS NAYLOR: Good afternoon.

8 WITNESS LaFLAMME: Good afternoon.

9 **CROSS-EXAMINATION**

10 BY MS. HATFIELD:

11 Q. Mr. Naylor, I believe you just testified a few moments
12 ago that the temporary rates "based on the books and
13 records on file with the Commission". Did I hear that
14 correctly?

15 A. (Naylor) I'm not sure I said that. But, generally, the
16 Staff analysis of what's an appropriate temporary rate
17 begins with the most recent reports on file with the
18 Commission.

19 Q. I'm sorry, it may have been Mr. LaFlamme who testified
20 to that. Do either of -- can either of you tell us
21 what books and records that you are basing the
22 temporary rates on?

23 A. (LaFlamme) We're basing it on the annual report --
24 annual reports on file with the Commission.

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 Specifically, the 2009 Annual Report that was filed for
2 the Company, and which was the basis of the Company's
3 filing for both permanent and temporary rates.

4 Q. And, Mr. St. Cyr, I believe it was you who pointed us
5 to Schedule 3 to the Settlement Agreement. And, you
6 were talking about the loss that the Company is
7 showing, is that correct?

8 A. (St. Cyr) Yes, it is.

9 Q. Did those figures take into account the "pensions" that
10 the Company is currently paying to Mr. and Mrs. Mason?

11 A. (St. Cyr) Yes, they do.

12 Q. And, are you aware of how much was paid in those
13 pension amounts in 2009?

14 A. (St. Cyr) No, I'm not specifically aware of the amount.

15 Q. Would you accept, subject to check, looking at
16 Attachment 2 to Mr. Eckberg's testimony filed in this
17 case, that the 2009 amount was just over \$30,000?
18 Excuse me, it was \$36,000 to Mr. Mason, and roughly
19 \$16,000 to Mrs. Mason?

20 A. (St. Cyr) I would accept that subject to check.

21 Q. And, do the costs in Schedule 3 also include loan
22 reduction payments that are paid to Mr. and Mrs. Mason?

23 A. (St. Cyr) No, they do not.

24 Q. So, if we look at that same attachment to Mr. Eckberg's

{DW 10-141} (Re: Temporary Rates) {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 testimony that's been filed in this case, that shows
2 roughly \$30,000 in loan reduction payments paid to
3 Mr. and Mrs. Mason, that \$30,000 is not included in the
4 revenues that the Company is seeking to recover through
5 the temporary rates?

6 A. (St. Cyr) Yes, the \$30,000 would show as a reduction to
7 liabilities on the balance sheet, and would not appear
8 on this schedule, which is the operating income
9 statement.

10 Q. And, those amounts that are owed to Mr. and Mrs. Mason,
11 do I have it correct that the Company is paying them a
12 rate of return -- excuse me, an interest rate of
13 9.75 percent on those amounts?

14 A. (St. Cyr) You'd have to be more specific on the amounts
15 that you're referring to.

16 Q. Any amounts that are owed to Mr. and Mrs. Mason that
17 the Company is characterizing as "debt".

18 A. (St. Cyr) The debt that the Company has to Mr. and
19 Mrs. Mason gets paid sporadically. And, I'm not sure
20 that there's ever a calculation of interest, *per se*.
21 And, the amounts that gets paid is really a function of
22 the Company's cash position and its ability to make
23 some kind of payment.

24 Q. But, again, looking at this attachment to Mr. Eckberg's

{DW 10-141} (Re: Temporary Rates) {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 testimony, which was provided in discovery to your
2 response to OCA Set 1, Number 17, it looks as those, at
3 least in 2009, there were weekly payments made, both
4 for what the Company referred to as "pension", and then
5 also for amounts that the Company calls "loan
6 reduction". Are you familiar with those?

7 A. (St. Cyr) Yes, if you could show me the schedule, I
8 would appreciate that.

9 (Atty. Hatfield showing document to
10 Witness St. Cyr.)

11 WITNESS ST. CYR: I'm sorry, if you
12 could repeat the question now.

13 BY MS. HATFIELD:

14 Q. Well, you referred to "loan repayments" as "sporadic".

15 A. (St. Cyr) Yes.

16 Q. And, that schedule showed that they, at least in 2009,
17 were happening on a weekly basis. Is that correct?

18 A. (St. Cyr) This schedule does show weekly payments,
19 although that's not consistent with my understanding of
20 how they're paid.

21 Q. So, if --

22 A. (St. Cyr) It's possible that the payments have been
23 attributed to these particular weeks, rather than
24 actually paid in that fashion.

{DW 10-141} (Re: Temporary Rates) {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 Q. So, could the Company provide a corrected updated
2 response to that data request please?

3 MS. HATFIELD: And, Mr. Chairman, even
4 though we haven't marked Mr. Eckberg's testimony yet, it
5 seems as though we might want to reserve an exhibit for a
6 record request to that effect. So, that would be a
7 request to update the response to OCA Data Request Set 1,
8 Number 17.

9 CHAIRMAN GETZ: Okay. We'll mark that
10 for identification as "Exhibit Number 4".

11 **(Exhibit 4 reserved)**

12 CHAIRMAN GETZ: And, Mr. St. Cyr, you
13 understand the request?

14 WITNESS ST. CYR: Yes, we do.

15 MS. HATFIELD: Thank you.

16 BY MS. HATFIELD:

17 Q. Mr. LaFlamme, I believe you were asked some questions
18 about "rate design". Do you recall that?

19 A. (LaFlamme) Yes.

20 Q. Has the Company filed a cost of service study in this
21 case?

22 A. (LaFlamme) I don't believe it has.

23 Q. Is rate design discussed in the Settlement Agreement?

24 A. (LaFlamme) I don't believe it is.

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 CHAIRMAN GETZ: Well, I think, as I see
2 it, in Exhibit 2, in "Terms of the Agreement", on Page 2
3 of 6, Part B is entitled "Rate Design".

4 WITNESS LaFLAMME: Oh. Okay. I stand
5 corrected.

6 BY MS. HATFIELD:

7 Q. Mr. St. Cyr, I wanted to ask you a few questions about
8 your rebuttal testimony that has been marked as
9 "Exhibit 3". Do you have that before you?

10 A. (St. Cyr) I do.

11 Q. If you would please turn to what is the second page. I
12 don't believe that the pages are numbered, but I would
13 like to ask you a question on the second page of your
14 actual testimony. Do you see the question at the top
15 of that page that asks you to "respond to the issue
16 raised by Mr. Eckberg [related] to the pension
17 expense"?

18 A. (St. Cyr) I do.

19 Q. And, do you see your response that you "acknowledge
20 that that expense was paid during the test year"?

21 A. (St. Cyr) I do.

22 Q. And, then, in the last paragraph -- excuse me, sentence
23 of that paragraph that begins on Line 9, you state "The
24 Company recognizes the OCA's concerns and believes that

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 this issue should be further discussed and evaluated as
2 part of the permanent rate case." Did I read that
3 correctly?

4 A. (St. Cyr) Yes, you did.

5 Q. But are those amounts included in the temporary rates?

6 A. (St. Cyr) The amounts paid to the Masons for pensions
7 during the year are included in the temporary rates.

8 Q. Then, on the bottom of the third page of your
9 testimony, Mr. St. Cyr, or, actually, beginning closer
10 to the top of the third page, you raise -- you respond
11 to an issue raised by Mr. Eckberg that relates to the
12 "York Village development". Do you see that?

13 A. (St. Cyr) Yes, I do.

14 Q. And, then, later in your response, at the bottom of
15 that page, and going onto the fourth page, you referred
16 to what you say the "so-called "bartering issue" raised
17 by Mr. Eckberg", both in this case and in the other
18 case. Do you see that?

19 A. (St. Cyr) Yes, I do.

20 Q. And, you're referring to what the Company has called
21 "service trades", which is basically a bartering
22 arrangement between the Company and its affiliate, is
23 that correct?

24 A. (St. Cyr) Yes.

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 Q. And, are those amounts included in temporary rates?

2 A. (St. Cyr) They are not.

3 Q. And, they have been removed according to the Settlement
4 between Staff and the Company?

5 A. (St. Cyr) That's correct.

6 MS. HATFIELD: We have nothing further.

7 Thank you.

8 CHAIRMAN GETZ: Thank you. Commissioner
9 Below.

10 CMSR. BELOW: Thank you, Mr. Chairman.

11 BY CMSR. BELOW:

12 Q. Is Barbara G. Mason a former employee of Lakes Region
13 Water Company, Inc.?

14 A. (St. Cyr) Yes, she is.

15 Q. And, what year did she retire from employment?

16 A. (St. Cyr) It was a few years ago, I'll say 2007,
17 2006/2007.

18 Q. And, is the same true of Thomas Adam Mason?

19 A. (St. Cyr) He was an employee, and he retired later. I
20 would say closer to 2008.

21 Q. And, is 2009 the first year these so-called "pensions"
22 were paid?

23 A. (St. Cyr) I believe it's the first year that the
24 pension was paid for Thomas Mason. It's not the first

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 year that the pension was paid for Barbara. It would
2 be the second or third year.

3 Q. Okay. And, when were those initially approved by the
4 board of the water company?

5 A. (St. Cyr) I don't have the specific date when they were
6 initially approved.

7 CMSR. BELOW: Okay. That's all.

8 CHAIRMAN GETZ: Commissioner Ignatius.

9 CMSR. IGNATIUS: Thank you.

10 BY CMSR. IGNATIUS:

11 Q. Perhaps following on Commissioner Below's question, was
12 there an approval by the board of the water company?

13 A. (St. Cyr) There was.

14 Q. And, so, I guess, as a record request or reserve an
15 exhibit, if you could locate the dates and copies of
16 approvals of those pensions?

17 A. (St. Cyr) Yes, we'll do that.

18 CHAIRMAN GETZ: Okay. We'll save
19 Exhibit 5 for that response.

20 **(Exhibit 5 reserved)**

21 BY CMSR. IGNATIUS:

22 Q. Mr. Naylor, as you reviewed the books and records, you
23 responded today that that was the starting point, it
24 was the beginning of your analysis of temporary rates.

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 And, what else did you look at in considering an
2 appropriate response to the temporary rate request?

3 A. (Naylor) Well, there was some -- a number of
4 adjustments made, as detailed in the schedules. I
5 think one of the most important things to me is to
6 evaluate what the Company's permanent request is and
7 what the potential -- potential rate increase is on a
8 permanent basis, to give us some kind of guideline for
9 whether or not an increase, first of all, for temporary
10 rates is warranted, and, second, what level it should
11 be. So, that's kind of the parameters, the boundaries
12 of what might be reasonable.

13 Typical of water utilities in the last
14 10 to 15 years that, when we see rate filings from
15 these companies, primarily driven by the capital
16 requirements they're faced with from DES, we see 20,
17 30, 40 percent rate increase requests. And, so, one of
18 the things we want to look at is, with other factors,
19 of course, what's a reasonable level of increase for
20 temporary rates, such that the customers aren't hit
21 with a much larger increase when permanent rates are
22 approved. It provides some cushioning to that, and
23 also significantly reduces the level of recoupment that
24 might be necessary at the conclusion of the case. So,

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 it's really a combination of those factors, as well as
2 a review of what their earnings was in the test period.

3 Q. If you had based your recommendation only on the books
4 and records on file, would the amount that, in your
5 view, the Company might be entitled to for temporary
6 rates be higher or lower than what you ended up with?

7 A. (Naylor) I don't recall exactly, sitting here, what
8 their earnings looked like, just based on an analysis
9 of their test period. I don't know what that is.

10 Q. Well, let me ask it differently. In the adjustments
11 that your team put together and Mr. LaFlamme testified
12 to, so perhaps he can answer this as well, in the 20 or
13 so adjustments that were made, did that have the effect
14 of bringing the -- knocking out certain expenditures or
15 adding new expenditures to the Company's records?

16 A. (St. Cyr) I might be able to answer that. If you want
17 to refer to Schedule 3 of the Stipulation Agreement.

18 Q. All right.

19 A. (St. Cyr) The first column is what the Company's actual
20 experience was during 2009. The Company made a series
21 of adjustments itself to get to what it filed and
22 requested for temporary rates. That's part of what
23 Staff and the OCA and other parties to the proceeding
24 reviewed. You can see on this particular schedule the

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 adjustments that they made to the operating expenses.
2 And, then, across the table, what the final adjustment
3 to operating income is, the "191,307". And, then, in
4 addition to that, they also reviewed rate base, which
5 is Schedule 2. And, the series of adjustments that
6 they made to rate base are shown on Schedules 2a and
7 further supported by 2b and c.

8 Q. Mr. LaFlamme, did you want to add anything?

9 A. (LaFlamme) Yes. If you go back to Schedule 3, and it
10 shows what the Company reported in their annual report.
11 And, that's the most left-hand column of numbers, the
12 "Actual Test Year". The Company made a number of
13 adjustments for temporary rate purposes. And, if you
14 look at that, the majority of the adjustments actually
15 reduce their operating expenses from what was actually
16 reported by the Company during the test year.

17 Staff's review of -- Staff reviewed the
18 adjustments that the Company proposed. And, we --
19 Staff made no amendments or alterations to those
20 adjustments at all, for the most part, because the net
21 effect was a reduction in operating income.

22 The only -- the two adjustments that
23 Staff did make, major adjustments that the Staff did
24 make, was, first of all, under "Water sales to general

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 customers", Staff added the operating income increase
2 that is being proposed in the DW 08-070 docket, and
3 that's the "\$11,833". The other adjustment that Staff
4 made was to reduce the income tax adjustment that the
5 Company proposed in its filing. The Company proposed
6 an income tax adjustment of "\$25,490". Staff removed
7 that adjustment for purposes of temporary rates, and
8 the Company agreed to that adjustment for temporary
9 rates.

10 Q. Thank you.

11 A. (LaFlamme) So, I guess, in -- I guess, in answer to
12 your question a few minutes ago, I think, ultimately,
13 there were more adjustments made to reduce operating
14 expenses than to increase them.

15 Q. All right. In your testimony earlier this afternoon,
16 Mr. LaFlamme, you said that the average annual charge
17 was on one of your schedules, --

18 A. (LaFlamme) Schedule 5.

19 Q. Thank you. And, you compared it to what the current
20 average was. Can you restate what the current average
21 is?

22 A. (LaFlamme) I determined that the current average charge
23 per customer was \$469.57, and that's based on an
24 average annual usage per customer of 27.3 ccf.

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 Q. Well, that looks like almost a \$100 increase from the
2 current year to what a year would be under the proposed
3 rule -- the proposed rates, excuse me?

4 A. (LaFlamme) Yes.

5 Q. The discussion of the expansion into York Village
6 raised by Mr. Eckberg is something that is also
7 discussed in greater length I think in the step
8 increase docket, which we will get to later this
9 afternoon. But let me just ask either Mr. Naylor or
10 Mr. LaFlamme, is there any way in which, in this
11 Temporary Rate Settlement, the York Village expenses
12 and revenues play a part?

13 A. (Naylor) It doesn't. I don't think there was, I don't
14 think there's an impact for temporary rates. As you
15 referred to, we did adjust the step adjustment that's
16 the subject of DW 08-070, but there's no adjustment for
17 temporary rates.

18 Q. Thank you. Mr. Naylor, also a question to you. The
19 debt that Mr. St. Cyr just referred to as not having a
20 "defined interest rate", can you give any more
21 elaboration on that and whether that's something that
22 has been approved by the Commission, debt for which
23 there doesn't seem to be a defined interest rate?

24 A. (Naylor) I don't believe that that debt has been

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 approved by the Commission. I believe it's the case
2 that there are primarily vehicle loans, if I remember
3 correctly from the case, that have not received
4 Commission approval. But, specifically, to the issue
5 of loans from stockholders, no, I don't believe that's
6 been approved. That issue, among several others, is
7 something that we'll be reviewing in the permanent
8 case.

9 Q. In your schedules, does that debt, what you described
10 as "loans from stockholders", does that play a part in
11 the calculations that you and your team undertook?

12 A. (Naylor) I don't believe it does, no.

13 Q. How about the pension payments?

14 A. (Naylor) Well, as Mr. St. Cyr indicated, the Company's
15 test year earnings reflect inclusion of those pension
16 payments. We're aware of that. Given the nature of
17 temporary rates versus permanent rates, whatever level
18 of permanent rates the Commission ultimately approves
19 will be reconciled back to the effective date, mid
20 September. So, we weren't particularly concerned about
21 that. As I indicated, the larger issue to me was, for
22 a company that's had substantial capital needs over the
23 last several years, and reflecting those, that capital
24 in rates, I think an increase of 18 percent for

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1 temporary rates was reasonable. And, we're setting
2 aside some of these other issues for review in the
3 permanent phase of the case.

4 Q. Mr. Eckberg identified a handful of issues and the
5 rebuttal testimony from the Company was that they were
6 better handled in the permanent rate case, and I think
7 you just alluded to that now. Let me just be certain
8 that all of the issues that Mr. Eckberg identifies, to
9 get your view on whether they're appropriately
10 considered in the permanent case, or whether for any
11 reason they would be included from further
12 consideration. The special contract with the
13 homeowners association, the Property Owners Association
14 at Suissevale, if there are issues regarding that, is
15 that to be taken up in the permanent rate case?

16 A. (Naylor) Yes, I think so. I understand that issue that
17 the OCA has raised. The Company has a special contract
18 with the Property Owners at Suissevale that operates
19 based on an analysis of the Company's capital it's
20 devoted to serving Suissevale and the community system
21 that it's attached to, based on the expenses and so
22 forth of operating that combined system. So, I'm aware
23 of those issues. And, certainly agree that it's an
24 issue that can be looked at in the permanent rate phase

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 of the case.

2 Q. The expansion into York Village, is that appropriately
3 taken up in the permanent rate case?

4 A. (Naylor) Yes, it is.

5 Q. The question of the long-term debt with the Company's
6 owners, you've already spoken to as being part of the
7 rate case, the permanent rate case. How about what's
8 being called the "service trades"?

9 A. (Naylor) Yes. Very much an issue to be resolved in the
10 permanent phase.

11 Q. And, the pension expenses we just discussed, that would
12 also be part of the permanent case?

13 A. (Naylor) Correct.

14 CMSR. IGNATIUS: Thank you. No other
15 questions.

16 CHAIRMAN GETZ: Thank you.

17 CMSR. BELOW: I have a further
18 clarifying question.

19 BY CMSR. BELOW:

20 Q. Mr. St. Cyr, you I believe just testified that the --
21 what's characterized as "repayment of debt" to Mr. and
22 Mrs. Mason didn't affect the operating income
23 statement, that's Schedule 3. And, that there wasn't
24 really a calculation of interest versus principal. Is

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 that because it's all being booked as principal
2 repayment, and there's not an interest payment for the
3 test year?

4 A. (St. Cyr) I'm not sure how the Company calculates its
5 repayment, whether they break that out by principal and
6 interest.

7 Q. If there was interest payment, would it show up as a
8 line item or be included in one of the existing line
9 items on Schedule 3, as amended in Exhibit 2?

10 A. (St. Cyr) Well, interest expense doesn't normally show
11 up on the operating income statement. That's a line
12 item further down the income statement. It's usually
13 taken into consideration in the calculation of the rate
14 of return. And, in the temporary rate proceeding, the
15 Staff and the Company agreed that the rate of return
16 would be 8.23 percent, which is from -- which is the
17 last approved rate of return by this Commission in the
18 05-137 case. So, it would have no impact on the
19 temporary rates.

20 CMSR. BELOW: Okay. Thank you.

21 CHAIRMAN GETZ: Okay.

22 BY CHAIRMAN GETZ:

23 Q. Just one area of follow-up, Mr. St. Cyr, on
24 Commissioner Ignatius's question about York Village.

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[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 And, in this case, in your rebuttal testimony, you say
2 "York Village is squarely within the Company's
3 franchise area", and then, in the other docket, 08-070,
4 you cite a order of the Commission from December 22nd,
5 1994. And, I took a look at that order. And, it
6 doesn't seem to address it expressly, but there's an
7 ordering clause that says that "Lakes Region is
8 authorized to operate within the service territory
9 outlined on a map included in Exhibit 1" in that case.
10 So, is what your testimony in this case is that, if we
11 go back and look at that map that's in our archives,
12 that it will show that York Village is within the area
13 of the franchise?

14 A. (St. Cyr) That's correct. And, the Company has
15 provided those to both Staff and the OCA.

16 CHAIRMAN GETZ: Okay. Thank you. Any
17 redirect, Ms. Thunberg? Mr. Crandlemire?

18 MS. THUNBERG: None. Thank you.

19 MR. CRANDLEMIRE: None for me either.
20 Thank you.

21 CHAIRMAN GETZ: All right. Then, the
22 witnesses are excused. Thank you, gentlemen.

23 Ms. Hatfield.

24 MS. HATFIELD: Thank you, Mr. Chairman.

[WITNESS: Eckberg]

1 The OCA calls Stephen Eckberg.

2 (Whereupon **Stephen R. Eckberg** was duly
3 sworn and cautioned by the Court
4 Reporter.)

5 **STEPHEN R. ECKBERG, SWORN**

6 **DIRECT EXAMINATION**

7 BY MS. HATFIELD:

8 Q. Good afternoon. Would you please state your name for
9 the record.

10 A. My name is Stephen Eckberg.

11 Q. By whom are you employed?

12 A. I am employed by the Office of Consumer Advocate as a
13 Utility Analyst.

14 Q. Have you previously filed testimony on behalf of the
15 OCA?

16 A. Yes, I have. A copy of my qualifications, which
17 includes a list of previously filed testimony, is
18 included with my testimony.

19 Q. Did you file testimony in this docket?

20 A. Yes, I did.

21 Q. Was that filed on November 24th, 2010?

22 A. Yes, it was.

23 Q. And, was that filed after the Settlement, the first
24 version of the Settlement that was filed by Staff and

{DW 10-141} (Re: Temporary Rates) {12-13-10}

[WITNESS: Eckberg]

1 the Company?

2 A. Yes, it was. That's what the procedural schedule in
3 this docket called for.

4 Q. Do you have a copy of your testimony before you?

5 A. I do.

6 Q. Was it prepared by you or under your direction?

7 A. It was, yes.

8 Q. Do you have any corrections that you need to make to
9 that testimony?

10 A. Yes, I do. As we just discussed a minute ago with the
11 previous panel, it has been brought to my attention
12 that the York Village development is, in fact, within
13 the Company's franchise territory, according to Order
14 Number 21,475, dated December 22nd, 1994. I have
15 reviewed the map discussed in that order, and it does
16 appear, if my understanding is correct, that the York
17 Village development is within the Company's existing
18 franchise territory. And, so, I would like to strike a
19 sentence in my testimony that begins on Page 8, at Line
20 23, and goes onto Page 9, Line 2. I don't think I need
21 to read that sentence, but it starts with the word
22 "however", and ends with the word "customer" on the
23 next page.

24 Q. Do you have any other corrections or changes?

{DW 10-141} (Re: Temporary Rates) {12-13-10}

[WITNESS: Eckberg]

1 A. No, I don't.

2 MS. HATFIELD: Mr. Chairman, I'd like to
3 have Mr. Eckberg's testimony marked, I believe as "Exhibit
4 6".

5 CHAIRMAN GETZ: So marked.

6 (The document, as described, was
7 herewith marked as **Exhibit 6** for
8 identification.)

9 BY MS. HATFIELD:

10 Q. Mr. Eckberg, did the OCA support the Settlement
11 Agreement that is before the Commission today in this
12 docket?

13 A. No. The OCA did not support the Settlement Agreement.
14 As I stated in my testimony, the OCA was supportive of
15 certain elements that were included in the Settlement
16 Agreement. But, overall, we believe that the
17 Settlement did not address other critical issues that
18 are facing the Company at this time. A revised
19 Settlement was filed several days ago, as we've
20 identified here today. And, that revised Settlement
21 did address one of the issues that I raised in my
22 testimony, specifically the York Village issue.

23 Q. Could you please very briefly summarize your testimony
24 that's been marked as "Exhibit 6".

[WITNESS: Eckberg]

1 A. Certainly. In my testimony, I identified several
2 issues that related to the Company's costs, which the
3 OCA believes are not appropriate for inclusion in any
4 assessment of the Company's revenue deficiency. I also
5 identified two issues regarding the Company's revenue,
6 which I felt were significant enough that they warrant
7 a fuller investigation before the OCA could agree to
8 any increase in rates, even on a temporary basis.

9 The issues that I discuss in my
10 testimony are listed on Page 3 of that testimony, and
11 then discussed in more detail in Pages 3 through 10.
12 And, those issues include, we've discussed them a
13 little bit already with the previous panel, but they
14 include pensions that are being paid to the owners of
15 the Company on a weekly basis out of the Company's cash
16 flow; unauthorized long-term debt borrowed from the
17 Company's owners, which is earning at the equity rate
18 of 9.75 percent interest; costs related to service
19 trades or bartering that the Company has engaged in;
20 and also revenues related to Suissevale and York
21 Village. And, again, the York Village issue has been
22 remedied by the revised Settlement.

23 I recommended in my testimony that the
24 Commission not approve the Settlement on Temporary

[WITNESS: Eckberg]

1 Rates as filed, which proposed originally to grant an
2 18.15 percent temporary rate increase. Now, the
3 revised Settlement has a proposed 18.51 percent
4 temporary rate increase. Instead, the OCA has
5 respectfully requested that the Commission set the
6 temporary rates at the level of current rates, to allow
7 the parties more time to investigate all of the issues
8 that I raise in my testimony, as well as others.

9 Q. Are you aware that the Company filed rebuttal testimony
10 on Friday, December 12th, in this case?

11 A. Yes, I am.

12 Q. Have you had time to review that testimony?

13 A. I have read through the rebuttal testimony. And, I do
14 believe that, generally, Mr. St. Cyr acknowledges that
15 the issues that I raised do need to be addressed at
16 some point in this docket. Our position is that they
17 must be addressed before any rate increase is approved.
18 The fact that temporary rates are reconcilable does not
19 make it appropriate, in our view, to allow this company
20 to increase rates, in light of the many serious issues
21 that must be addressed related to their managerial and
22 financial capabilities.

23 Q. Do you have anything further to add, Mr. Eckberg?

24 A. Nothing further to add at this point. Thank you.

{DW 10-141} (Re: Temporary Rates) {12-13-10}

[WITNESS: Eckberg]

1 MS. HATFIELD: Thank you. The witness
2 is available for cross-examination.

3 CHAIRMAN GETZ: Thank you. Mr. Dubuc,
4 any questions for the witness?

5 MR. DUBUC: None.

6 CHAIRMAN GETZ: Mr. Patch?

7 MR. PATCH: Yes. Thank you. Good
8 afternoon.

9 WITNESS ECKBERG: Good afternoon.

10 **CROSS-EXAMINATION**

11 BY MR. PATCH:

12 Q. I want to focus on Pages 6 to 8 of your testimony,
13 which I believe is the area where you commented on the
14 contract with Suissevale, is that correct? It begins
15 like on Line 4, Page 6, and ends Line 13 of Page 8.

16 A. That appears to be correct, yes.

17 Q. Now, is it your understanding that, I'll refer to the
18 Suissevale Property Owners as "POASI", if that's okay?
19 It's kind of an odd term. But, anyway, that's the one
20 that's typically used. Is it your understanding that
21 POASI is an association of homeowners in Moultonborough
22 that owns and operates a water distribution system that
23 provides water to about 350 homes? Is that fair to
24 say?

[WITNESS: Eckberg]

1 A. That is basically my understanding of POASI, yes.

2 Q. And, that POASI is exempt from regulation as a public
3 utility pursuant to an order issued by this Commission
4 in 2006? I don't know if you've had a chance to look
5 at that, but I've got copies here, if you'd like to
6 take a look at that?

7 A. It is my understanding that POASI is exempt from
8 regulation by the Commission. I'm not sure when the
9 order was that created that situation.

10 Q. I'm just going to show it to you, just so we can
11 establish in the record when that was done.

12 A. Okay.

13 (Atty. Patch handing document to the
14 witness.)

15 BY MR. PATCH:

16 Q. I think the order indicates it was November?

17 A. November 8th, 2006, yes.

18 Q. Okay.

19 A. Order Number 24,698.

20 Q. Thank you. Now, is it your understanding that POASI is
21 a wholesale customer of Lakes Region?

22 A. Yes, that's my understanding.

23 Q. And, that it is part of the Balmoral or Paradise Shores
24 part of the system, is that correct?

{DW 10-141} (Re: Temporary Rates) {12-13-10}

[WITNESS: Eckberg]

1 A. I'm not sure I'd phrase it exactly that way. It's my
2 understanding that Suissevale gets its water from the
3 Paradise Shores system, yes. I'm not sure I would be
4 comfortable saying it's "part of that system".

5 Q. That portion of the system, though, is independent from
6 the rest of the system that Lakes Region has, is that
7 fair to say?

8 A. That's my understanding, yes. There are a number,
9 perhaps 17 different water systems that are managed by
10 the regulated utility.

11 Q. And, the mechanism for POASI being a wholesale customer
12 of Lakes Region is through a special contract that was
13 referred to I think earlier this afternoon that POASI
14 has with Lakes Region that was approved by this
15 Commission in 2006. And, I'm going to show you the
16 order here, just so you've got the date and the order
17 in front of you.

18 A. Thank you.

19 Q. So, is that correct? Is that your understanding?

20 A. That is my understanding. And, this Order Number
21 24,693 appears to be an order *nisi* approving a special
22 contract between Lakes Region Water and Suissevale, or
23 POASI.

24 Q. And, as that order approving the Water Supply Agreement

[WITNESS: Eckberg]

1 notes on Page 1 of the copy that I've given you, and
2 I've highlighted certain portions of the agreement, the
3 contract is for a term of 30 years, is that correct?

4 A. That's what this order says, yes.

5 Q. And, at least at the time, and I'm referring here to
6 Page 1, over onto Page 2, at the time that the order --
7 that the contract was approved and the order was
8 issued, the agreement was that POASI would pay at a
9 volumetric rate that was higher than that charged to
10 individual customers, but a fixed charge that was lower
11 than that charged to individual customers, is that
12 correct?

13 A. That's what the language here indicates, yes.

14 Q. And, then, on Page 2, and you may have this
15 understanding anyway, but it refers to the fact that
16 Lakes Region provides water to POASI through one master
17 meter, is that correct?

18 A. Through -- I'm sorry, could you repeat that?

19 Q. That Lakes Region provides water to the Suissevale
20 system through one master meter?

21 A. Yes, that is my understanding.

22 Q. And, then, also on Page 2, is it your understanding
23 that Lakes Region does not own or maintain the water
24 distribution system beyond that master meter?

[WITNESS: Eckberg]

1 A. That is my understanding. Lakes Region Water Company,
2 the regulated utility, does not own the water
3 distribution facilities within Suissevale, correct.

4 Q. And, so, is it therefore your understanding that Lakes
5 Region is responsible only for providing wholesale
6 water to the master meter, that it has no
7 responsibility for, and therefore does not incur any
8 expenses related to, the water distribution system for
9 POASI? And, again, I'm referring to Page 2 of the
10 order.

11 A. I'm hesitating, because I think there may be some
12 interpretation that could be applied to your question.
13 If I say that "it's my understanding that Lakes Region
14 does not incur any expense to" -- maybe you should
15 repeat the question for me, so I don't misspeak.

16 Q. Sure. Is it your understanding that Lakes Region is
17 responsible only for providing wholesale water to a
18 master meter, and that it has no responsibility for,
19 and therefore does not incur any expenses related to,
20 the water distribution system for POASI that is beyond
21 the master meter?

22 A. I would say "yes" to that.

23 Q. Okay. Thank you.

24 A. Uh-huh.

[WITNESS: Eckberg]

1 Q. And, is it your understanding that the rates that POASI
2 pays to Lakes Region are adjusted every year pursuant
3 to a formula intended to reflect Lakes Region's actual
4 expense of serving POASI for the prior year? And, I'm
5 referring now to Page 3 of the order, and I've
6 highlighted certain portions of that.

7 A. I don't see any highlights on Page 3.

8 Q. Okay. Maybe I forgot to do that, but --

9 A. But I would say that, yes, my general understanding is
10 that POASI's rates are adjusted annually, based upon
11 the costs and financial results, I believe.

12 Q. And, is it your understanding that POASI, again, as the
13 order notes on Page 2, paid capital contributions
14 towards the water storage facility that was built in
15 Paradise Shores?

16 A. Yes, that is my understanding.

17 Q. And, is it also your understanding that Lakes Region
18 did not earn a rate of return on the contribution in
19 aid of construction that POASI made? And, now I'm
20 referring to Page 5 of the order.

21 A. There's a section on Page 5 which is highlighted with a
22 bracket. Is that the section you're referring to?

23 Q. Yes. And, so, my question is really just specifically
24 that Lakes Region did not earn a rate of return on the

[WITNESS: Eckberg]

1 contribution in aid of construction that POASI made?

2 A. That's what this language says. The effect is that
3 Lakes Region will not earn a rate of return on the
4 contribution in aid of construction portion of the
5 water storage tank. I agree that's what this order
6 says.

7 Q. Okay. Thank you. And, it goes onto say, does it not,
8 that "the contributions to the water storage tank were
9 not included in rate base, thus mitigating the impact
10 to Lakes Region customers." Is that correct?

11 A. It does say "which will mitigate the rate impact to
12 Lakes Region's customers when the storage facility is
13 complete and in service", yes.

14 Q. Now, have you reviewed the data requests that Lakes
15 Region has answered in this docket?

16 A. Yes, I have.

17 Q. I'm going to show you a few different data requests.
18 Actually, I've got five of them. But, to make things
19 easier, I'm going to give you five copies right now.
20 And, they're POASI 1-1, 1-2, 1-3, 1-4, and 1-5.

21 (Atty. Patch handing documents to the
22 witness.)

23 MR. PATCH: Do the other parties need
24 copies or do you have them?

[WITNESS: Eckberg]

1 MR. CRANDLEMIRE: No.

2 MR. PATCH: Are you all set?

3 MR. CRANDLEMIRE: Yes.

4 (Atty. Patch distributing documents.)

5 BY MR. PATCH:

6 Q. If you could take a look, Mr. Eckberg, first of all, at
7 1-2. And, the question --

8 A. Yes. I have that in front of me.

9 Q. Okay. The question there was "Please provide the total
10 volume of water provided to POASI by year during
11 calendar years '08, '09, and 2010 to date." And, I'm
12 going to focus on 2009. The answer there for 2009, in
13 hundred cubic feet, is what?

14 A. It's "15,555".

15 Q. And, then, the response to 1-3 indicates that Lakes
16 Region provided how many hundred cubic feet to Balmoral
17 customers, which mean, as I understand it, the other
18 customers in that portion of the system? Do you have
19 the answer for 2009?

20 A. Yes. The response to POASI 1-3 indicates "8,186".

21 Q. And, I'm going to ask you, subject to check, whether,
22 you know, my math at least shows me that POASI's
23 portion of the water that Lakes Region provided to all
24 customers in this portion of the system for 2009 was

{DW 10-141} (Re: Temporary Rates) {12-13-10}

[WITNESS: Eckberg]

1 about 64 percent. You know, 15,000 over 24,000, when
2 you add up the 8,800 plus the 1,500. So, it was
3 64 percent. Would you accept that subject to check?

4 A. Subject to check, certainly, I'll be glad to accept
5 that.

6 Q. And, then, POASI 1-1, if you could focus on that. Is
7 it fair to say that the Company indicates that it
8 collected "\$168,783" from Paradise Shores or Balmoral
9 customers in '09?

10 A. That's the Company's response, yes. "\$168,783" in
11 2009.

12 Q. And, the response to 1-4, the Company indicated it
13 collected "\$131,832" from POASI in 2009?

14 A. That's correct, yes.

15 Q. So, if my math is correct, again, for that separate
16 portion of the Lakes Region Water system that
17 encompasses both POASI and Balmoral or Paradise Shores
18 customers, POASI contributed about 44 percent of the
19 total revenues, the total revenues being \$300,613.
20 Would you accept that subject to check?

21 A. I would.

22 Q. So, again, Lakes Region, the regulated utility,
23 provides no services to POASI and has no responsibility
24 for the water distribution system beyond the single

[WITNESS: Eckberg]

1 water meter, you know, as we've already established.

2 That's correct?

3 A. That's correct.

4 Q. And, I'm going to ask you to take a look at POASI 1-5,
5 where we asked Lakes Region to "provide the total costs
6 which Lakes Region allocates to the Balmoral and POASI
7 portion of the system for '08 and '09." Do you have
8 that in front of you?

9 A. I do have Response 1-5 in front of me, yes.

10 Q. And, this response indicates the methodology that's
11 used for allocating asset costs for Balmoral and POASI,
12 is that correct?

13 A. Yes. This question, the response indicates how asset
14 costs are allocated, yes.

15 Q. And, if I'm reading this correctly, for '09, POASI was
16 allocated "61.85 percent" of the asset costs for this
17 portion of the water system, is that correct?

18 A. That's what the response indicates here on Line 18,
19 yes. "61.85 percent".

20 Q. Now, in your testimony on Page 8, Lines 2 to 4, where
21 you had just prior to that discussed the proposed
22 acquisition of land and development of additional water
23 supply in the Paradise Shores water system, you
24 indicated that DES had indicated that the Paradise

[WITNESS: Eckberg]

1 shores water system "has current supplies adequate to
2 serve the regulated Paradise Shores customers." Did I
3 quote that correctly?

4 A. What lines were you referring to specifically?

5 Q. Page 8, Lines 2 to 4.

6 A. Yes. I believe you did quote that accurately.

7 Q. Now, was this -- how was this indicated to you? Was it
8 a written correspondence? Was it by e-mail? Was it a
9 telephone conversation? A conversation in person?

10 A. It was a telephone conversation.

11 Q. And, who at DES did you have that conversation with, if
12 you could?

13 A. I'm merely looking to my attorney in case she gives me
14 a sign that I shouldn't say anything, which she's not
15 doing. So, I'll tell you that the conversation
16 occurred with Stephen Roy, who I think most of the
17 parties are familiar with. I think he's with the
18 Drinking Water and Groundwater Bureau of DES.

19 Q. But there's -- but there's nothing in writing from DES
20 to this effect, is that fair to say?

21 A. I don't have anything in writing at the moment, no.

22 Q. And, this is just with regard to the -- I guess what I
23 would call the "prospective", an additional supply of
24 water, independent of the one that POASI has already

{DW 10-141} (Re: Temporary Rates) {12-13-10}

[WITNESS: Eckberg]

1 contributed to and is already in place now, is that
2 correct?

3 A. My understanding is that POASI contributed to --
4 financial resources to build a storage tank.

5 Q. That's correct. To serve all of the customers in this
6 area, correct?

7 A. It would -- that tank would provide service to the
8 regulated customers, as well as to the wholesale
9 customers at POASI, correct.

10 Q. And, Mr. Roy's comments to you really had nothing to do
11 with a recommendation to this Commission about what it
12 should or shouldn't do in this case, is that correct?
13 It was just a factual statement?

14 A. That's correct. It was not meant as a recommendation
15 to the Commission.

16 Q. And, DES has not -- is not participating in this
17 docket, although I think you indicate in your testimony
18 that it was your recommendation that they should have?

19 A. I believe that was a recommendation of the OCA early on
20 in this docket, yes.

21 Q. And, then, finally, am I correct that you're not asking
22 the Commission, at this point in time anyway, to take
23 any action with regard to this particular issue? I
24 mean, the Commission has approved a 30 year contract,

{DW 10-141} (Re: Temporary Rates) {12-13-10}

[WITNESS: Eckberg]

1 it's in place, there's an order, as you've testified to
2 and as we've pointed out, that was approved by this
3 Commission. But you're not making any recommendation
4 for any change in that order at this point in time?

5 A. That is correct. I'm not making any recommendation for
6 a change. My testimony included some facts about the
7 consumption and the percentages of consumption and
8 income, just similarly to what we've discussed here
9 this morning -- or, this afternoon, pardon me, and to
10 make that information available for consideration.
11 But, no, I'm not making any specific recommendation at
12 this point in time.

13 Q. And, presumably, any recommendation would be part of
14 discussions that all the parties in this case would
15 have, you know, including Suissevale, since we're an
16 intervenor, is that correct?

17 A. Absolutely.

18 MR. PATCH: Okay. Thank you.

19 WITNESS ECKBERG: You're welcome.

20 CHAIRMAN GETZ: Ms. Thunberg?

21 MS. THUNBERG: No questions. Thank you.

22 CHAIRMAN GETZ: Mr. Crandlemire?

23 MR. CRANDLEMIRE: Yes. Thank you. Just
24 a single question.

[WITNESS: Eckberg]

1 BY MR. CRANDLEMIRE:

2 Q. Mr. Eckberg, on Page 3 of your testimony, --

3 A. Yes.

4 Q. -- in response to the question that starts on Line 4,
5 you have the four major issues which you identify, you
6 kind of summarize your testimony there?

7 A. Uh-huh. Yes.

8 Q. Your Question 3 that you raise, which is the "costs
9 related to the service trades...and its affiliate, and
10 third parties", you understand that those costs are not
11 included in the temporary rates in this case?

12 A. I do understand that, yes.

13 MR. CRANDLEMIRE: Great. Thank you.

14 Nothing further.

15 CHAIRMAN GETZ: Thank you. One
16 administrative matter. Let's mark for identification as
17 "Exhibit 7" the five Suissevale data requests, 1-1 through
18 1-5.

19 (The document, as described, was
20 herewith marked as **Exhibit 7** for
21 identification.)

22 CHAIRMAN GETZ: Commissioner Below.

23 BY CMSR. BELOW:

24 Q. I guess I do have a question, Mr. Eckberg, with regard

{DW 10-141} (Re: Temporary Rates) {12-13-10}

[WITNESS: Eckberg]

1 to your concern about "costs related to long-term debt
2 and the interest rate on long-term debt paid to the
3 Company owners." Is it your understanding that, for
4 the temporary rate purposes, that the Staff calculated
5 the return simply based on the previously agreed upon
6 overall rate of return on the total adjusted rate base?

7 A. It is my understanding that Staff recommended the use
8 of the last official approved overall rate of return,
9 yes.

10 Q. So, I guess my question is, with regard to temporary
11 rates, what actually is or isn't paid to the Company
12 owners, it would -- would you say it's fair to say it
13 doesn't directly bear on temporary rates, but is --

14 A. You know, I'm somewhat confused about that point,
15 Commissioner.

16 Q. Okay.

17 A. I think the information we heard this morning -- or,
18 I'm sorry, again, it's an afternoon, not a morning
19 hearing, it's an afternoon hearing. The testimony we
20 heard earlier about the costs related to the weekly
21 payments was a little bit confusing to me. I seem to
22 be understanding that the witnesses from the panel were
23 saying that these costs were not included in evaluating
24 the Company's financial situation. And, I believe you

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[WITNESS: Eckberg]

1 inquired further about that point. I'm not 100 percent
2 sure whether those costs are included.

3 CMSR. BELOW: Okay. Thank you.

4 CHAIRMAN GETZ: Commissioner Ignatius?

5 CMSR. IGNATIUS: Nothing. Thank you.

6 CHAIRMAN GETZ: Good afternoon,

7 Mr. Eckberg.

8 WITNESS ECKBERG: Good afternoon.

9 CHAIRMAN GETZ: A couple of questions.

10 BY CHAIRMAN GETZ:

11 Q. If I look at Page 2 of your testimony, which is marked
12 for identification as "Exhibit Number 6", and
13 specifically Lines 15 through 17?

14 A. Yes.

15 Q. And, you say "While the books and records of the
16 Company may demonstrate under-earning and the possible
17 need for a rate increase, the level of that
18 under-earning is unclear, and in the OCA's view is
19 based in part on improper costs." So, I'm taking two
20 things from there. One is, on the last statement,
21 about "improper costs", that's basically the four
22 issues that you've outlined here in your testimony, is
23 that fair to say or --

24 A. That's a fair, succinct way of putting it, yes.

{DW 10-141} (Re: Temporary Rates) {12-13-10}

[WITNESS: Eckberg]

1 Q. And, I saw, you know, where you quantified some parts
2 of that, specifically the pensions and the \$52,337.
3 But, if you have -- have you quantified the effect of
4 all four issues?

5 A. All core --

6 Q. All four issues.

7 A. All four issues. No, I have not. And, just to be sure
8 to allay any concerns that Mr. Patch may have on Page
9 3, of course, I have referred to revenues related to
10 the special contract, and I'm not, again, making any
11 specific recommendation related to that issue. So, I
12 didn't want to necessarily include that under the
13 umbrella of what you're referring to as "improper
14 costs". I don't want to leave the impression that I'm
15 saying improper costs are included in the Suissevale
16 contract at all.

17 Q. So, effectively, though, if I'm looking at this
18 testimony, if you list the three issues, the costs
19 related to pensions, the long-term debt, and the
20 service trades, --

21 A. Yes.

22 Q. -- effectively you're saying those are improper costs
23 that you would take off the top of the permanent rate
24 increase, is that fair to say?

{DW 10-141} (Re: Temporary Rates) {12-13-10}

[WITNESS: Eckberg]

1 A. Yes, I would say that.

2 Q. But you haven't quantified --

3 A. No, I have not offered any total quantification of
4 those adjustments, in part, because the "service
5 trades" issue, for example, was an issue that was
6 identified in the other concurrent docket that we'll be
7 discussing later today, where service trade costs were
8 identified for some improvements that were to be
9 included in the third step increase. It's the OCA's
10 concern that there may be additional costs relative to
11 service trades beyond the scope of that third step
12 adjustment, which have not yet been audited and
13 identified. So, we really don't have enough
14 information to know what amounts may be included. The
15 only specific information we have about the service
16 trades at this point would be the total amount of debt
17 between the service company and an unrelated third
18 party, which is the source of those service trade
19 agreements. Meaning, I can -- I don't believe it's
20 available to me right here, but we have a number from
21 the Company as to what the total debt is. I hope I'm
22 making myself clear.

23 Q. Well, then, let me ask a question about the other part
24 of that sentence on Page 2. You said "the level of the

[WITNESS: Eckberg]

1 under-earning is unclear." What did you mean by that?

2 A. Well, I meant -- I guess it depends upon what costs one
3 is willing to include. I guess, from the Company's
4 perspective, the level of under-earning is clearly
5 specified. It's not unclear in the Company's filing.
6 However, the OCA believes, as I've said, that some of
7 the costs of the Company should not be included as
8 proper costs. And, therefore, that would change what
9 the level of under-earning is. Rather than accept the
10 Company's number, a different number would be
11 appropriate.

12 Q. Well, I guess I --

13 A. And, therefore, we feel that approving temporary rates
14 is acceptable, but that the temporary rates should be
15 at the current rate level, rather than an increased
16 level.

17 Q. Okay. I guess I was wondering, with respect to
18 Exhibit 2 and the Settlement Agreement, and Schedule 3
19 to that lays out the net operating income loss, I was
20 wondering if you had any specific concerns about that
21 schedule that was related to this statement about the
22 level of under-earning being "unclear"?

23 A. Well, I believe, as we've -- as the previous panel
24 discussed, for instance, the pension costs, which the

[WITNESS: Eckberg]

1 OCA believes to be an improper cost, that's our
2 position. Those costs are included in the Company's
3 calculation there on Schedule 3.

4 CHAIRMAN GETZ: Okay. Thank you. Any
5 redirect, Ms. Hatfield?

6 MS. HATFIELD: No thank you, Mr.
7 Chairman.

8 CHAIRMAN GETZ: Then, the witness is
9 excused. Thank you, Mr. Eckberg.

10 WITNESS ECKBERG: Thank you.

11 CHAIRMAN GETZ: So, I take it there are
12 no further witnesses this afternoon?

13 (No verbal response)

14 CHAIRMAN GETZ: So, at this point then,
15 is there any objection to striking identifications and
16 admitting the exhibits into evidence?

17 (No verbal response)

18 CHAIRMAN GETZ: Hearing no objection,
19 we'll admit the exhibits into evidence. Is there anything
20 we need to address before providing an opportunity for
21 public comment and closings?

22 (No verbal response)

23 CHAIRMAN GETZ: Hearing no objection,
24 then I guess let's start with the public comment. Ma'am,

1 this is an opportunity to make a public comment on this
2 case, if you would like. If you would like to do so,
3 please identify yourself for the record.

4 MS. ADAMS: Heidi Adams, Lake Ossipee
5 Village. Just from listening, it just seems as if the
6 capital improvements that are being done benefit a few
7 developments, but mostly don't benefit the rest. And, we
8 end up paying for the capital improvements in places like
9 Paradise Shores or Hidden Valley that we don't even know
10 where they are. And, I'd just question this practice,
11 because paying for these capital improvements is more or
12 less just expanding the water company and raising its
13 value, but not doing a lot of good for us.

14 And, I -- everyone I've talked to, of
15 course, is not in favor of these rates being raised. And,
16 I have a petition that has been signed by quite a few
17 residents of Lake Ossipee Village, and I'd like to give
18 that to you.

19 CHAIRMAN GETZ: You can give it to the
20 Clerk.

21 MS. ADAMS: Okay.

22 (Ms. Adams handing document to the
23 Clerk.)

24 CHAIRMAN GETZ: Does that complete your

1 statement?

2 MS. ADAMS: Yes, it does.

3 CHAIRMAN GETZ: Thank you. Mr. Patch,
4 closing?

5 MR. PATCH: We have no position on the
6 temporary rates. Suissevale has no position. So, I think
7 we're all set. I just wanted to make certain points
8 through the cross-examination.

9 CHAIRMAN GETZ: Thank you. Mr. Dubuc?

10 MR. DUBUC: I have one last point of
11 interest to bring up. The only question that we have is,
12 for the test year, it seems as though part of the
13 operating costs that was included to show what the
14 Company's loss was, it almost appears as though \$100,000
15 fine, which the state imposed against the Company, was
16 included as part of a loss. And, I'm just questioning
17 whether or not it's -- if that is the case or if that's
18 standard for fines that are imposed to be included as part
19 of the loss.

20 CHAIRMAN GETZ: Okay. Well, I guess,
21 when we go to closings for the Company, if you have an
22 opportunity to respond to that, Mr. Crandlemire, if you
23 can address that issue. And, Mr. Dubuc, were you pointing
24 to a particular page in the record where that --

1 MR. DUBUC: I don't have the document in
2 front of me. But it's included in part of their overall
3 operating costs as -- listed in one of their tables under
4 -- as a loss, and it's clearly listed as a "state fine".

5 CHAIRMAN GETZ: All right. Thank you.
6 Ms. Hatfield.

7 MS. HATFIELD: Thank you, Mr. Chairman.
8 As Mr. Eckberg stated in his testimony and as he stated on
9 the stand today, the OCA believes that, in light of the
10 significant issues that still need to be addressed fully
11 in this case, the Commission should grant temporary rates
12 that are no higher than the Company's current rates.

13 In their rebuttal testimony, the Company
14 in several places, does recognize the OCA's concerns, and
15 they stated that they believe that some of our issues that
16 we raise should be further discussed and evaluated as part
17 of the permanent phase of the case. And, we understand
18 that we raised many issues that are not typical for a
19 temporary phase, but we believe they are so important to
20 whether the Company deserves a rate increase that we
21 wanted to raise them at this point in the case.

22 I also wanted to bring to the
23 Commission's attention some of the testimony of the
24 Company in the third step increase case that we will be

1 discussing after this hearing in DW 08-070, where the
2 Company makes some statements that we believe are
3 alarming, and that really go to the seriousness of the
4 issues facing the Company. On Page 4 of his rebuttal, Mr.
5 St. Cyr says that "The Company is reluctant to incur debt
6 with an arm's length lender because of the challenges in
7 meeting debt service requirements." We think that goes to
8 the Company's financial ability to manage a public
9 utility.

10 Mr. St. Cyr's rebuttal in that case also
11 talks about the need to revise the Company's affiliate
12 agreements, which we also discussed in our testimony in
13 that case. I'm sure we'll get into that. But that
14 remains a serious ongoing problem that, if you look at the
15 affiliate agreement between Lakes Region Water Company and
16 Lakes Region Water Services, the amounts that the services
17 company is charging to the utility are not proper. And,
18 we think that those must be addressed before any rate
19 increase is approved.

20 In addition, on Page 5 of Mr. St. Cyr's
21 rebuttal in 08-070, he states "meeting the cash needs of
22 this utility is not easy." Which, to us, is another
23 indication of the serious financial and perhaps managerial
24 challenges that the Company faces. And, then, on Page 2

1 of his rebuttal in 08-070, he states "The Company does not
2 believe that it would be able to meet the day-to-day needs
3 of the utility without the affiliate." This is especially
4 true, since the utility frequently cannot timely pay the
5 affiliate for services provided. Again, further evidence,
6 we believe, of the Company's serious financial issues.

7 I also wanted to call the Commission's
8 attention to its final order in DW 07-105, which is the
9 Commission's investigation into whether the Company should
10 be taken into receivership. This is Order Number 24,877,
11 issued on July 25th, 2008. And, in that order, the
12 Commission approved the Settlement Agreement between the
13 Company and Staff. And, among other things, on Page 7 of
14 the order, the Commission states that it will "allow Lakes
15 Region time to integrate these changes", which I believe
16 were changes contemplated in that settlement, "before
17 ruling on whether Lakes Region has the requisite
18 managerial, technical, and financial capabilities to
19 maintain its utility franchise." I believe that docket is
20 still open. The parties have continued to meet in
21 quarterly meetings. But, I think, if you look at that
22 order and that Settlement Agreement, there are several
23 things that the Company still has not done under that
24 Settlement Agreement that call its managerial and

1 financial capabilities into question, including seeking
2 low cost state revolving loan funds, preparing certain
3 budgets, and raising capital. And, we urge the Commission
4 to remember that that docket is still open, and that,
5 while we do hope that the Company is able to turn things
6 around and get on the track it needs to, it has not done
7 so yet.

8 And, so, from our perspective,
9 especially in light of all of the consumer comments that
10 we've received about continuing service quality issues, we
11 believe that the Company should not be granted a rate
12 increase of any level at this time. Thank you.

13 CHAIRMAN GETZ: Thank you.

14 Ms. Thunberg.

15 MS. THUNBERG: Yes. I will be brief,
16 because Staff's positions have already been articulated in
17 testimony and the exhibits today, so I won't reiterate
18 them in closing.

19 Staff respectfully requests the
20 Commission approve the Temporary Rate Stipulation that is
21 presented today. Thank you.

22 CHAIRMAN GETZ: Thank you. And,
23 Mr. Crandlemire, I don't know if you can respond to
24 Mr. Dubuc's question. But, in any event, we would, as

1 part of our review, look into the issue of whether there
2 is a \$100,000 fine that's included in the test year
3 operating costs. And, we would be looking at whether it's
4 appropriate to do so. But, if you have anything more
5 specific --

6 MR. CRANDLEMIRE: Yes. With your
7 permission, Mr. Chairman, maybe Mr. St. Cyr could address
8 that quickly. I think he might be able to address it in a
9 response, that would be helpful to all concerned.

10 CHAIRMAN GETZ: Mr. St. Cyr.

11 MR. ST. CYR: The \$100,000 fine is
12 included in the calculation of the net income, but it is
13 not included in the calculation of net operating income.
14 Net operating income is what's identified on Schedule 3,
15 and is not included in the test year expenses.

16 CHAIRMAN GETZ: Okay. Thank you. Mr.
17 Crandlemire.

18 MR. CRANDLEMIRE: Yes. Thank you very
19 much. With respect to the concerns raised by the Consumer
20 Advocate's Office, in this case, in this case, we don't
21 think there's really any question, this Company is
22 operating at a loss at the moment. We don't think there's
23 any real question that the public is not -- the public
24 interest is not served by having this Company continue to

1 operate at a loss. There is no reasonable return on the
2 cost of its property in service at this point in time.

3 That said, and for that reason, we think
4 that the temporary rate compromise that was struck is
5 reasonable. You know, a good number of the issues that
6 the OCA has concerns with, namely the affiliate-related
7 issues, are not included within the temporary rates. We
8 respect the OCA's concerns that they raised, and I think
9 the OCA would acknowledge that some efforts are being made
10 or significant efforts to address a number of those right
11 now in a very constructive way. We know those are going
12 to be thoroughly examined by the Staff and OCA as part of
13 the permanent rate case. But that doesn't eliminate the
14 fact that this Company is operating at a loss at this
15 point in time. And, we think that the revenue compromise
16 that has been struck is reasonable, helps the Company with
17 that, but still the Company certainly has more additional
18 work to do to address other concerns.

19 So, for those reasons, we request that
20 the Stipulation be approved. Thank you.

21 CHAIRMAN GETZ: Thank you. Okay. Then,
22 we will close this hearing and take the matter under
23 advisement. And, we'll take about a 10 or 15 minute
24 recess in between starting the next hearing. Thank you,

1 everyone.

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(Whereupon the hearing ended at 3:25

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p.m.)

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