

STATE OF NEW HAMPSHIRE

ENTERED

PUBLIC UTILITIES COMMISSION

APR 09 2012

NH PUBLIC  
UTILITIES COMMISSION

March 21, 2012 1:52 p.m.  
Concord, New Hampshire

DAY 3

AFTERNOON SESSION ONLY

**RE:**

DW 07-105 LAKES REGION WATER COMPANY:  
*INVESTIGATION INTO QUALITY OF SERVICE.*  
DW 10-043 LAKES REGION WATER COMPANY:  
*AFFILIATE AGREEMENT WITH LRW WATER  
SERVICES.*  
DW 10-141 LAKES REGION WATER COMPANY:  
*PETITION FOR A CHANGE IN RATE  
SCHEDULES.*  
DW 11-021 LAKES REGION WATER COMPANY:  
*PETITION FOR APPROVAL OF LONG-TERM  
DEBT.*

**PRESENT:** Chairman Amy L. Ignatius, Presiding  
Commissioner Michael D. Harrington  
Commissioner Robert R. Scott

Clare Howard-Pike, Clerk

**APPEARANCES:**

**Reptg. Lakes Region Water Company:**  
Justin C. Richardson, Esq. (Upton Hatfield)

**Reptg. Property Owners Association at  
Suissevale, Inc. (POASI):**  
Douglas L. Patch, Esq. (Orr & Reno)

**COURT REPORTER: SUSAN J. ROBIDAS, N.H. LCR NO. 44**

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Reptg. Residential Ratepayers:  
Rorie E. P. Hollenberg, Esq.  
Stephen R. Eckberg  
Donna McFarland  
Office of Consumer Advocate

Reptg. PUC Advocate Staff:  
Marcia A. B. Thunberg, Esq.  
Mark Naylor

Reptg. PUC Non-Advocate Staff:  
Alexander Speidel, Esq.  
James Lenihan, Gas & Water Division  
Douglas Brogan, Gas & Water Division  
Jayson LaFlamme, Gas & Water Division

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P R O C E E D I N G S

CHAIRMAN IGNATIUS: And Ms. Thunberg, were you finished?

MS. THUNBERG: I was finished, yes.

CHAIRMAN IGNATIUS: So I think we go to the Company next.

MR. RICHARDSON: I believe so. Did you want to clarify on the record what we talked about, or did you want to ask later?

MS. HOLLENBERG: I thought we were going to do cross and then -- that's all I said. I thought you were going to do cross first.

STEPHEN R. ECKBERG, PREVIOUSLY SWORN,

CROSS-EXAMINATION (resumed)

BY MR. RICHARDSON:

Q. Mr. Eckberg, let me ask you, I guess kind of in order of importance, a question about -- you looked at Lakes Region Water's Record Request 2, as I understand that's been marked. Do you have that in front of you?

1 A. Yes, I do.

2 Q. All right. Let me get a copy in front of  
3 you. Essentially, as I understood, you  
4 agreed with Staff that the Company's  
5 accounts payables has increased, which is in  
6 fact, what, 500 and -- what is it -- 7,000  
7 is what it shows?

8 A. Approximately, yeah. The number at the  
9 bottom is \$506,815.65.

10 Q. Now, the test year was 2009. And I believe  
11 Staff's testimony you discussed was that at  
12 the end of the test year it was  
13 approximately \$350,000; is that right?

14 A. I believe at the end of the test year it was  
15 \$374,000.

16 Q. Okay. Three hundred seventy-four. Now, if  
17 you look at the attachment, the spreadsheets  
18 in Record Request 2, do you see where  
19 there's a total under Non-Rate Case Vendors,  
20 and that's \$322,115.56?

21 A. That's correct. I see that.

22 Q. And during the test year in 2009, there  
23 really wouldn't have been -- or you wouldn't  
24 have expected to see the same level of rate

1 case expenses that we currently have now,  
2 would you?

3 A. There certainly may have been some rate case  
4 expenses at that point in time as the  
5 Company's consultants prepared for the  
6 filing.

7 Q. Right. For the -- in 2009?

8 A. Yeah.

9 Q. The filing was submitted in what? June of  
10 2010?

11 A. I suppose that's correct.

12 Q. Yeah. And then at the end of 2010 -- I  
13 believe that was Mark Naylor's testimony,  
14 who indicated that you were asked about, and  
15 you agreed with his position, that at the  
16 end of 2010 there was \$471,000 that was  
17 outstanding; is that correct?

18 A. That was simply a fact that was in Mr.  
19 Naylor's testimony, yes.

20 Q. And that was based, I believe, on the annual  
21 report?

22 A. I believe that's the source of his  
23 information there, yes.

24 Q. Do you have any independent verification of

1           that, or are you just relying that Mr.  
2           Naylor got it correct?

3       A.    I believe that I checked the annual report  
4           myself.  Our office has copies of those as  
5           well.

6       Q.    So that's consistent with your recollection,  
7           then, for the end of 2010.

8       A.    Yes.

9       Q.    Okay.  Now, when you factor in that the  
10           Company now has, according to this  
11           schedule -- and I understand you haven't  
12           audited this -- but according to this  
13           schedule, \$184,700.09 in rate case expenses,  
14           doesn't that suggest that, in terms of the  
15           overall level of payables, that you take out  
16           the influence of the rate case, and there's  
17           actually been what appears to be a  
18           significant reduction?

19      A.    I'm not sure I'd characterize it as "a  
20           significant reduction."  I think what you're  
21           comparing is -- you're suggesting that I  
22           should compare the \$322,000 amount, which is  
23           the subtotal excluding the rate case  
24           expenses, and compare that to the previous

1 numbers; is that correct? The year-end 2009  
2 and 2010 numbers?

3 Q. Well, and what I was actually -- what I was  
4 asking was a little bit different. If you  
5 were comparing 471,000 for the end of 2010  
6 with the present number -- as of, I believe,  
7 March 9, 2012 -- of 506, and then taking  
8 into account the rate case expenses, it  
9 looks to me that, adjusting for the rate  
10 case expenses, there's actually been a  
11 reduction in payables that are not related  
12 to the rate case.

13 A. I would suggest that it would be  
14 appropriate, then, to have a similar  
15 breakdown of the number 471,000, just so  
16 that we could be assured that we're  
17 comparing apples to apples.

18 Q. Right. So in other words, you would agree  
19 with me that, in order to make a fair  
20 comparison between what was happening at the  
21 end of 2010 and what's happening today, and  
22 whether or not there's really been progress,  
23 you would need to evaluate what the level of  
24 rate case expenses were at the end of 2010,

1 approximately six months into the rate case,  
2 versus what they are now.

3 A. I think I'd word it a little bit  
4 differently. I don't think it's unfair to  
5 compare the total accounts payable at  
6 year-end. But perhaps a different  
7 comparison, which may be more informative or  
8 useful, or simply different, would be to  
9 compare the total accounts payable in a  
10 similar way: To exclude the rate case  
11 vendors or previous rate case expenses which  
12 may appear in other accounts payable.

13 Q. Hmm-hmm. And isn't it true that another  
14 factor that you'd want to take into account  
15 in this is to what extent the Company's  
16 continued to make capital improvements that  
17 are not included in this rate case, because  
18 the only way to recover on those would be to  
19 file a step increase or a new rate case;  
20 right?

21 A. The only way that we would evaluate what?  
22 I'm not sure I'm following.

23 Q. Well, I guess what -- you know, if you look  
24 at whether or not the Company's rates are

1 sufficient to keep up with its operating  
2 expenses, you'd want to know if the Company  
3 is taking money that it would have  
4 ordinarily earned as return on its  
5 investment and reinvested that in the  
6 capital, or if it's undertaken projects  
7 because it didn't have sufficient capital to  
8 do that and had to delay paying some of its  
9 consultants.

10 A. I would agree with you that the accounts  
11 payable total is not the single measure of  
12 the Company's financial health, no.

13 Q. Hmm-hmm. And so, for example, if you looked  
14 at the line, there's HydroSource  
15 Associates -- do you see that -- as \$10,957?

16 A. Yes, I do.

17 Q. That could be for a capital project?

18 MS. HOLLENBERG: I'm going to  
19 object to that because the Company knows what  
20 it is for, and I guess Mr. Eckberg is basing  
21 his knowledge of what these amounts are  
22 related to on the names. And I don't know --  
23 I guess I could let him answer whether or not  
24 he knows what that is.

1                   CHAIRMAN IGNATIUS: If you don't  
2 know, that's a fair answer as well.

3 A. I don't know specifically what that's for.

4 Q. (By Mr. Richardson) Okay. I don't mean to  
5 belabor the point. I think you've at least  
6 recognized that, to the extent the Company  
7 is -- its returns aren't sufficient, it's  
8 going to have to pay for -- it may have to  
9 defer payment of some of its vendors who are  
10 providing capital improvements.

11 A. I would agree with that, yes.

12 Q. Let me go back to my notes then, which I  
13 have dutifully lost in front of my very  
14 eyes.

15                   Let me switch to I guess what I'd  
16 characterize as a curious comment or  
17 question that I had about -- you have LRW  
18 Exhibit 14 in front of you?

19 A. I have that available here, yes.

20 Q. Okay. And you were asked about one of the  
21 things that you had -- I don't remember  
22 saying it, but you said that you had some  
23 questions or concerns about information that  
24 the Company had filed coming into these

1           hearings. Do you recall that?

2       A.    Yes, I did say that in response to a  
3           question from Attorney Hollenberg. Yes.

4       Q.    Yeah. And the example you gave was the  
5           ownership of wells. I believe it's on  
6           Page 31?

7       A.    On Page 31 of LRW Exhibit 14?

8       Q.    Correct.

9       A.    Yeah.

10      Q.    Do you have that in front of you?

11      A.    I do have that page in front of me, yes.

12      Q.    And you are aware of what a water well  
13           completion report is?

14      A.    A water well completion report? No, I'm not  
15           familiar with that document. No.

16      Q.    Well, I'll represent to you that when a  
17           contractor drills a well, he or she is  
18           required to file a report with DES. So  
19           you're not familiar with that process then?

20      A.    No. That sounds like that's something under  
21           DES regulations.

22      Q.    But you'd agree with me, looking down at  
23           this page, that this is an inventory of  
24           wells, and some of them have nothing to do,

1 I would assume, with Lakes Region Water?

2 A. I don't know. I think that's precisely the  
3 question that was raised in my mind when I  
4 saw this information. For example: I don't  
5 know whether it has to do with Lakes Region  
6 Water, the regulated utility, or what it has  
7 to do with. That's why the question came up  
8 to me.

9 Q. Okay. All right. Well, I wasn't sure what  
10 you were intending to state by raising  
11 questions about that exhibit. So that's  
12 what --

13 A. I hope I made that clear.

14 Q. Okay. It's -- do you -- have I missed the  
15 point? You were simply asking -- or  
16 reflecting upon the fact you didn't know  
17 what this list was?

18 A. That's right. I didn't know what that list  
19 was.

20 Q. All right. Okay. You indicated that you  
21 would defer to Staff's revenue requirement.  
22 Do I understand that the Office of Consumer  
23 Advocate -- I mean, and you've been asked  
24 questions about this for your personal

1 opinion. But do I understand correctly that  
2 the Office of Consumer Advocate has agreed  
3 to not seek receivership in this case? Is  
4 that your understanding of what the Office  
5 of Consumer Advocate's position is?

6 A. No, that's not my understanding. My  
7 understanding is as I stated in my  
8 testimony. We offered the suggestion to the  
9 Commission, as we had offered to the  
10 Company, that perhaps a type of voluntary  
11 receivership could be one potential course  
12 of action that might be useful in moving the  
13 Company forward.

14 Q. And was the reason for a voluntary  
15 receivership because it would help address  
16 one of the biggest problems facing the  
17 Company, which is the need to complete  
18 projects and increase rates to cover the  
19 cost of those without having to do a full  
20 rate case?

21 A. Well, I think the major reason was that, at  
22 the time I prepared my testimony, there were  
23 ongoing settlement negotiations. There were  
24 also questions in the mind of the attorneys

1 involved as to whether all the conditions  
2 for a forced receivership had been met. So  
3 this was the approach that I took in my  
4 testimony.

5 Q. And so are you agreeing with me that, to  
6 some extent, the voluntary receivership was  
7 intended to be a mechanism to address the  
8 need for rate increases without the need to  
9 go through a full rate case?

10 A. I believe that under a receivership, whether  
11 it would be a voluntary one or a forced  
12 receivership, I believe that that would be  
13 one of the factors that would likely be --  
14 would come into play. It's my understanding  
15 that there would probably be the possibility  
16 of rate increases with a more streamline  
17 process available.

18 Q. Okay.

19 A. But as I also testified before, I have not  
20 been personally involved in a receivership  
21 docket.

22 MR. RICHARDSON: Okay. Could I  
23 ask that the Office of Consumer Advocate  
24 clarify whether or not they are requesting a

1 receivership at this time?

2 CHAIRMAN IGNATIUS: Why not ask  
3 him the question?

4 MR. RICHARDSON: Well, I believe  
5 I have asked him.

6 CHAIRMAN IGNATIUS: Well, you --

7 MR. RICHARDSON: But I believe  
8 what he says is different than what I  
9 understand the Consumer Advocate has told me.  
10 So I --

11 CHAIRMAN IGNATIUS: I'm not sure  
12 I've heard that direct question. There was a  
13 lot more complicated ones. So why not try it  
14 directly, and then we'll see where we go.

15 MR. RICHARDSON: Sure.

16 Q. (By Mr. Richardson) Mr. Eckberg, is the  
17 Office of Consumer Advocate asking for a  
18 receivership as part of this proceeding?

19 MS. HOLLENBERG: Could you  
20 clarify if you're asking him are they -- has  
21 the Office of Consumer Advocate recommended or  
22 is asking for receivership under the statute  
23 that you referenced before, or if their  
24 testimony is voluntary receivership?

1 MR. RICHARDSON: I'm asking him  
2 to confirm what I understood in discussions  
3 with counsel, that the Office of Consumer  
4 Advocate was not seeking a receivership in  
5 this case. That was their legal position.

6 CHAIRMAN IGNATIUS: Well,  
7 counsel has got whatever views counsel has.  
8 Your witness is on the stand, so ask the  
9 witness what his view is.

10 MR. RICHARDSON: Well, it would  
11 shorten my cross-examination if I knew the  
12 answer.

13 Do you not want to answer  
14 that?

15 MS. HOLLENBERG: Sure. I can  
16 try and clarify, if you'd like.

17 CHAIRMAN IGNATIUS: I have to  
18 say, you've said numerous times what your  
19 position is. So what I'm trying to understand  
20 from Mr. Richardson is what do you want the  
21 witness to be speaking to.

22 MR. RICHARDSON: Okay.  
23 Understood. I don't have any questions  
24 further on receivership, because I understood

1           that that was not what they were requesting in  
2           this case.

3                         CHAIRMAN IGNATIUS: Well, let's  
4           not -- I don't want to play games. And I  
5           don't know what's going on.

6                         Mr. Eckberg --

7                         THE WITNESS: Yes, Commissioner.

8                         CHAIRMAN IGNATIUS: -- are you  
9           seeking receivership under a voluntary basis  
10          as opposed to a statutory basis?

11                        THE WITNESS: My testimony  
12          stands. I proposed a voluntary receivership  
13          approach, and that is one of the options I  
14          believe that the Commission could exercise.  
15          As I testified this morning, the OCA would not  
16          object to the Commission opting for a forced  
17          receivership. But that's not my testimony.

18                        MS. HOLLENBERG: May I please  
19          clarify something?

20                        CHAIRMAN IGNATIUS: All right.

21                        MS. HOLLENBERG: I can clarify  
22          it in closing, if you prefer.

23                        CHAIRMAN IGNATIUS: I'm just  
24          trying to keep whatever evidence we have on

1 the record clear. And if it's not clear, it  
2 needs to be clarified. Maybe on redirect you  
3 can inquire of your witness.

4 MS. HOLLENBERG: Okay.

5 Q. (By Mr. Richardson) The issue of access to  
6 capital, that's a problem that is addressed  
7 in your testimony. What I didn't see in  
8 your testimony was whether you would agree  
9 that it's a problem essentially facing small  
10 water systems throughout the state of New  
11 Hampshire. I was wondering if you could  
12 tell me whether you agree that that's the  
13 case.

14 A. Do you have a specific reference to my  
15 testimony that you wanted to point me to? I  
16 don't believe --

17 Q. Sure. You were asked by Ms. Thunberg if the  
18 recent violations changed your position on  
19 whether or not the Company should be placed  
20 in receivership. And did I understand  
21 correctly, you said that you didn't know?

22 A. I believe I said that the recent violations  
23 did not change my position.

24 Q. Okay. All right. And I mean, aren't

1 water-quality violations -- or Drinking  
2 Water Act, I should say, violations, isn't  
3 that a problem that's systemic to small  
4 water systems throughout the state of New  
5 Hampshire?

6 A. I don't think I could comment on that. I  
7 haven't --

8 Q. Okay.

9 A. I have not made any, you know, survey of  
10 violations incurred by the average small  
11 water company.

12 Q. Okay. Well, then, how do you reach a  
13 conclusion that any violations that you've  
14 observed are due to the Company's management  
15 when you don't understand -- or you haven't  
16 evaluated, I should say, how the industry as  
17 a whole is able to respond to the types of  
18 demands that regulations are putting on  
19 small water systems?

20 A. Could you clarify the question for me?  
21 You're asking me to compare --

22 Q. Let me show you something. Maybe I can do  
23 this in reference to an exhibit. I don't  
24 know what number we're on right now.

1 Tom, could you distribute those for me?

2 MR.MASON: Sure.

3 MR. RICHARDSON: Are we on 18  
4 now?

5 THE CLERK: Correct.

6 MR. RICHARDSON: LRW -- okay.  
7 So we'll mark this LRW 18.

8 (Exhibit LRW 18 marked for  
9 identification.)

10 Q. Okay. Thank you. And do you see here --  
11 have you ever seen this document before?

12 A. No, I don't believe I have.

13 MS. HOLLENBERG: Would you like  
14 an opportunity to review it, Mr. Eckberg?

15 THE WITNESS: I would like an  
16 opportunity. I'm not sure what the nature of  
17 the questions I'm going to be asked about the  
18 document are.

19 Q. (By Mr. Richardson) Well, let me ask you my  
20 question, and then you can spend as much  
21 time as you need. I'm not trying to rush  
22 you.

23 The first paragraph is really what I  
24 wanted to ask you about, in a nutshell,

1 where it says, "It is widely recognized that  
2 small public water systems carry a much  
3 higher burden to maintain compliance with  
4 the Safe Drinking Water Act. This is due  
5 not only to their smaller user base, but  
6 often the shortage of financial, managerial  
7 and/or technical resources to ensure the  
8 continued and reliable delivery of safe  
9 water to all customers." And then it says,  
10 "In New Hampshire, systems serving fewer  
11 than 250 people incur about 77 percent of  
12 the drinking water violations in the state."  
13 And it references a report.

14 MS. THUNBERG: Commissioner --  
15 Chairman Ignatius, I have a relevance question  
16 regarding this document. If this is for small  
17 water utilities, and they're using a threshold  
18 of 250 customers, I don't know how it relates  
19 to Lakes Region, which serves 1600.

20 CHAIRMAN IGNATIUS: Mr.  
21 Richardson.

22 MR. RICHARDSON: Certainly.  
23 I'll offer that Lakes Region Water should be  
24 known to all, including Staff Advocate, is

1           made up of 17 separate systems that average  
2           less than a hundred customers per system. So  
3           I feel this is really straight to the heart of  
4           the matter, the business environment and the  
5           environment in which the Company operates.

6                           CHAIRMAN IGNATIUS: I think --  
7           let's proceed, but briefly on this. We'll  
8           give it the weight it's due. I want to make  
9           sure that the questioning of this really  
10          focuses on Lakes Region, its management and  
11          its issues, and not a survey of the industry  
12          generally. If you have a few questions on  
13          this, fine. But let's not spend a lot of time  
14          on this.

15   Q.    (By Mr. Richardson) Well, Mr. Eckberg would  
16          you like more time to review the document  
17          or --

18   A.    I followed along with the first paragraph as  
19          you read that.

20   Q.    Okay.

21   A.    And I think I'm glad to field a question  
22          from you about this document.

23   Q.    So I guess my concern is that you had  
24          indicated previously that you hadn't done an

1 analysis or a review of to what extent the  
2 challenges facing the Company were an  
3 industry-wide problem for a small water  
4 systems. I mean, do you agree with what DES  
5 states there?

6 A. Well, I'm not sure I can agree with it. I'm  
7 not disputing the facts that are presented  
8 here. But I haven't read this report. I  
9 presume that this sheet is presenting  
10 accurate information based upon the report.

11 I would also say that I believe when  
12 Ms. Thunberg asked me earlier about those  
13 two additional notices of violation, I think  
14 I said that did not provide any additional  
15 impetus to my concerns about the Company; it  
16 merely served to maintain my existing level  
17 of concern.

18 Q. Okay. But isn't it true, though, that a lot  
19 of those concerns are really the result of  
20 the fact that this is a company that's  
21 operating 17 water systems, with an average  
22 of less than 100 customers per system?

23 A. I don't think I addressed that issue at all  
24 in my testimony, did I?

1 Q. I don't believe that you did. And so  
2 that's really --

3 A. Okay.

4 Q. -- I guess I'm wondering why you wouldn't  
5 think that would be relevant in taking into  
6 account the performance of the Company's  
7 management, given the systems that they're  
8 operating.

9 A. I don't think anyone forced the Company to  
10 take on the responsibilities that it has.

11 Q. Hmm-hmm. But you've seen Tom Mason's  
12 testimony, right, and the exhibits that are  
13 attached to it?

14 A. His reply testimony you're speaking of?

15 Q. Yeah. Why don't we pull that out, because  
16 there is a document I'd like to ask you  
17 about. I believe it's LWR 6 or LRW -- I  
18 apologize.

19 A. I believe I have a copy of that reply  
20 testimony here. It's not officially marked  
21 as Exhibit 6, but it's a copy that I  
22 printed.

23 Q. All right. Does yours have -- yours has the  
24 page numbers on it that are down on the

1 bottom?

2 A. Yes, it does.

3 Q. Okay. Do you see Page 20? And at the top  
4 it says "Lakes Region Water Company, Inc. -  
5 Public Utilities History."

6 A. Page 20?

7 Q. Yes.

8 MS. THUNBERG: That's Mason  
9 Exhibit B, correct, Attorney Richardson?

10 MR. RICHARDSON: LRW Exhibit 6.

11 MS. THUNBERG: But attached to  
12 this, is it Mason Exhibit B?

13 MR. RICHARDSON: Oh, I'm sorry.  
14 I heard you say "8." It's Mason Exhibit B,  
15 yes.

16 A. Perhaps I'm missing some of the page  
17 numbers. Are you referring to Bates page  
18 numbers?

19 Q. (By Mr. Richardson) Yes.

20 A. I think I'm missing those in my copy, which  
21 makes it difficult to... my attorney just  
22 provided me with a copy.

23 Q. All right. So you have Page 10 in front of  
24 you?

1 A. Yes, I do.

2 Q. Okay. You see here -- let's look at Deer  
3 Run, for example. That was one of the  
4 systems where there was a violation that was  
5 noted by Attorney Thunberg. Oh, it was Deer  
6 Cove. I'm sorry.

7 A. Yes. It's difficult to keep all these  
8 systems straight, isn't it?

9 Q. Well, it was -- I guess it was my attempt to  
10 grab at a coincidence that was right in  
11 front of me. But let's look at that one  
12 nonetheless.

13 A. Deer Run or Deer Cove?

14 Q. Deer Run. Fifty-nine customers as of  
15 12/7/11. And you see here that it was  
16 purchased after a Commission investigation,  
17 because Staff and the owner-developer -- I  
18 assume -- it says that Staff was concerned  
19 about his ability, the owner's, to operate  
20 the company.

21 So, I mean, I guess my question for you  
22 is: Isn't Lakes Region Water Company  
23 providing a service to the public by taking  
24 very challenging water systems and trying to

1 put them together and improve their  
2 performance?

3 A. I believe that there have been -- there has  
4 been testimony in the past from Staff  
5 concerning that issue, that Staff has made  
6 statements that the Company has provided a  
7 service by taking on troubled water systems.  
8 Yes.

9 Q. But I'm not asking what Staff said in the  
10 past. What I'm asking you is --

11 A. I don't believe I offered any testimony on  
12 that issue.

13 Q. But isn't the Company providing a service to  
14 the public, a valuable one, by taking small  
15 water systems that are not operable on their  
16 own accord and consolidating them in order  
17 to provide, if you will, a base of  
18 employees, additional expertise that those  
19 systems wouldn't have in the absence of  
20 Lakes Region buying them?

21 A. Well, I feel like you're asking me to agree  
22 with the premise that ignores a lot of other  
23 information.

24 Q. Well, I am asking you to agree with the

1 premise. So perhaps you could tell me why  
2 you disagree.

3 A. Well, first of all, this -- it appears from  
4 the information presented in this table that  
5 this action of the Company acquiring the  
6 Deer Run water system occurred in 1991,  
7 which is over 20 years ago, I think.

8 Q. Hmm-hmm.

9 A. And so it may very well be the case that the  
10 Company provided a valuable service in the  
11 past, but that valuable service is no longer  
12 being provided.

13 Q. Well, then, do I take it from that, that you  
14 disagree with what DES seems to be saying,  
15 which is that to this day it continues to  
16 be -- what was the word that they used --  
17 it's a much higher burden to main [sic]  
18 compliance when you're operating small water  
19 systems.

20 A. I'm not saying that I disagree with that.

21 Q. Okay. So if that's true, then why isn't,  
22 notwithstanding -- I assume you would agree  
23 that the Company's operations aren't  
24 perfect. You don't have 100-percent

1 compliance.

2 A. I think we agree on that point.

3 Q. So why -- isn't it a value, nonetheless,  
4 what the Company is doing, to try to improve  
5 the performance of these systems by  
6 consolidating them in the Lakes Region  
7 family, as it were?

8 A. I was going to say --

9 MS. HOLLENBERG: I'm going to  
10 object to that question, only because counsel  
11 for the Company only just made the comment  
12 about how the systems were separate and thus  
13 constituted small, independent or separate  
14 systems, and now we're talking about  
15 consolidating them for their benefit. And so  
16 I guess I'm a little bit confused about the  
17 questioning. It appears that there are two  
18 premises being put forth to the witness.

19 CHAIRMAN IGNATIUS: Mr.  
20 Richardson, do you want to respond or rephrase  
21 the question?

22 MR. RICHARDSON: I'll attempt to  
23 rephrase the question.

24 Q. (By Mr. Richardson) You recognize that

1           there's a real continuum then; you know, a  
2           small water system with only 5 customers  
3           might be more challenging than one with 500.

4       A.    Yes, I would agree with that.

5       Q.    And so, even though the Company's operation  
6           performance may not be perfect, you would  
7           agree with me that it has perhaps improved  
8           the performance of these smaller water  
9           systems that were failing.

10      A.    I would agree that there is a generally  
11           agreed upon benefit to consolidating smaller  
12           water system operations into the operations  
13           of the larger, well-run water utility.  
14           There's a generally recognized benefit due  
15           to cost efficiency of serving more  
16           customers, yes.

17      Q.    And that's the case, even though the  
18           Company's record isn't perfect.

19      A.    Are we talking about the general situation,  
20           or are we talking about Lakes Region Water  
21           specifically?

22      Q.    That was my specific question with respect  
23           to Lakes Region Water.

24      A.    I think, as I said a few moments ago, it may

1 have been a benefit in the past to  
2 consolidate these water systems. I'm not  
3 sure I agree that it's still a benefit that  
4 this Company continues to operate the way it  
5 operates and serve customers the way it  
6 serves them.

7 Q. Do you understand -- well, let me ask you  
8 this: Mark Naylor, I believe in response to  
9 a data request -- strike that. I'll ask Mr.  
10 Naylor that question.

11 Now, there is -- this is another  
12 document that is along the same lines, so  
13 I'll just ask you if you can comment on this  
14 perhaps differently.

15 A. Along the same lines as what? I guess I'll  
16 see in a moment.

17 MR. RICHARDSON: So this will be  
18 LWR Exhibit 19 now?

19 THE CLERK: Correct.

20 MR. RICHARDSON: Thank you.

21 Q. (By Mr. Richardson) And I gave that to you;  
22 correct?

23 A. No, I don't have a copy.

24 CHAIRMAN IGNATIUS: So marked.

1                   (Exhibit LRW 19 marked for  
2                   identification.)

3       Q.       (By Mr. Richardson) Were you involved in the  
4               content on the Commission's web site at all,  
5               in its preparation?

6       A.       Am I involved with?

7       Q.       Yeah. Did you help prepare -- for example,  
8               you see the page in front of you? You  
9               recognize that as the Commission's web site?

10      A.       It appears to be the Commission's web site.  
11              I certainly am not involved in preparing  
12              this material, no.

13      Q.       I mean, this essentially gets at the same  
14              issue. It says here that the number of  
15              regulated water utilities has declined  
16              considerably in recent years, primarily due  
17              to the acquisition of smaller utilities by  
18              larger ones. And then it refers to the fact  
19              that 39 existed in 1999, and today there's  
20              only 20 left. And it says that this is a  
21              trend that has taken place across the  
22              country, as the requirements -- the Safe  
23              Drinking Water Act and the need for  
24              replacement of aging infrastructure have

1           made it increasingly difficult for small  
2           water utilities to acquire the capital  
3           needed to invest in their systems.

4                       Now, would you agree with me that the  
5           need to replace aging infrastructure is the  
6           primary need that's facing Lakes Region  
7           Water Company?

8                       (Witness reviews document.)

9           A.    You're asking me a separate question that's  
10           not here on that page; is that correct?

11           Q.   Well, I'm referring you to the conclusion  
12           that's on the PUC web site, and I'm asking  
13           you if you agree that the problem that I  
14           just read to you, cited here, is the primary  
15           problem facing Lakes Region Water.

16           A.   Well, first of all, I think that if I had  
17           anything to do with writing this, I might  
18           word some of this a little differently.  But  
19           that's really not your question.

20           Q.   That's right.

21           A.   But I do agree that the Company is faced  
22           with replacing aging infrastructure, yes.

23           Q.   And so I guess -- I mean, that is really my  
24           question then.  I mean, you've recommended a

1 reduction in the Company's rates, a fairly  
2 significant one, from what the Company  
3 requested -- 40 percent, down to what Staff  
4 is recommending, about 18.5; right?

5 A. I believe that's correct. But I believe  
6 that earlier in my testimony on the stand  
7 today I said that the OCA was willing to  
8 agree with Staff's revenue requirement.

9 Q. Right. And an 18.5-percent increase is what  
10 Staff's revenue requirement was.

11 A. That's correct.

12 Q. I mean, I guess my question is: How does  
13 reducing the Company's revenue requirements  
14 ultimately solve the problem? That, I mean,  
15 isn't really addressed I think in Staff's  
16 testimony of -- this is a small water  
17 system. It has problems that are unique to  
18 small water systems.

19 A. The problems are endemic to small water  
20 systems. An 18-1/2-percent rate increase is  
21 an increase to rates, first of all. I think  
22 you made it sound like your question  
23 involved a rate decrease. But we don't need  
24 to read back your question. But I just

1 wanted to say that that is an increase in  
2 rates.

3 And what exactly is the question you  
4 want me to answer?

5 Q. Well, isn't -- hasn't -- doesn't your  
6 testimony concerning rates, as well as  
7 Staff's testimony that you're now  
8 adopting -- it doesn't really take into  
9 account the fact that this is a small water  
10 system that is more difficult to operate  
11 than, say, a Pennichuck would be because of  
12 the very nature of the assets being  
13 operated?

14 A. Well, I think the issues that I identified  
15 in my testimony were specifically related to  
16 this Company. So I think they do take into  
17 account the fact that this is the company  
18 we're talking about. And as I said earlier,  
19 many of the revenue-requirement adjustments  
20 that I proposed in my testimony were  
21 intended to highlight issues which I felt  
22 were indications of the Company's  
23 problematic management. For instance: The  
24 Company installed fire hydrants but has no

1 fire protection revenues that it collects  
2 from anyone, either the town or the private  
3 parties. And I have no information as to  
4 why that's the case. I offered  
5 information -- a revenue-requirement  
6 adjustment, where the Company has two  
7 separate swimming pools and collects one  
8 amount of revenue from one special swimming  
9 pool rate and a different amount from  
10 another one, and the Company provided no  
11 information as to why those are  
12 significantly different amounts of revenue  
13 that it collects. These are things that, to  
14 me, appear to be concerns about the way the  
15 Company is lead -- not collecting revenue  
16 from its customers that perhaps it should.

17 Q. But I mean, to me, it almost seems besides  
18 the point, because I don't recall the  
19 fire-protection revenues being that  
20 significant. And it seems to me there's a  
21 much larger issue here, which is the fact  
22 that a small water system is not easy to  
23 operate in compliance with the regulations,  
24 and it's not easy to get capital.

1 MS. HOLLENBERG: I'm going to  
2 object to the question, only because I think  
3 it's been asked and answered several times at  
4 this point.

5 CHAIRMAN IGNATIUS: I agree with  
6 that. Mr. Richardson, can you move on?

7 MR. RICHARDSON: I will. But  
8 with the Commission's leave, may I ask that  
9 the witness clarify that he didn't make an  
10 adjustment to reflect that in the rates?

11 CHAIRMAN IGNATIUS: You may ask  
12 him that.

13 A. That I didn't make an adjustment  
14 specifically related to the fact this is a  
15 small water Company?

16 Q. (By Mr. Richardson) That's right.

17 A. I'm not sure how I would make -- I'm not  
18 sure how anyone would make a specific  
19 adjustment for that. But I would agree that  
20 I didn't make one.

21 Q. Might a higher rate of return on equity that  
22 reflects the risks that the Company is faced  
23 with be one way of doing that?

24 A. I am not a return-on-equity expert, and I

1 did not offer any testimony on that issue.  
2 So I really am not comfortable responding to  
3 that question.

4 Q. Okay. You were asked a question about  
5 temporary rates. And I believe there was  
6 some confusion at the time because you gave  
7 an answer with respect to the step  
8 increases. And that was, I believe, in  
9 response to Attorney Thunberg.

10 Do you recall when the Company's step  
11 increases went into effect in the... I  
12 believe it would be the 08-070 docket?

13 A. I believe the 08-070 docket had two phases,  
14 if we could call them that. The first phase  
15 covered Step Increases 1 and 2, which were  
16 implemented separately. The second phase of  
17 the docket, which involved Step 3 increase,  
18 it's my understanding that that step  
19 increase was implemented simultaneously with  
20 the temporary rates in the current docket,  
21 the 10-141 rate case.

22 Q. And when did Step 1 and 2 go into effect?  
23 Do you know the date?

24 A. I don't know the date, off the top of my

1 head, no.

2 Q. I believe you were asked that question in  
3 response to payables. And the question was  
4 concerning whether the temporary rates had  
5 improved the payable situation, or if it had  
6 gotten worse. That obviously would have an  
7 impact, right, the date that the first step  
8 increase went into effect?

9 A. I would say it has the potential to make an  
10 increase. If that occurred simultaneously  
11 with the time when the Company began paying  
12 pensions and began paying the fine to the  
13 Department of Corrections, it may not have  
14 had an increase in improvement.

15 Q. I'm sorry. I'm just trying to get to the  
16 fact that when you gave your prior answer,  
17 you weren't -- you didn't know when Step 1  
18 and Step 2 would have gone into effect when  
19 you were asked by, I believe, Attorney  
20 Thunberg about whether the temporary rates  
21 and step increases were in effect.

22 A. I'm not clear on your question, I have to  
23 say.

24 Q. All right. I'm sorry. So you were asked

1 about whether the payables had increased,  
2 notwithstanding the step increases that were  
3 made. And it was my understanding that the  
4 step increases had gone into effect at the  
5 same time as the temporary rates.

6 A. I believe the third step increase occurred  
7 simultaneously with the temporary rate  
8 increase. The first two step increases  
9 occurred prior to that by probably a year.

10 Q. Okay.

11 A. And if I'm wrong, please feel free to  
12 correct me.

13 Q. No, no. That's fine. It was -- that was  
14 really my point, the point of my  
15 clarification.

16 A. Okay.

17 Q. And I apologize if I took a roundabout way  
18 of getting there.

19 I would like you to look at -- and give  
20 me a second to get the document in front of  
21 me -- the two letters of violation that you  
22 were asked about. And I think that is Staff  
23 Advocate's 10. And there are two documents  
24 dated January 24th and January 20th.

1 A. Yes, I have those. Staff Advocate  
2 Exhibit 10, yes.

3 Q. Now, I'm going to -- in light of the  
4 questions you were asked and the responses,  
5 I'm going to ask these questions in the  
6 negative.

7 For example: It says at the top of  
8 the -- I'm looking at the January 24th  
9 document. It says the -- let's look at the  
10 second bullet. "Flooding occurring inside  
11 the pump house." Pump -- "Flooding is  
12 occurring as a result of a temporary water  
13 line that is leaking. This situation must  
14 be corrected immediately."

15 A. I see that language.

16 Q. I take it you don't know that the Company  
17 has already corrected that situation.

18 A. That's correct. I don't know if the Company  
19 has corrected that.

20 Q. And you don't know, for example, whether the  
21 leaking water actually had already been  
22 treated.

23 A. Whether the what?

24 Q. It was basically drinking water, or whether

1 or not it was that had leaked out.

2 A. I don't know what the cause of the flooding  
3 is other than what it says here.

4 Q. Right. It says that the top of the well can  
5 be flooded. But I take it you don't know  
6 whether or not that actually occurred.

7 A. No, I don't.

8 Q. The electrical hazard in the pump house, do  
9 you know that that is simply an issue  
10 with -- I'm drawing a blank here -- the  
11 conduit being missing and that it has been  
12 repaired?

13 A. It doesn't say anything about missing  
14 conduit. It simply says wiring attached  
15 with wire nuts in a flooded situation. So  
16 I'm not sure exactly what the nature of the  
17 remedy would be for that situation.

18 Q. And that really gets to the heart of my  
19 question. And what I would like to do is  
20 show you a document.

21 MR. RICHARDSON: I guess we're  
22 at Lakes Region Water 21 now?

23 THE CLERK: Twenty.

24 MR. RICHARDSON: Twenty. I

1 apologize.

2 (Exhibit LRW 20 marked for  
3 identification.)

4 Q. I believe you indicated on cross-examination  
5 from Attorney Thunberg that you had been  
6 alerted to these violations in response to  
7 an e-mail from DES. And is this that  
8 e-mail?

9 A. This appears to be the e-mail that was  
10 forwarded to me by Steve Roy, yes. I would  
11 say I prefer to use the word "informed"  
12 rather than "alerted." This is not a call  
13 to action on my part in any manner.

14 Q. I apologize. I didn't mean to imply that,  
15 and I appreciate your clarification.

16 A. Okay.

17 Q. And you see here that it says, regarding A  
18 and B -- and I'm looking at the one, two,  
19 three, four, fifth paragraph. It says,  
20 "Regarding the status of Items A and B" --

21 A. Yes.

22 Q. -- "DES is aware that LRWC is taking...  
23 action to address Items A and B." And that  
24 would be the two systems that are referred

1 to in the letters of Staff Advocate 10.

2 A. I believe that those are these two notice of  
3 violations are the ones that are referred to  
4 here, yes. And it does say that it appears  
5 that Lakes Region Water Company is taking  
6 some action to address those items. Yup.

7 Q. Okay. And --

8 A. I would certainly apologize if I created the  
9 impression that Lakes Region Water was not  
10 planning to take any action on these.

11 Q. No, no.

12 A. I don't believe that was anything that I  
13 said this morning or earlier.

14 Q. No, I agree with you. And I'm just -- I  
15 don't think you were asked if -- you know,  
16 for the other piece to the puzzle, which is  
17 whether or not the Company -- or DES  
18 indicated that these issues were being  
19 resolved.

20 MS. HOLLENBERG: Well, they  
21 don't indicate that they're being resolved.  
22 They say that Lakes Region is "taking some  
23 action," and then continue to say, "In both  
24 instances, an investment in treatment is

1 anticipated, and it is unclear to Staff when  
2 full compliance will be achieved."

3 A. I see that language as well.

4 MR. RICHARDSON: And I hope the  
5 Commission appreciates that I have a witness  
6 that could explain what's being done to  
7 address these. Obviously, these are very  
8 recent. They're post-testimony. The e-mail  
9 that I have from DES has yesterday's date. So  
10 I would be willing to offer Mr. Mason to  
11 respond to those questions. But instead, I've  
12 only got the witness that was asked about  
13 these two exhibits. So that's why --

14 CHAIRMAN IGNATIUS: Well, let's  
15 hold off on deciding whether Mr. Mason's going  
16 to be recalled.

17 But just for clarity, the  
18 e-mail may be from March 20th, but the  
19 violation dates are January 24 and  
20 January 20, 2012; correct?

21 MR. RICHARDSON: That's right.

22 CHAIRMAN IGNATIUS: Which is  
23 prior to our previous sessions here in the  
24 hearing room.

1 MR. RICHARDSON: That's right.  
2 And there are already -- I'll represent to the  
3 Commission that my witnesses would testify  
4 that these violations are under agreement to  
5 be resolved. There is a compliance filing --  
6 actually, why don't I ask Mr. Eckberg that  
7 question, because I believe one of the  
8 documents says precisely that.

9 A. Your question then is?

10 Q. (By Mr. Richardson) Yes. You see -- let's  
11 look at the January 24th document again.  
12 "Please be advised that" -- in the second  
13 paragraph -- "if the subject system has not  
14 corrected the deficiencies or it is not in  
15 compliance with DES" -- "with a DES-approved  
16 CAP" -- which stands for Corrective Action  
17 Plan -- "by March 21, 2012..." Were you  
18 aware that the Company has -- is in  
19 discussions with DES to submit that plan for  
20 April 1st?

21 A. No, I'm not aware of that at all. No.

22 Q. Okay.

23 A. And just because there was -- a moment ago  
24 there was a question about dates. I just

1 want to be clear that this notice of  
2 violation is dated January 24, 2012, and it  
3 relates to a sanitary survey which took  
4 place on November 22nd, 2011. Okay?

5 Q. Hmm-hmm.

6 A. There's three different dates going on here.  
7 There was a date of the inspection, the date  
8 of the report and the date of the e-mail,  
9 March 20th, informing us of that situation.

10 Q. Right, right. And you understand that after  
11 a sanitary survey is done, typically if  
12 there are violations, DES would inform the  
13 operator of the system by sending them a  
14 notice of violation and ask that they be  
15 fixed. This is the first step.

16 A. I'll accept that. I'm not intimately  
17 familiar with DES' processes and procedures.  
18 But I'll accept that as their standard  
19 process, certainly.

20 Q. What is your opinion -- you've obviously  
21 recommended that the Company's rates be  
22 reduced from what it requested in its  
23 filing. Did you ever evaluate what Lakes  
24 Region's rates were in relation to other

1 water utilities?

2 A. I have been involved in a number of other  
3 water utility rate cases, so I have some  
4 general familiarity with those rate levels.  
5 But I can't quote you dollars and cents,  
6 right off the top of my head.

7 Q. All right. Maybe you could help me out  
8 then, because you're aware of what the form  
9 S-1 is; right? That is filed as part of the  
10 annual reports.

11 A. Part of the annual report.

12 Q. Right. And that's the water consumed. And  
13 I would like to provide you with the  
14 Company's S-1. Oh, here it is.

15 A. I think the Company's Exhibit A is the 2010  
16 annual report?

17 Q. Yes, yes. And I'll give you a copy so we  
18 don't all have to flip through all of these.

19 A. Okay.

20 Q. This is -- this particular document is also  
21 going to have two other utilities that I  
22 will get to that are in it for comparison.

23 CHAIRMAN IGNATIUS: Mark this as  
24 LRW 21 for identification. I think Mr. Eckberg

1 needs a copy.

2 (Exhibit LRW 21 marked for  
3 identification.)

4 MR. RICHARDSON: Oh, did I not?

5 A. Thank you.

6 Q. (By Mr. Richardson) So this is the S-1  
7 page -- excuse me. It's the third one --  
8 let's look at the third page of this  
9 exhibit, which is Lakes Region Water's 2010  
10 annual report for the year ending 2010.

11 A. Does this have a number 1 in the lower  
12 right-hand corner?

13 Q. Yes, it does.

14 A. Okay.

15 MS. THUNBERG: Can I just ask  
16 for clarification, Mr. Richardson? On these  
17 sheets from the 2010, this is as filed, not  
18 any of the amended stuff that was filed by the  
19 Company lately?

20 MR. RICHARDSON: I believe this  
21 is as filed. However, if you look at, I  
22 believe it's LWR Exhibit 9, I don't think that  
23 you'll see any changes to this schedule.  
24 Although, it's in theory possible that the

1 revenue number may -- there may have been a  
2 corresponding change. I don't know the answer  
3 to that. I didn't change it. Excuse me.

4 Q. (By Mr. Richardson) So what I wanted to ask  
5 you, looking at the number for Lakes Region  
6 Water, you see there's a total for sales.  
7 And I believe if you take -- I'll represent  
8 to you, if you take out -- you take the  
9 total 655,992 for revenue, and you subtract  
10 out the special contracts with Suissevale,  
11 you arrive at a number of 496,000 less 679.  
12 Does that sound right?

13 A. Sounds pretty close to right, just by  
14 eyeball arithmetic here.

15 Q. And then, if you divide that by the number  
16 1050 metered customers, subtracting the one  
17 customer of Suissevale, you end up with a  
18 number of \$473 per customer. Does that  
19 sound right to you?

20 A. I'll accept your -- the results of your  
21 division problem there.

22 Q. Hmm-hmm. And I'll represent to you that  
23 when you subtract out the Suissevale sales  
24 from the equation and divide by the number

1 of customers, you end up with 2,779 cubic  
2 feet per customer. And so I guess my  
3 question to you is -- that doesn't sound  
4 like it's a lot of money to me relative to  
5 other water systems.

6 A. Not in comparison to other water utilities  
7 it doesn't seem particularly high, no.

8 Q. And I'll represent that, if we did that same  
9 exercise for Pittsfield Aqueduct, which I  
10 believe is also in that exhibit --

11 MS. HOLLENBERG: PEU.

12 A. In this exhibit?

13 Q. (By Mr. Richardson) Yes.

14 A. I thought this was Lakes Region information.

15 Q. Right. There was one page for Lakes Region.  
16 But I wanted to provide you with all three.  
17 So do you see there's also an S-1 form for  
18 the annual report of Pittsfield Aqueduct  
19 Company, Inc.?

20 CMSR. HARRINGTON: First page.

21 A. Yes, I see that. I note that it's for year  
22 ended December 31st, 2009, a different year.

23 Q. (By Mr. Richardson) Yeah. No, and I  
24 apologize for that. I had to go with what I

1 could get off the web.

2 If you look there, I believe it's --  
3 the total revenue is 1,000 -- or \$1,889,864.  
4 And I divided that by 1771 customers, and I  
5 came up with a number of \$1067 per customer  
6 and sales of 6211 cubic feet per customer.

7 A. Okay. I'll accept the results of your  
8 calculations again.

9 Q. I mean, so to me, that suggests that Lakes  
10 Region is providing service at rates that  
11 are basically half of what Pittsfield  
12 Aqueduct is doing.

13 A. Are you suggesting we should double the  
14 rates for the Company then?

15 Q. No, I'm not suggesting that.

16 A. Okay.

17 Q. But I mean it's already -- I believe you  
18 agreed with what DES had said, that it's a  
19 difficult job to operate small water  
20 systems. And Lakes Region is trying to do  
21 that without the benefit of what Pittsfield  
22 Aqueduct has, which is over 100 employees  
23 through the whole Pennichuck family; right?

24 A. I don't know exactly how many employees

1 Pennichuck has at the moment. But I would  
2 agree that it's probably more than Lakes  
3 Region Water Company, yes.

4 Q. Does 100 sound about right? My information  
5 obviously is a little old, but --

6 A. I'm not sure. And I'm not sure whether  
7 you're including the employees of the  
8 service company as well, which is an  
9 affiliate of Pennichuck. So...

10 Q. Hmm-hmm. But I guess my -- and I'll  
11 represent to you that we could do the same  
12 calculation for P.E.U., and we come up with  
13 \$4,275,140. We would divide that by  
14 P.E.U.'s 5,418 customers, and we'd come up  
15 with a number of \$789 per customer per year  
16 on sales of about 9,818. Does that --  
17 obviously, subject to that check. But does  
18 my math sound correct to you?

19 A. I'll accept your -- the results of your  
20 calculations.

21 Q. I mean, I guess, doesn't this beg the  
22 question -- or in my mind it does. I mean,  
23 isn't Lakes Region Water undertaking an  
24 extraordinarily difficult job and really

1           doing the best that it can from a management  
2           perspective, with very little money?

3       A.    Is there -- you want a response to that?

4       Q.    Yes, please.

5       A.    Okay.  It almost sounded rhetorical to me.  
6            I wasn't sure.

7                    The Company is perhaps doing the best  
8            it can.  The numbers that you've just quoted  
9            indicate that, on average, it seems Lakes  
10           Region's rates are lower than the two  
11           companies that you've compared it to.  But,  
12           again, the Commission has a process by which  
13           we establish rates by looking at expenses  
14           and revenues over a test year period, not  
15           necessarily by comparing those rates with  
16           other water utilities.

17       Q.    I agree.

18       A.    Okay.

19       Q.    And my point, of course, being that Lakes  
20           Region has some unique challenges because of  
21           its size that some of these other  
22           utilities --

23                    MS. HOLLENBERG:  I'm going to  
24           object.  He's testifying.

1 CHAIRMAN IGNATIUS: Objection is  
2 sustained. Do you have a question?

3 Q. (By Mr. Richardson) Well, my question was  
4 that, while that is true, there are unique  
5 challenges that a smaller water utility has  
6 that a Pennichuck, for example, does not  
7 have due to the size.

8 A. I believe that's true. And probably  
9 Pennichuck has some challenges that Lakes  
10 Region does not have.

11 Q. Hmm-hmm. Let me change gears, if that's  
12 okay.

13 A. Yup.

14 Q. You have your testimony in front of you, I  
15 assume? I want to ask you some questions  
16 about some of the exhibits in it, and  
17 particularly as they relate to the affiliate  
18 agreement.

19 A. Okay.

20 Q. Now, you state generally -- and I don't have  
21 the page number in front of me. It's not  
22 important -- but that you believe that the  
23 affiliate agreement comes into conflict with  
24 the concept of it having to be the lower --

1           excuse me -- the higher of cost or market.

2           Did I summarize that correctly?

3       A.    It's my understanding that, when the Company  
4           provides services or when the Company -- it  
5           gets a little confusing. When the  
6           Company -- apparently, Mr. Mason may agree  
7           with me on that point.

8                        MS. HOLLENBERG:   Excuse me.  If  
9           I might interject?  Could you direct the  
10          witness to the portion of the testimony that  
11          you're referring to, please?

12                      MR. RICHARDSON:  I don't have  
13          the page in front of me.  I could probably  
14          find it.

15                      MS. HOLLENBERG:  Page 14.

16       Q.    (By Mr. Richardson) Well, let me ask you  
17            this:  Your testimony refers to a principle  
18            of the agreement having to be consistent  
19            with the higher of cost or market; right?  
20            That was in your testimony.  I'd like to ask  
21            you about that, but I'm just trying to make  
22            sure we're on the same page.

23       A.    I think we're on the same page, Page 14.

24       Q.    Excellent.  I guess what my concern was, you

1 and I probably agree that the cost is the  
2 cost to the utility to provide an employee's  
3 part-time services to the affiliate, the  
4 service company. Is that what the cost --

5 A. Did you just say something about part-time?

6 Q. Yes. Okay. The -- let me strike that  
7 portion of it.

8 The cost, then, in this principle that  
9 you've articulated, is the cost of the  
10 utility to allow the service company to use  
11 the employees. So it's the utility's cost.

12 A. It's my understanding that the rules are  
13 that the appropriate standard that applies  
14 here is that when the Company provides  
15 services to an affiliate, it will do so at  
16 the greater of cost or market.

17 Q. Hmm-hmm. But that's not my question. My  
18 question is what is -- what does the "cost"  
19 refer to, and do you agree with me that  
20 "cost" refers to the utility's cost for that  
21 employee?

22 A. Yes, it refers to the fully loaded cost,  
23 including all aspects. All costs that the  
24 company incurs for that employee.

1 Q. Okay. But the "market" for the employee,  
2 isn't that what the employee gets in the  
3 marketplace?

4 A. I believe that -- again, I'm not an  
5 economist. But I believe that the "market"  
6 refers to the market rate for similar  
7 employees providing similar services.

8 Q. Right. But you've used the \$50 number,  
9 which is akin to what the service company  
10 would bill the employee out at.

11 MS. HOLLENBERG: We're talking  
12 about -- excuse me. I'm going to object  
13 because he's asked a question about the  
14 utility charging a service company.

15 MR. RICHARDSON: I'm sorry.  
16 Yeah, yeah. I'll clarify that. Withdraw the  
17 question.

18 CHAIRMAN IGNATIUS: Thank you.

19 Q. (By Mr. Richardson) You've used for a market  
20 number \$50; right?

21 A. I have used that because that's, apparently,  
22 the rate that the water service company  
23 charges to the regulated utility. And in  
24 that relationship, there's a corresponding

1 standard, which is that, when the service  
2 company provides its employees or equipment  
3 to the Company, it should -- the cost to the  
4 Company must be the lesser of cost or  
5 market.

6 Q. But the employee -- the water utility  
7 employee only gets his wage. You've heard  
8 Mr. Mason say that. We're not taking the  
9 water utility, having him work for the  
10 service company and then bill the water  
11 utility back. That doesn't happen. Is that  
12 your understanding?

13 A. Maybe you could make that a little clearer  
14 for me.

15 Q. Sure.

16 A. I'm not sure I'm following the question.

17 Q. Yeah. And I would appreciate it -- and I  
18 don't say this as a criticism. But I'm  
19 sometimes asking you "yes" or "no" questions  
20 because I really want to jump to the next  
21 level, and you kind of gave me a longer  
22 explanation which required me to backtrack a  
23 little bit.

24 So the market number that you used is

1           \$50. Yes or no?

2       A. Yes, that's the information I had available  
3       to me.

4       Q. But that \$50 isn't what the employee would  
5       earn in the market. That's what the service  
6       company would bill the employee out at.  
7       Aren't those different markets?

8       A. I'm not sure. I believe it's the Company's  
9       responsibility to provide that information.

10      Q. Okay. But you've provided that information  
11      in your testimony. And I guess you're not  
12      sure what the appropriate market is.

13      A. I've made a comparison using the information  
14      available to me. The Company has not  
15      provided any other information available.

16      Q. Okay. Let's look at SRE Attachment 2, and I  
17      believe it's Paragraph 4.

18      A. Numbered Paragraph 4?

19      Q. Yes.

20      A. On Page 2.

21      Q. Yes. That's right. You'll probably get  
22      there faster than me.

23                           CHAIRMAN IGNATIUS: And this is  
24      in OCA Exhibit 1; correct?

1 MR. RICHARDSON: Yes.

2 A. I have that.

3 Q. (By Mr. Richardson) I'm sorry. I'm on the  
4 wrong attachment. That's why I didn't see  
5 the numbers.

6 So in Paragraph 4, I believe it says,  
7 "The Company stated in response to discovery  
8 that the total number of hours billed by  
9 LRWC to LRWWS during the test year was 983.5  
10 at \$19 an hour." Did I read that correctly?

11 A. Yes, you did.

12 Q. Okay. And if we were to just take that out  
13 and apply it on a per-year basis -- assuming  
14 the test year is representative -- we'd end  
15 up with approximately... I have \$18,000  
16 written down, but I don't know if that's --  
17 do you have a calculator in front of you?

18 A. As a matter of fact, I do.

19 Q. What does that work out to?

20 A. 983.5 times 19 is \$18,686.50.

21 Q. Okay. Now, and that's money that, under  
22 the -- at the \$19-an-hour rate is -- goes to  
23 the water company from the service company.

24 A. That's correct.

1 Q. Okay.

2 A. That's my understanding.

3 Q. Now, you would agree with me, I assume, that  
4 the utility has to have some excess employee  
5 capacity so that it has sufficient staffing,  
6 you know, to respond to questions that come  
7 up during normal business hours if an  
8 employee is on vacation, or on a 24/7 basis  
9 if there's an emergency.

10 A. I'm not sure whether that's considered  
11 excess capacity or whether that's considered  
12 the capacity that the Company needs to meet  
13 its responsibilities.

14 Q. And so I guess what I'm trying to say is,  
15 it's not like -- a water company isn't like  
16 a law office, where I could just close the  
17 law office on any given day, go on vacation  
18 and come back and meet my deadlines later.  
19 It has to -- you have to have the ability to  
20 run the water company at all times.

21 A. I believe that there's probably someone that  
22 needs to be available to respond to  
23 emergencies 24-hour a day, because that's  
24 when they may occur, yeah.

1 Q. And to do that, you need to have more  
2 employees -- or more employee capacity than  
3 you would have at any particular moment.  
4 So, for example: If you only needed two  
5 employees to run the water system during the  
6 day, you'd actually have to hire more than  
7 two, because if one of those is out for two  
8 weeks or is off doing something else, you  
9 need to have those people available. I  
10 mean, do you understand the concept I'm  
11 getting at?

12 A. I understand the concept. I'm not sure I  
13 agree with the result of your argument.

14 For instance, my Adjustment No. 9  
15 discussed the Company's desire to collect  
16 for 2600 hours of work for a single  
17 employee. So, that's greater. That amount  
18 of work is greater than what one would  
19 normally consider a single employee of about  
20 2,080 hours for a full-time worker. So I'm  
21 not sure where you want to go with the  
22 concept of what's a full-time employee.

23 Q. Well, I guess what I'm trying to get at is  
24 that the Company has to have a certain

1 amount of employee capacity so that people  
2 are available at all times, even if they're  
3 not actually doing a project at that moment  
4 or they're not responding to an emergency,  
5 for example; right?

6 A. That sounds somewhat reasonable, yeah.

7 Q. And so by borrowing employees as they're  
8 available from the utility and using them in  
9 the manner described by Tom Mason -- for  
10 example, if they're going out to do a meter  
11 read or something like that -- isn't the  
12 service company providing revenue to the  
13 water company to compensate it for  
14 essentially what I've described as excess  
15 capacity?

16 A. Well, I'm not sure I've agreed with you on  
17 the excess capacity issue. But the service  
18 company is providing some revenue to the  
19 regulated utility. The point I've tried to  
20 make here is that I don't believe the  
21 service company is providing enough revenue.

22 Q. Well, let me ask you this then: If we  
23 assume that you are correct -- and I'm going  
24 to take issue with this. But let's assume

1 that the correct market for the employee  
2 services -- not the \$15 to \$19 that the  
3 service company would pay for a part-time  
4 employee, but it's the \$50 -- it wouldn't  
5 make any sense for the service company to  
6 pay that employee \$50 if they could go out,  
7 as Tom Mason said, and hire an employee for  
8 \$15 or for \$19, would it?

9 A. If the service company is available to -- if  
10 it has people that it can hire for less  
11 money, that would be, I think from an  
12 economist's perspective, that would be a  
13 rational thing for it to do.

14 Q. Exactly. So if this company was ordered to  
15 pay the utility -- the service company was  
16 ordered to pay the utility \$50 an hour, as  
17 you've suggested, that wouldn't be rational  
18 because they could hire somebody for, say,  
19 \$15 or \$19.

20 A. The Company hasn't -- I don't believe the  
21 Company's offered any testimony to that  
22 effect, but --

23 Q. But you just said it wouldn't be -- well,  
24 you heard Mr. Mason testify that that's the

1 case, that he believes he could hire someone  
2 for \$19 or \$20 -- or excuse me -- for \$15 or  
3 \$19.

4 A. Okay.

5 Q. So it wouldn't make any sense, would it? I  
6 mean, it wouldn't be rational, as you said.

7 A. There are standards that affiliate  
8 agreements have to meet, whether you or I  
9 agree with them. I believe that those  
10 standards are in the Commission's rules.

11 I'm not making these things up, Mr.  
12 Richardson.

13 Q. Okay. But what I'm trying to get at is that  
14 you've recommended \$50 an hour for the  
15 affiliate agreement, and if that were to  
16 happen, it would put the service company in  
17 a position --

18 MS. HOLLENBERG: Objection.  
19 Testimony by the attorney.

20 MR. RICHARDSON: I'm trying to  
21 posit a hypothetical. That's in his  
22 testimony.

23 CHAIRMAN IGNATIUS: Go ahead.

24 Q. (By Mr. Richardson) That would put the

1 Company in the position of paying \$50 an  
2 hour, which I think you said was not  
3 rational from an economic standpoint --

4 A. And it's not rational -- if the service  
5 company feels it can hire the labor it needs  
6 for less, then I would assume that it would  
7 do that.

8 Q. So then, the net effect of changing the rate  
9 to \$50 an hour would be that the water  
10 service company would likely hire the  
11 employee at the lower rate, and the water  
12 utility would not receive \$18,660. Isn't  
13 that the case?

14 A. That perhaps might be a consequence. I'm  
15 not sure. That's a hypothetical question, I  
16 think.

17 Q. Hmm-hmm. Well, in that hypothetical, then,  
18 both the service company and the water  
19 utility would essentially lose the benefit  
20 of sharing the same employee.

21 A. I think we're here talking about the  
22 regulated utility. I'm not necessarily -- I  
23 don't believe my responsibility is to be  
24 concerned with the economic health of the

1 service company necessarily.

2 Q. That's true. So the utility would lose the  
3 benefit of the \$18,686 in that hypothetical.

4 A. That may be the case. I'm not sure.

5 Q. Now, I mean, you understand that the service  
6 company is using the utility employees on  
7 occasion to, for example, provide service to  
8 Suissevale. I mean, that might be one of  
9 the systems that they operate where they  
10 share an employee.

11 A. That's possible.

12 Q. And isn't there a benefit that the public as  
13 a whole -- in other words, the public  
14 interest -- derives from being able to use  
15 the same employee to operate basically both  
16 parts of a connected system?

17 MS. HOLLENBERG: Objection. I  
18 guess I think it sounds like he's asking the  
19 witness to basically give a legal opinion  
20 about whether or not that arrangement would be  
21 consistent with the public interest.

22 MR. RICHARDSON: He's already  
23 testified it's not consistent with the public  
24 interest. So I'd like to have him answer the

1 question.

2 CHAIRMAN IGNATIUS: And your  
3 question is about a shared employee between  
4 Suissevale and who?

5 MR. RICHARDSON: Whether or not  
6 the sharing of a utility employee between the  
7 utility and the service company provides a  
8 benefit to the public.

9 CHAIRMAN IGNATIUS: Well, you've  
10 already asked that. So what's the new  
11 question that has to do with Suissevale?

12 MR. RICHARDSON: Well, I was  
13 using Suissevale as an example, where the  
14 water service company, as the Commission  
15 knows, is operated by -- Suissevale is  
16 operated by the water service company. So I  
17 was trying to ask him if that would provide a  
18 benefit of having the same employee  
19 essentially operate on both sides.

20 MS. HOLLENBERG: Relevance.

21 CHAIRMAN IGNATIUS: I think you  
22 can ask the question, and if we can get an  
23 answer and move to something new -- it's now  
24 3:15, and I have a very bad feeling that we're

1 not going to make it through two more  
2 witnesses.

3 A. Could you restate the question for me?  
4 There's been considerable back and forth  
5 there.

6 Q. (By Mr. Richardson) Yeah. Absolutely. Let  
7 me -- why don't you do your best to answer  
8 what I [sic] think the question is, because  
9 I think you could probably do it better than  
10 I could.

11 But in a nutshell, isn't there a  
12 benefit to the public interest -- that is,  
13 the customers of both the service company  
14 and the customers of the utility -- in being  
15 able to share an employee and utilize their  
16 joint expertise, utilize their knowledge of  
17 even connected systems?

18 A. You're asking me to agree that there is a  
19 public interest that benefits the water  
20 service company, and I simply can't do that.  
21 I'm not charged with the responsibility of  
22 being concerned about the service company.  
23 My responsibility is the residential  
24 ratepayers of the regulated utility.

1 Q. But the Commission's -- isn't the  
2 Commission's standard to review whether or  
3 not the affiliate agreement is consistent  
4 with the public interest?

5 A. If you could provide me with the legal  
6 standards by which they, the Commission, has  
7 to review the affiliate agreements, that  
8 might be something I can opine on. But,  
9 again, I'm not an attorney and...

10 Q. But I guess you didn't evaluate that aspect  
11 when you formed your opinion about whether  
12 there were those types of things?

13 A. I didn't evaluate the benefit to the service  
14 company, no.

15 Q. And you didn't evaluate whether or not the  
16 water utility company might lose the \$18,686  
17 if the service company was required to pay  
18 \$50 an hour.

19 A. I believe in response to discovery, Mr.  
20 Mason indicated that that might be an  
21 outcome. But the predominant issue for me  
22 is that I see information which does not  
23 seem to comply with the standards for  
24 affiliate agreements. That's why I've made

1 this proposed adjustment.

2 Q. But yes or no. You didn't evaluate whether  
3 or not your recommendation of changing the  
4 rate to \$50 would cause the water utility to  
5 lose approximately \$18,686.

6 A. No, I did not.

7 Q. Okay. Thank you.

8 MR. RICHARDSON: I have no  
9 further questions.

10 CHAIRMAN IGNATIUS: All right.  
11 Thank you. I think we have, then, Mr.  
12 Speidel. Any questions of Mr. Eckberg?

13 MR. SPEIDEL: Yes, I have a few  
14 short background questions.

15 CROSS-EXAMINATION BY MR. SPEIDEL

16 Q. And Mr. Eckberg, these questions are related  
17 to your voluntary receivership concept that  
18 you discussed in your testimony.

19 A. Yes.

20 Q. I believe you're generally familiar with  
21 your recommendations, so I'll just launch  
22 into them in the interest of time.

23 In formulating your concept of  
24 voluntary receivership, did you conceive of

1 the fact that the Commission would have to  
2 approve such a voluntary receivership  
3 arrangement?

4 A. Yes, that was certainly part of my  
5 consideration.

6 Q. Okay. And as part of that, did you conceive  
7 of a specific basis for Commission approval  
8 of such an arrangement in general terms,  
9 such as general supervisory authority of the  
10 Commission or franchise powers reviewed by  
11 the Commission?

12 A. I would say that was probably beyond the  
13 scope of my consideration.

14 Q. Okay. Thank you.

15 And finally, did you conceive of any  
16 procedural recommendations in connection  
17 with your recommendation?

18 A. No, I don't believe I did. I would probably  
19 have left those to the attorneys that I work  
20 with.

21 MR. SPEIDEL: Okay. I have no  
22 further questions. Thank you, Commissioners.

23 CHAIRMAN IGNATIUS: Thank you.  
24 Commissioner Harrington.

1 INTERROGATORIES BY CMSR. HARRINGTON:

2 Q. Okay. There was a lot of discussion on the  
3 delinquent property taxes that was shown in  
4 Record Request No. 2. And I think we  
5 established that there was a list of towns  
6 there that were over 90 days in arrears and  
7 that those were a substantial amount of  
8 money that were property tax bills. And  
9 then there was some discussion on the test  
10 year of 2009. This record request is  
11 showing the accounts payable as of 3/9/12.

12 Do you know from the test year 2009  
13 what were the delinquent property taxes and  
14 the total payables?

15 A. I do not know that specifically.

16 Q. Since we just talked about this affiliate  
17 agreement, I'll try to ask my questions on  
18 that and get those out of the way.

19 Are you aware of any similar  
20 arrangement between a water company or  
21 utility and a service company with -- in  
22 this case, where the utility provides  
23 contracted services to the service company?  
24 And let me preface that by saying normally I

1 would expect -- or at least my experience  
2 with something like this would be that you  
3 have a service company -- hence, the name,  
4 they provide services. So the utility would  
5 say, We need extra help for a particular  
6 project or whatever and they go to the  
7 service company and they provide them with  
8 expertise and bodies. I've never heard of a  
9 situation where the service company says, We  
10 need help in the form of the expertise and  
11 bodies, so they go to the utility and say,  
12 Can we hire your employees on a contract  
13 basis? Have you ever heard of this  
14 happening anyplace else?

15 A. I'm not familiar with any specific instances  
16 of that. But they may exist. I'm not sure.

17 Q. Again, talking about the affiliate  
18 agreements. On Page 14 of your testimony,  
19 the bottom of the page, it talks about Mr.  
20 Mason's response. And this has to do with  
21 the new reduction of the rate from \$50 to  
22 \$19 an hour. And it talks about the average  
23 wage for Lakes Region field employees is  
24 \$14.31 --

1 A. Yes.

2 Q. -- approximate payroll tax, benefits,  
3 vehicle cost, which equals \$23.97 an hour.  
4 And then it goes on to say that any fee  
5 beyond \$19 would not be cost-effective. I'm  
6 not sure what the rest of that means.

7 But getting back to this, if a service  
8 company had to go out in the market, not  
9 making a -- not through this affiliate  
10 agreement. But if they were hiring  
11 temporary personnel, contract personnel, it  
12 would -- is it reasonable to assume that  
13 they would have to pay a rate that would  
14 cover up to and including everything listed  
15 here under the \$23 an hour? They would be  
16 paying payroll taxes, wages, vehicle cost,  
17 et cetera. And wouldn't they also be adding  
18 in overhead costs, such as, you know, rental  
19 on buildings where the employee worked,  
20 administrative staff that's associated with  
21 that contract employee and profits for the  
22 company?

23 A. I believe all those costs should be included  
24 in the cost analysis, certainly.

1 Q. So it would seem, then, we could conclude  
2 that charging \$19 an hour not only doesn't  
3 cover all the costs as a bare-bones minimum  
4 for Lakes Services -- for Lakes Region Water  
5 Company, but it doesn't come close to  
6 approaching the market rate for that,  
7 because the market rate would include things  
8 like -- that isn't included in the \$23.97,  
9 such as administrative costs, as well as  
10 profits.

11 A. Well, I believe that, you know, the Company  
12 has provided this analysis of their cost of  
13 the employee. I believe what you're  
14 indicating, Commissioner, is that there may  
15 be more information that's needed about what  
16 the market rate for such an employee would  
17 be so that an appropriate comparison could  
18 be made between the cost and the market  
19 rate. And I would agree that there's more  
20 information that's needed.

21 Q. Well, I guess even more than that. This is  
22 not the total cost for the employee. For  
23 example: They talk about their hourly rate  
24 of pay, which is what they receive in their

1           paycheck, their taxes. And then the only --  
2           the benefits and then the cost of the  
3           vehicle. But there's no mention of things  
4           such as administrative costs associated with  
5           the company, the salary of -- going to the  
6           people who arrange the contracts, the legal  
7           support that has to be done, all these other  
8           things such as that. And I would also  
9           assume it's safe to assume, unless someone  
10          was doing this as a public service -- and I  
11          don't think any company is operating that  
12          way -- that they would also include a profit  
13          margin in there as well.

14        A.    Hmm-hmm. So I believe I agree with you. If  
15            you're suggesting that maybe this \$19 an  
16            hour is not adequately representative of the  
17            full costs, I think I would agree with that.

18        Q.    Thank you.

19        A.    But this is the analysis that was provided,  
20            and I have no additional information. So...

21        Q.    Okay. A few other questions. I'll try to  
22            make this close -- or quick.

23                    Earlier, I think it was in Mr. Mason's  
24            testimony -- or it could have been one of

1 the other financial people that spoke for  
2 Lakes Region Water Company. In response to  
3 a question, they said their 40-percent rate  
4 increase was not a long-term fix, if they  
5 were granted the full increase that they  
6 were requesting. Maybe a little bit --  
7 maybe 41 or something like that, in that  
8 vicinity. That they would still have to  
9 come back in a year or two and come with  
10 another rate case; and hence, of course,  
11 they would then have to come back with  
12 additional rate case expenses. So I guess  
13 I'm asking, do you agree that that would  
14 be -- is that the case?

15 A. I believe that it's quite likely that the  
16 Company should come back in for another rate  
17 increase in the very near future.

18 Q. Okay. So then, getting back to the  
19 discussion, going back to Record Request 2,  
20 on whether the outstanding accounts payable  
21 had gone up or gone down -- because as  
22 counsel for Lakes Region had suggested, we  
23 shouldn't consider the rate case because  
24 that was sort of one-time thing. I'm

1           assuming if another rate case has to come  
2           in, as you said, in a very short time, there  
3           would be expenses associated with that rate  
4           case as well.

5       A.    There would be expenses for that case.  I'm  
6           not sure they would be commensurate with  
7           these expenses.  This case has been very  
8           unique.

9       Q.    Okay.  And just two more questions.

10                    On the voluntary receivership, how --  
11           I'm trying to get in my mind -- let's just  
12           say the Commission were to grant something  
13           like that.  How is that going to address the  
14           financial situation of Lakes Region Water  
15           Company?

16       A.    Well, as I addressed -- I think I offered  
17           some testimony today, briefly, that it's my  
18           understanding that under a receivership  
19           situation, the receiver would likely have  
20           the authority to request increases in rates.  
21           And that may occur in a more expedited  
22           manner than what we're conceiving generally  
23           as a full rate case.  So that may be a way  
24           to reduce the time it takes to go through

1           that process.

2       Q.    Okay.  Anything else?

3       A.    No.  I think that's all I have to comment on  
4           that.

5       Q.    And we've had a lot of discussion now on  
6           various concerns that people have brought up  
7           about the Lakes Region Water Company, having  
8           to do with violations and outstanding  
9           payments and, you know, seemingly minor  
10          things, but they do tend to add up.  Putting  
11          out fire hydrants and not collecting any  
12          revenue, granting pensions to people after  
13          they've left the Company, charging one  
14          swimming pool double what they charge the  
15          other swimming pool, et cetera.  There seems  
16          to be lot of things there.

17                 So I guess my question is:  Even with  
18                 higher rates or a higher ROE, in your  
19                 opinion, can Lakes Management [sic] Water  
20                 Company survive with its present management,  
21                 or does it need some new management with  
22                 additional expertise?

23       A.    Well, I think you've hit upon an important  
24           point there, Commissioner.  I think that the

1 OCA truly has difficulty imagining and being  
2 comfortable with giving this company higher  
3 rates with the existing management structure  
4 and personnel in place. I think that's a  
5 very big challenge for us to accept that.  
6 And I think it's a big challenge for  
7 ratepayers as well. We don't have any of  
8 the Company -- well, we have some of the  
9 Company's ratepayers in the room with us  
10 today, but they're wholesale ratepayers.  
11 Quite frequently, there are actual  
12 residential ratepayers before the Commission  
13 complaining about issues. And I think they  
14 would complain loudly were we to continue to  
15 give rate increases to the same management  
16 team.

17 Q. All right. Thank you. And one last  
18 question: Did the OCA look at alternative  
19 rate methods -- and by this I mean things  
20 such as, we've heard a lot about everything  
21 being premised by July 4th or a couple other  
22 weekends in the summer. That's what the  
23 driving cost of the capital improvements and  
24 stuff is. Did you look at anything like,

1 say, different rates at different times of  
2 the year, higher rates during higher demand  
3 times, and do you think that that would be  
4 effective in addressing some of the  
5 concerns?

6 A. Sort of like a peak pricing scheme.

7 Q. To some extent, yes.

8 A. That's an interesting idea. Nothing  
9 specific like that was considered thus far.  
10 We had -- and my testimony suggested that a  
11 cost-of-service study be conducted as part  
12 of the next rate case. And perhaps that's  
13 something that could be considered if the  
14 majority of investments are driven by peak  
15 capacity needs.

16 CMSR. HARRINGTON: Thank you.  
17 That's all I have.

18 CHAIRMAN IGNATIUS: Commissioner  
19 Scott.

20 CMSR. SCOTT: Thank you.

21 INTERROGATORIES BY CMSR. SCOTT:

22 Q. Back to the affiliate agreement. I guess  
23 I'll start with the more simple question.

24 It appears to me -- and the question is

1 do you agree with this -- if I understand  
2 right, I think the utility was trying to  
3 represent that, to the extent there is idle  
4 or excess time for the utility staff,  
5 there's a benefit to having those staff  
6 leased out, if you will, to the service  
7 company, and that amounts to 18,000 and  
8 change a year. Does that -- does that sound  
9 correct to you?

10 A. I believe that's what the point they were  
11 making was, yes.

12 Q. Okay. Do you also agree or -- reading the  
13 affiliate agreement, there's nothing that  
14 limits that use of utility employees to just  
15 that idle or excess time.

16 A. No, I believe the agreement leaves it wide  
17 open as to when they're using the employees,  
18 certainly.

19 Q. So following that, there's nothing that  
20 would -- in the agreement -- not necessarily  
21 saying that happens -- that would stop the  
22 utility from loaning out multiple staff a  
23 hundred percent of the time at a discounted  
24 rate to the service company.

1 A. There does not appear to be any limit to  
2 that, no.

3 Q. In your experience, is that a normal  
4 agreement that's done with a utility and a  
5 service company?

6 A. Well, as I think Commissioner Harrington  
7 asked, did I have any experience with  
8 utility personnel being loaned out to the  
9 service company? And I think that aspect of  
10 the relationship, I don't have any direct  
11 familiarity with that.

12 Q. So let me ask a more direct question. Does  
13 OCA agree with that type of arrangement  
14 without limits?

15 A. Well, I think there ought to be -- I think  
16 you raise some interesting concerns. If the  
17 employees are being used without limit,  
18 there may be concerns about overtime, for  
19 instance. If the service company's going to  
20 use the employees for 40 hours a week, and  
21 then the utility only uses them during  
22 overtime hours, then it would seem,  
23 hypothetically, again, that the utility  
24 would be incurring extra costs rather than

1           doing it some other way. So there are many  
2           aspects of the affiliate agreement which are  
3           troubling.

4       Q.    Thank you. Also during your questioning --  
5           and you may not be the right one, but I'm  
6           going to ask you anyway --

7       A.    Fair enough.

8       Q.    -- there was much discussion between Staff  
9           Advocate Exhibit 10 and LRW Exhibit 20  
10          regarding notices of violation and  
11          compliance status.

12                    Are you aware of any additional  
13                    compliance issues with the Company, as far  
14                    as the OCA goes?

15       A.    I'm not aware of any other violations, other  
16           than the three that have been identified  
17           here in the exhibit. And I'm sorry I did  
18           not label this exhibit. This is the e-mail  
19           which talked about the Indian Mound Golf  
20           Club, the Deer Cove water and the Paradise  
21           Shores. Those were the three existing items  
22           that I'm aware of related to the Company.

23                                   CHAIRMAN IGNATIUS: Lakes Region  
24                                   20.

1 THE WITNESS: Twenty. Okay.

2 Thank you.

3 CMSR. SCOTT: Thank you. And  
4 Madam Chair, given that I believe on the first  
5 day of testimony I had directly asked the  
6 utility whether they had any outstanding  
7 notices of violation, and what I understood  
8 was the answer was no, I was a little bit  
9 surprised to see Staff Advocate Exhibit 10.  
10 Given that, if you think it's appropriate, I'm  
11 interested in a records request outlining the  
12 current status for all compliance with the  
13 Company, including any kind of correspondence  
14 from the Department of Environmental Services;  
15 the status of permits, including expiration  
16 dates. I say that because I'm -- I understand  
17 from one of the testimony letters that there's  
18 the Mount Roberts permit. That implies that  
19 there's an expiration coming the end of March.  
20 Perhaps it's been addressed. But I'd really  
21 like to get a feel for the total compliance  
22 status of the Company in writing I think, as  
23 well as -- even if you don't have a letter  
24 from DES saying you're out of compliance, if

1           there's a known compliance thing going on, I  
2           think that would be helpful for us to  
3           evaluate.

4                         CHAIRMAN IGNATIUS: I think it's  
5           a fair question. I would add to your list  
6           fees. That was something we heard about on  
7           the very first day, that there were  
8           outstanding fees. They may have been all been  
9           paid by now. Let me just finish, please. Any  
10          identification of any outstanding fees or  
11          other charges.

12                        Mr. Richardson, go ahead.

13                        MR. RICHARDSON: If I could, I  
14          believe the Commission already has the  
15          information in front of it. And I'm at a  
16          loss, because I'm ever losing the paper that's  
17          most in front of me. But I believe in the  
18          cross of Mr. Eckberg, I marked as an exhibit  
19          the e-mail from Sarah Pillsbury. And the  
20          question was basically to her about whether  
21          there were any outstanding issues of violation  
22          of drinking water standards, you know, whether  
23          that was -- or drinking water regulations, I  
24          should say. And her response was the three

1 items. And I -- okay. That is, if you read  
2 the e-mail sequence in LRW 20, you have Ms.  
3 Pillsbury's response to me, as well as my  
4 question to her from Friday on that very  
5 question.

6 CHAIRMAN IGNATIUS: Well, Mr.  
7 Richardson, with all respect, your witness was  
8 asked were there any outstanding violations,  
9 and his answer was "No." At that point, there  
10 had been two new notice of violations that had  
11 been issued. So I think it's a fair request  
12 to have it all in one place, a clear exhibit  
13 that identifies the full total of any  
14 violations, the status of each of them, the  
15 status of any fees that are owed. We know the  
16 fines in the criminal case. I don't think we  
17 have to go through that. But if there's any  
18 other penalties or fees or charges that are  
19 imposed, the status of those. Because I can  
20 tell you the introduction of two new notices  
21 of violation was quite a surprise, based on  
22 Mr. Mason's testimony the other day. So that  
23 will be Record Request No. 5.

24 (Record Request 5 reserved.)

1 MS. THUNBERG: Chairman  
2 Ignatius, may I request that Staff and any  
3 other parties be afforded five business days  
4 to respond to the record request so that we  
5 can corroborate it?

6 MR. RICHARDSON: Certainly I  
7 have no objection to people responding. My  
8 question -- I guess I'm at a little bit of a  
9 loss, because I don't recall the nature of the  
10 testimony that you're referring to and whether  
11 it was directed towards letters of deficiency  
12 having been resolved. I don't think that --  
13 at least to my recollection -- and my  
14 recollection isn't always the best -- but I  
15 understood that the question was of that  
16 nature, a letter of deficiency.

17 CHAIRMAN IGNATIUS: Well, let's  
18 make it absolutely clear then. And if I --  
19 that's a good reminder. I don't care what  
20 it's called. I want whether it's a letter of  
21 deficiency, whether it's a notice of  
22 violation, if it's a statement of a problem.  
23 Whatever it is from DES -- and I don't know  
24 all their terminology -- that it be identified

1 in Record Request 5.

2 MR. RICHARDSON: So my question  
3 was really at what point I might have the  
4 benefit of reviewing what was actually said at  
5 the hearing. Do we know what the timing of  
6 the -- can we go off the record and maybe ask  
7 the stenographer when that piece of the  
8 transcript will be?

9 CHAIRMAN IGNATIUS: We can go  
10 off the record.

11 (Discussion off the record.)

12 CHAIRMAN IGNATIUS: Back on the  
13 record. So, Ms. Thunberg.

14 MS. THUNBERG: Chairman  
15 Ignatius, Staff Advocate just has a concern.  
16 It seems like Attorney Richardson may be  
17 expanding the scope of the record request to  
18 be another bite at the apple at rehabilitating  
19 his witness. If the record request -- it  
20 appears it's simply to get a status of  
21 outstanding violations, not an opportunity to  
22 explain away why the testimony was as it was  
23 earlier in the hearing sessions.

24 CHAIRMAN IGNATIUS: I'd agree.

1 I think there are two different questions.  
2 But Mr. Richardson.

3 MR. RICHARDSON: I'm reminded of  
4 the reasons why we asked for designation of  
5 Staff Advocates.

6 This document was brought in  
7 today. And as you may recall, I asked Mr.  
8 Eckberg if he knew whether or not many of  
9 the issues had already been resolved. So I  
10 feel that it is critical that we be allowed  
11 to explain actually what has happened, I  
12 mean, not just does the letter exist, but  
13 has the Company resolved it. Because there  
14 is -- a big piece of those documents relates  
15 to how the Company has had discussions with  
16 DES about resolving this and what the  
17 Company has done. In some cases the  
18 sampling, for example, on --

19 CHAIRMAN IGNATIUS: Well, Mr.  
20 Richardson, let's not go into the details  
21 right now.

22 MR. RICHARDSON: Okay. I  
23 apologize.

24 CHAIRMAN IGNATIUS: The request

1 from Commissioner Scott, if you listened, was  
2 a status of compliance with all of those  
3 items. So he's asked you to explain where  
4 things stand.

5 MR. RICHARDSON: Okay.

6 CHAIRMAN IGNATIUS: But it  
7 should be complete. It should be everything  
8 that the Company is facing, whatever the  
9 terminology over at DES may be.

10 CMSR. HARRINGTON: I guess the  
11 other thing I'd like to add to that as well is  
12 we have this Record Request No. 2, which is  
13 the account -- aged accounts payable. And as  
14 we've discussed quite a bit, there's a large  
15 number of accounts payable over 90 days. So I  
16 would also add to this request that the  
17 Company provide us with any legal action or  
18 notifications that they've received from the  
19 people that they owe money to, as to any  
20 pending court cases, any -- you know, things  
21 from the town saying you have so many days to  
22 pay your property taxes or we're going to  
23 start legal action, or whatever the correct  
24 terms are to that.

1 CHAIRMAN IGNATIUS: So is that  
2 an additional record request, No. 6?

3 CMSR. HARRINGTON: Do you want  
4 to make it separate?

5 CHAIRMAN IGNATIUS: I think so.

6 CMSR. HARRINGTON: Okay. Then  
7 it would be separate.

8 CHAIRMAN IGNATIUS: Is that  
9 understood by everyone?

10 MS. THUNBERG: Yes.

11 MS. HOLLENBERG: Yes.

12 MR. RICHARDSON: Not knowing the  
13 answer to this question, I feel the need to  
14 ask whether the Commission would allow us to  
15 file that subject to a protective order, if it  
16 relates to legal action of that nature, not  
17 knowing if there is anything.

18 CHAIRMAN IGNATIUS: Yes.

19 MR. RICHARDSON: I just see that  
20 as an issue that might arise.

21 CHAIRMAN IGNATIUS: I think  
22 that's fair. It could be under a protective  
23 order but still made available to all  
24 participants in the case, and they would be

1 under the restrictions of not releasing it  
2 publicly.

3 I think no other questions,  
4 Mr. Eckberg. Thank you for your testimony.

5 MS. HOLLENBERG: I just had --

6 CHAIRMAN IGNATIUS: Oh, I'm  
7 sorry. Forgot about redirect.

8 MS. HOLLENBERG: I'll try to be  
9 brief. And before I continue, I apologize,  
10 but I am not able to stay beyond 4:15 today.  
11 I didn't anticipate that the hearing would go  
12 as long as it has gone. And I'll defer to the  
13 Commission in terms of what they want to do in  
14 terms of proceeding. But I apologize for  
15 that.

16 REDIRECT EXAMINATION BY MS. HOLLENBERG

17 Q. Mr. Eckberg, to address the issue that came  
18 up on cross-examination about the OCA's  
19 recommendation for voluntary receivership,  
20 you testified on cross-examination that it  
21 was the OCA's intent in recommending  
22 voluntary receivership that the OCA provide  
23 an opportunity for a collaborative effort  
24 amongst the Company and the other parties to

1 basically bring the Company up to -- up and  
2 out of the hole that we see it's in; is that  
3 correct, my phrasing?

4 A. I believe I testified to that on  
5 cross-examination. I believe that's the  
6 substance of my direct testimony as well.

7 Q. And you are not recommending traditional  
8 receivership, which would be otherwise  
9 defined as a mandatory receivership under  
10 the statutes that the Commission is  
11 authorized to act; is that correct?

12 A. That's correct. I did not make that  
13 recommendation either in my direct prefiled  
14 testimony or today while on the stand.

15 Q. And is the -- was the voluntary receivership  
16 concept that the OCA offered to the  
17 Commission an attempt to present a creative  
18 solution to the many problems that are  
19 facing this Company and the other parties,  
20 in terms of solving the Company's problems?

21 A. I believe that's an excellent way to  
22 characterize my suggestion.

23 Q. And is it the only solution that is possible  
24 to address the Company's problems?

1 A. No, absolutely not, which is why I believe I  
2 stated while on the stand here that the OCA  
3 would not object to other possible solutions  
4 which the Commission may arrive at to  
5 resolve this situation.

6 Q. And is it fair to say that the OCA would be  
7 open to other possible solutions, so long as  
8 those solutions addressed two points; one  
9 being that the Company gets some additional  
10 financial resources, and the second being  
11 that the Company have a management  
12 governance in place that adequately protects  
13 customers?

14 A. I believe those are two very important  
15 points that the OCA would like to see occur,  
16 yes.

17 Q. The concern that the OCA has about  
18 getting -- about the Company receiving  
19 additional financial resources is that we  
20 have seen in recent years, especially  
21 through these proceedings, that the  
22 management and the governance that exists  
23 presently has not solved problems that have  
24 existed for a long time; is that correct?

1 A. That is correct. I believe the management  
2 that's in place now is the management that's  
3 been in place for the last three to four  
4 years, during which time the situation has  
5 not improved.

6 Q. You were asked on cross by Staff Advocates  
7 whether or not you had an opinion about  
8 whether additional rate increases may have  
9 been appropriate for the Company in the  
10 recent past. Do you recall that question?

11 A. I do recall that.

12 Q. Would you agree that it would be the OCA's  
13 position that full base rate cases would be  
14 required and not step adjustment cases that  
15 we've seen with this Company in the recent  
16 past? We're talking about more frequent  
17 rate cases?

18 A. Generally, yes. Full rate cases are more  
19 appropriate than step increases granted in  
20 isolation of a rate case. Occasionally  
21 there are step increases which follow  
22 shortly on the heels of a full rate case for  
23 investments that are anticipated by a  
24 Company.

1 Q. And those are usually considered within the  
2 context of a full base rate case; right?

3 A. Yes, they are.

4 Q. You were asked about Record Request No. 2.  
5 Do you have that before you? Couple of  
6 questions.

7 A. Record request No. 2, yes. About the  
8 accounts payable?

9 Q. And on cross-examination by the Company, you  
10 were asked specifically about some items at  
11 the bottom of the page which are identified  
12 as "Rate Case Vendors." Do you see that  
13 section?

14 A. I see that section, yes.

15 Q. Are you familiar with the law firm of  
16 Shaheen & Gordon?

17 A. Yes, I am.

18 Q. And did they participate in any of the  
19 pending cases before the PUC -- or the rate  
20 case in particular?

21 A. Yes, they did participate in the rate case  
22 on behalf of the Company. Yes.

23 Q. Did they also represent the Company in the  
24 criminal proceedings that the Company faced

1 in 2009?

2 A. That's my understanding, yes.

3 Q. Is it possible that a portion of that amount  
4 is not related to rate case expenses then?

5 A. I guess that's a theoretical possibility,  
6 but it's... I guess it's possible. But here  
7 they are identified as rate case expenses.

8 So...

9 Q. You were asked whether or not -- whether  
10 insufficient -- on cross by the Company's  
11 counsel, whether -- words to the effect --  
12 or a question to the effect of whether  
13 insufficient rates could explain an increase  
14 in a utility's payables. Do you recall  
15 questioning along that line -- to accept the  
16 premise that isn't it possible that  
17 insufficient rates could result in an  
18 increase in the Company's payables?

19 A. Yes, I accept that premise. Yes.

20 Q. Well, do you -- I believe you were asked  
21 questions like that on cross. Do you recall  
22 those questions?

23 A. I do recall that, yes.

24 Q. Who's responsible for insuring that the

1 Company's rates are sufficient?

2 A. The Company's management is responsible for  
3 requesting rate relief from the Commission  
4 when it believes that's appropriate.

5 Q. Thank you.

6 You were asked about your testimony on  
7 Lakes Region Water Company Exhibit 14 on  
8 cross by the Company. And specifically, I  
9 believe the questioning was targeted at  
10 trying to identify the point you were trying  
11 to make about that information.

12 A. Yes.

13 Q. Would you agree that the point was that the  
14 information is new and it has not been  
15 investigated by the OCA?

16 A. That was generally the point I was trying to  
17 make, yes, that it was information that  
18 hadn't been subject to discovery and that  
19 the information I identified on Page 31 of  
20 that exhibit simply raised some questions  
21 for me. That's all.

22 Q. Thank you. You were asked on cross by the  
23 Company about whether or not you considered  
24 the state of affairs for small water

1 companies in New Hampshire when making your  
2 recommendation or your conclusions about the  
3 Lakes Region Water Company's management  
4 deficiencies. Do you remember that line of  
5 questioning?

6 A. Generally, yes.

7 Q. Okay. And in your experience in water  
8 proceedings at the New Hampshire Public  
9 Utilities Commission, have you seen other  
10 water companies having the extensive  
11 problems and challenges that Lakes Region  
12 Water Company faces in these proceedings?

13 A. I'm aware that there are other small water  
14 companies which come before the Commission  
15 in rate cases. The OCA does not always  
16 participate in all of those dockets, because  
17 they are very small companies and the OCA  
18 has very limited resources. We have  
19 participated in this rate case and other  
20 cases relating to Lakes Region Water Company  
21 because of the significant issues that have  
22 come up.

23 Q. So, focusing on the cases that you've had  
24 experience in at the OCA, do you recall any

1 other case involving a small water utility  
2 that has been like this?

3 A. No, I don't.

4 Q. Thank you. You were asked on  
5 cross-examination by the Company whether or  
6 not Lakes Region was providing a service to  
7 the public by taking on troubled water  
8 systems. Do you recall that line of  
9 questioning?

10 A. Yes, I do.

11 Q. Do you have any specific knowledge about the  
12 improvements or benefits that have enured to  
13 the customers of the water systems that  
14 Lakes Region has taken over since they've  
15 taken over those systems?

16 A. Well, I'm aware that Lakes Region has made  
17 improvements to some of those systems -- to  
18 many of those systems over the years. And  
19 there are some systems that are better off  
20 now than they were when the Company took  
21 over.

22 Q. You were asked about Lakes Region Water  
23 Company, Exhibit 21. Do you still have a  
24 copy of that in front of you? It's the

1 three different pages from three different  
2 annual reports of three different water  
3 utilities.

4 A. Yes, I do have that here.

5 Q. And I believe you were asked a question to  
6 the effect of whether or not Lakes Region  
7 Water Company's current rates are comparable  
8 or compared to or how they compare to the  
9 rates of these other utilities. Do you  
10 recall that?

11 A. Yes, that was the general line of  
12 questioning, was to compare the average  
13 rates of these three companies. Yes.

14 Q. And the two other utilities that are  
15 identified in that exhibit are Pittsfield  
16 Aqueduct Company and Pennichuck Utilities,  
17 Inc.; is that correct?

18 A. Yes. PEU and PAC. Correct.

19 Q. And those are both companies affiliated with  
20 Pennichuck Corporation?

21 A. That's correct.

22 Q. And do you recall, on the first day of this  
23 hearing, Mr. St. Cyr testifying that Lakes  
24 Region Water Company was not comparable to

1 the Pennichuck companies?

2 A. I believe I may have a note to that effect  
3 in my own notes, yes.

4 Q. You were asked on cross whether or not Lakes  
5 Region was doing the best that it can. Do  
6 you remember that question?

7 A. The question sounds familiar. I'm not  
8 exactly sure what my response was.

9 Q. That's okay. Recognizing that you are not  
10 an attorney, is there such a legal standard  
11 at the Commission as "doing the best that a  
12 utility can"?

13 A. I don't believe that's one of the standards  
14 that's usually evaluated.

15 Q. Thank you. With regards to questioning on  
16 cross about your affiliate agreement  
17 testimony, do you recall you were asked  
18 about the evidence that the Company provided  
19 about the cost of the utility services to  
20 the water service company? Do you recall  
21 that?

22 A. Yes. There were a number of the questions  
23 about the affiliate agreements.

24 Q. So there were questions related to how much

1           it cost the utility to provide services to  
2           the Company, and there was discussion about  
3           costs in the range of 19 to the low 20s.  
4           But it was in that range. Do you recall  
5           that?

6       A.    I'm sorry. I believe you just said the  
7           utility -- how much it cost the utility to  
8           provide services to the Company and --

9       Q.    The service company.

10      A.    The service company.

11      Q.    Actually, let me just -- if I could just  
12           show you the -- where's the affiliate  
13           agreement? If I could just show you --

14                           MS. HOLLENBERG: May I approach  
15           the witness, please?

16                           CHAIRMAN IGNATIUS: Please.

17      Q.    (By Ms. Hollenberg) -- Lakes Region Water  
18           Company Exhibit 10, which is the affiliate  
19           agreement. And I believe the second page  
20           and the third and fourth pages are actually  
21           the rates and the terms of the agreement.  
22           The first page is more kind of general  
23           terms.

24      A.    Yes.

1 Q. So, in that document it says that the  
2 agreement is that the utility will charge  
3 the service company \$19 for services of the  
4 utility's employees; is that correct?

5 A. I'm not sure that's the exact language  
6 that's here, but I believe, yes, that's the  
7 intent of this agreement. Yes.

8 Q. Okay. And there's been discussion that  
9 perhaps \$19 isn't the actual cost of the  
10 utility; is that correct?

11 A. There has been discussion about that. I  
12 believe Mr. -- I believe one of the Company  
13 witnesses offered some information about  
14 that as well. I hesitated there because I  
15 couldn't recall whether it was Mr. Mason or  
16 Mr. St. Cyr.

17 Q. And to the extent that it is the utility  
18 recovering costs of its employees for its  
19 services to an affiliate, the standard that  
20 you believe applies is greater of cost or  
21 market; is that correct?

22 A. That is correct.

23 Q. And there was an exchange with Commissioner  
24 Harrington about the fact that we do not

1 have information about what the market cost  
2 of the utility services are; is that  
3 correct?

4 A. That's correct.

5 Q. Okay. If you compare the exhibit that  
6 relates to the affiliate services to the  
7 service company, compared to the service  
8 company to the utility -- if you could  
9 compare those two schedules --

10 A. Yes.

11 Q. -- do you see that the same cost components  
12 are included within that personnel charge?  
13 I apologize. I don't have it in front of  
14 me.

15 A. Appendix A covers the contractor utilization  
16 of water company personnel and equipment.

17 Q. Do you agree, under the heading  
18 Compensation, personnel includes -- the cost  
19 includes employee's hourly rate; payroll  
20 taxes; employee benefits; vehicle cost,  
21 including fuel, maintenance, insurance and  
22 depreciation?

23 A. Yes, that's what's included in that  
24 \$19-per-hour cost.

1 Q. Okay. If you go to Appendix B, it says  
2 under Compensation, personnel, including  
3 pickup truck. And then if you go down --

4 A. Several lines later.

5 Q. -- it says costs include the same category,  
6 the same types of costs: Employee's hourly  
7 rate; payroll taxes; employee benefits;  
8 vehicle cost, including fuel, maintenance  
9 insurance and depreciation. Are those --

10 A. Those appear to be exactly the same  
11 categories in both situations, yes.

12 Q. And do you recall on Day 1 of -- I believe  
13 it was Day 1 of the hearing, Mr. Mason  
14 testified about the basis for the  
15 affiliate's -- the service company's \$50  
16 rate?

17 CHAIRMAN IGNATIUS: Ms.  
18 Hollenberg, I'm going to stop you and ask  
19 you -- we're on redirect here. What is it in  
20 your question that ties to something that was  
21 raised in cross that hasn't already been  
22 addressed or couldn't have been addressed  
23 before? So if you could tailor your question  
24 to that, as I've asked others to do.

1 MS. HOLLENBERG: Well, Mr.  
2 Eckberg was asked a lot of questions about his  
3 position on the affiliate agreement, and I  
4 just wanted to point out to the Commission  
5 that I believe -- and I can do this as an  
6 offer of proof -- Mr. Mason testified on Day 1  
7 that the \$50 rate that the affiliate charges  
8 to the utility is a market rate, and it's not  
9 based on actual costs. So, to the extent that  
10 the services are the same cost components in  
11 each -- for each type of service, either  
12 provided by the affiliate or provided by the  
13 utility, there may be information in the  
14 record that that provides the market rate of  
15 what that service is.

16 CHAIRMAN IGNATIUS: All right.  
17 But that sounds more like a closing argument.

18 MS. HOLLENBERG: Okay.

19 CHAIRMAN IGNATIUS: So, just  
20 focus on what Mr. Eckberg can testify to that  
21 you need to address because of questions that  
22 came up in questioning today.

23 MS. HOLLENBERG: Okay. Thank  
24 you.

1 Q. (By Ms. Hollenberg) Mr. Eckberg, have you  
2 ever heard of a company or a water -- of a  
3 utility having excess employee capacity?

4 A. Well, as I believe I responded to Mr.  
5 Richardson, there was a question in my mind  
6 about what constitutes "excess capacity."  
7 Mr. Richardson suggested that having  
8 adequate employees to cover all the needs of  
9 the company, even during non-regular work  
10 hours, was a necessary requirement for the  
11 Company, that someone would have to respond  
12 to emergencies on off hours, for instance.  
13 And I agreed with that. But I believe that  
14 I then said I'm not sure that means that  
15 that is excess capacity or whether that's  
16 simply appropriate capacity for the company  
17 to have.

18 Q. If you were investigating a utility, and the  
19 facts showed that the utility had employees  
20 that were idle and not active and being paid  
21 for them, would you be concerned about  
22 ratepayers paying for excess capacity?

23 A. I would be, yes.

24 Q. Okay. Thank you. You were asked on cross

1           whether or not it would be rational for the  
2           service company to pay \$50 an hour when it  
3           could pay less than that in the market for  
4           the services it gets from the utility. Do  
5           you recall that?

6           A.    Yes.

7           Q.    Do you believe it's rational for the utility  
8           to pay \$50 for services it gets from the  
9           service company if it could get these  
10          services from somewhere else for less?

11          A.    No.  If it could get those services from  
12          somewhere else, it should, yes.

13          Q.    You were asked about whether or not there  
14          was a benefit to the service company, or  
15          Suissevale, of sharing employees between the  
16          service company and the utility. Do you  
17          recall that?

18          A.    I recall that question.  The question may  
19          have been struck or objected to.  I'm not  
20          sure I made any kind of a response to that  
21          question.

22          Q.    Would you -- does it follow that, if there's  
23          a benefit to the service company or a  
24          wholesale customer of a utility, that the

1 other regulated-utility customer should pay  
2 for that benefit? Does it automatically  
3 follow that that would be the case?

4 A. It doesn't automatically follow. And I  
5 believe that I offered the response which  
6 said I wasn't necessarily concerned with the  
7 financial health of the service company.  
8 That wasn't within the area of the issues I  
9 should be concerned with.

10 MS. HOLLENBERG: Thank you. I  
11 don't have any other questions.

12 CHAIRMAN IGNATIUS: Thank you.

13 Thank you, Mr. Eckberg.

14 You're excused.

15 MR. RICHARDSON: If I may offer,  
16 there was a question raised as to whether the  
17 Shaheen & Gordon expenses included -- I  
18 believe it was related to the criminal defense  
19 in exhibit -- in Record Request 2. I'll  
20 represent to the Commission that they do not.  
21 Those fees have been paid off. They were for  
22 general legal. If there's any -- that's a  
23 very important question. If there's any doubt  
24 as to it, we would provide the Commission with

1 the documentation to that effect.

2 CHAIRMAN IGNATIUS: Thank you.  
3 I don't see any need for further  
4 documentation.

5 Mr. -- I'm sorry. Ms.  
6 Thunberg, I think you would be next in the  
7 witnesses with Mr. Naylor. Are you prepared  
8 to go forward?

9 MS. THUNBERG: Yes.

10 CHAIRMAN IGNATIUS: Let's go off  
11 the record for a moment.

12 (Discussion off the record)

13 CHAIRMAN IGNATIUS: So, let's go  
14 back on the record. I think, because of  
15 the -- we're at the end of the day, we ought  
16 to just commence with Mr. Naylor first thing  
17 on March 27th, at 9:00 o'clock in the morning.

18 Thank you, everyone, for all  
19 of your time. It has been a long day. So  
20 we stand adjourned until the 27th.

21 (Whereupon the Day 3 Afternoon Session  
22 was adjourned at 4:12 p.m.)

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[WITNESS: ECKBERG]

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24**C E R T I F I C A T E**

I, Susan J. Robidas, a Licensed Shorthand Court Reporter and Notary Public of the State of New Hampshire, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes of these proceedings taken at the place and on the date hereinbefore set forth, to the best of my skill and ability under the conditions present at the time.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action; and further, that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.



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Susan J. Robidas, LCR/RPR  
Licensed Shorthand Court Reporter  
Registered Professional Reporter  
N.H. LCR No. 44 (RSA 310-A:173)