

## 1 STATE OF NEW HAMPSHIRE

## 2 PUBLIC UTILITIES COMMISSION

3 **March 21, 2012 - 10:06 a.m.**  
4 Concord, New Hampshire

Day 3

5 MORNING SESSION ONLY

6 NHPUC APRO2'12 PM 4:08

7  
8 RE: DW 07-105 LAKES REGION WATER COMPANY:  
9 *Investigation Into Quality of Service.*  
10 DW 10-043 LAKES REGION WATER COMPANY:  
11 *Affiliate Agreement with LRW Water Services.*  
12 DW 10-141 LAKES REGION WATER COMPANY:  
13 *Petition for a Change in Rate Schedules.*  
14 DW 11-021 LAKES REGION WATER COMPANY:  
15 *Petition for Approval of Long-term Debt.*16  
17  
18 **PRESENT:** Chairman Amy L. Ignatius, Presiding  
19 Commissioner Robert R. Scott  
20 Commissioner Michael D. Harrington

21 Clare Howard-Pike, Clerk

22  
23 **APPEARANCES:** Reptg. Lakes Region Water Company:  
24 Justin C. Richardson, Esq. (Upton & Hatfield)  
Reptg. Property Owners Association at  
Suissevale, Inc. (POASI):  
Douglas L. Patch, Esq. (Orr & Reno)

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

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**APPEARANCES: (C o n t i n u e d)**

**Reptg. Residential Ratepayers:**

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

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Mark A. Naylor, Director - Gas & Water Div.

**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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1 the Property Owners Association at Suissevale, Inc.  
2 Already on the stand is John Skelton, the President of the  
3 Association.

4 CHAIRMAN IGNATIUS: Good morning.  
5 Ms. Hollenberg.

6 MS. HOLLENBERG: Good morning. Rorie  
7 Hollenberg, Stephen Eckberg, Donna McFarland, here for the  
8 Office of Consumer Advocate.

9 MS. THUNBERG: Good morning. Marcia  
10 Thunberg, on behalf of Staff Advocate Mark Naylor.

11 CHAIRMAN IGNATIUS: Good morning.

12 MR. SPEIDEL: Alexander Speidel, with  
13 Jim Lenihan, Doug Brogan, and also Jayson Laflamme, for  
14 Staff.

15 CHAIRMAN IGNATIUS: Good morning. Do we  
16 have any procedural matters, before we resume with  
17 Mr. Skelton?

18 MR. RICHARDSON: Yes. Subsequent to the  
19 hearing last week, Lakes Region and Suissevale had some  
20 discussions concerning Exhibit 15 that had been offered.  
21 And, I don't want to speak for Suissevale, but I  
22 understand that their concerns were that Mr. Skelton  
23 couldn't really provide a foundation for some of the data  
24 that was contained within that table that was provided by

1 the company to me. In order to address that, what I've  
2 proposed doing is offering a replacement exhibit that has  
3 the data in question removed. I can provide that to the  
4 Commissioners now. And, I don't know if you wanted to add  
5 anything to that.

6 CHAIRMAN IGNATIUS: And, before we  
7 distribute it -- I mean, before we decide what to do with  
8 it, has it been distributed to the other parties?

9 MR. RICHARDSON: All the parties present  
10 here today have it. And, we had discussions about whether  
11 we would -- how we would proceed yesterday.

12 CHAIRMAN IGNATIUS: Good.

13 MR. RICHARDSON: So, I haven't sent it  
14 to the service list or anything of that sort.

15 CHAIRMAN IGNATIUS: No, that's okay.  
16 But people know what we're talking about here. Mr. Patch,  
17 anything you want to add to what Mr. Richardson has  
18 described?

19 MR. PATCH: No thank you.

20 CHAIRMAN IGNATIUS: All right. Is there  
21 any objection to substituting? I take it's to substitute  
22 LRW 15 and replace it with a revised version?

23 MR. RICHARDSON: Yes.

24 MS. THUNBERG: No. No objection.

1                   CHAIRMAN IGNATIUS: Seeing no objection  
2 to that, that's fine.

3                   MR. PATCH: Maybe I should just note for  
4 the record that, I mean, as we go through the  
5 cross-examination of Mr. Skelton, there may be some issues  
6 with some numbers on here. So, we're not necessarily  
7 agreeing it ought to be -- that we wouldn't -- it depends  
8 on how the testimony goes, I guess is what I'm trying to  
9 say, because I think some of the numbers in here we may  
10 have some questions about. But we weren't willing to  
11 stipulate to all the numbers in here. We have no  
12 objection to substituting this for the other Exhibit 15.

13                   CHAIRMAN IGNATIUS: But you're not  
14 sponsoring this as an exhibit yourself?

15                   MR. PATCH: That's right.

16                   CHAIRMAN IGNATIUS: Thank you. All  
17 right. So, we will replace the one, and it's marked  
18 "replacement", so that's clear to everyone, with many of  
19 the numbers blacked out.

20                   (LRW Exhibit 15 substituted with a chart  
21 entitled "LRW Exhibit 15 (Replacement)")

22                   CHAIRMAN IGNATIUS: Thank you. Anything  
23 further?

24                   MR. RICHARDSON: Staff has just reminded

1 me that we provided the parties yesterday a copy of the  
2 Company's response to Record Request Number 3. I have  
3 copies of that here with me. It's being -- it was sent by  
4 First-Class Mail to be filed. I have copies for the  
5 Commissioners and any of the other parties that need it,  
6 if the Commission would like that?

7 MS. THUNBERG: Chairman Ignatius, the  
8 document was emailed yesterday afternoon. So, I'm not  
9 certain, unless it was hand-delivered, that you would have  
10 physical copies in your files today.

11 CHAIRMAN IGNATIUS: All right. Thank  
12 you. We have -- I have one record request submission that  
13 was dated March 14th from Mr. Richardson. But I take it  
14 this is a second one?

15 MR. RICHARDSON: That is correct. This  
16 would be dated March 20th, I believe, yesterday's date.

17 MS. THUNBERG: Correction. This is  
18 Record Request Number 3, Attorney Richardson.

19 CHAIRMAN IGNATIUS: All right. And, we  
20 don't have that in our files yet. So, do you expect to  
21 make use of it today or this morning?

22 MR. RICHARDSON: I do not. But it's  
23 possible the Commissioners could ask a question about it,  
24 I don't know. It was mailed yesterday to the Commission,

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1 so I expect, based on the typical speed of the mail, it  
2 will arrive in the mail today. And, it's just available,  
3 if any of the parties or the Commission would like it.

4 CHAIRMAN IGNATIUS: Can you remind us  
5 what Number 3 was? I don't remember.

6 MR. RICHARDSON: This was the accounts  
7 payable, segregated by those within 30 days of the date of  
8 the billing, 30 to 60, 60 to 90, and then the 90 plus.

9 CHAIRMAN IGNATIUS: Ms. Thunberg.

10 MS. THUNBERG: Staff intends to use  
11 Record Request Number 3 as an exhibit. So, either I make  
12 copies or have someone make copies now. Or, if you have  
13 copies, let's distribute them. That's my recommendation.

14 MR. RICHARDSON: All right. I have them  
15 here.

16 CHAIRMAN IGNATIUS: All right. Why  
17 don't we do that.

18 (Atty. Richardson distributing  
19 documents.)

20 MS. HOWARD-PIKE: I have recorded that  
21 Record Request 3 is a different document. I show that  
22 what was recorded was that RR 2 is actually this  
23 particular piece here, with "accounts payable records aged  
24 at 30, 60, and 90 day increments". So, I think I'm

1 suggesting that this needs to be corrected to reflect  
2 "Record Request 2".

3 CHAIRMAN IGNATIUS: Thank you. Does  
4 that comport with other people's recollections?

5 (Atty. Hollenberg nodding in the  
6 affirmative.)

7 CHAIRMAN IGNATIUS: Okay. So, we will  
8 change the heading here that says "Number 3" to be "Number  
9 2". And, we don't need to give it a new exhibit number.  
10 It's in as "Record Request Number 2". And, I take it one  
11 has been received. How many others do we have currently?

12 MS. HOWARD-PIKE: There's actually four  
13 record requests so far. Record Request 1 has been  
14 received. Record Request 2 through 4 have not yet been  
15 received into the docket.

16 CHAIRMAN IGNATIUS: All right. So,  
17 we've just received 2?

18 MS. HOWARD-PIKE: Right.

19 CHAIRMAN IGNATIUS: Can you remind me  
20 what 3 and 4 were asking for?

21 MS. HOWARD-PIKE: Sure. Number 3 is  
22 "Lakes Region Water Services are to provide 2010 and 2011  
23 costs paid for work provided by utility employees." And,  
24 Number 4 is "Lakes Region Water Company to provide the

1 letter between Thomas Mason, Sr., and the utility  
2 providing permission to use the wells at the Mount  
3 Roberts' location."

4 CHAIRMAN IGNATIUS: Thank you. Any  
5 estimate on when those will be submitted?

6 MR. RICHARDSON: We are looking for the  
7 letter that was referenced in -- as Record Request 4.  
8 It's not clear to us if we'll be able to find it as of the  
9 last time we discussed this. So, we will provide a  
10 response at a certain point with the status of that. And,  
11 if we are unable to provide it, then that will be what the  
12 response essentially states.

13 The other, I apologize, I did not have  
14 in my notes the other record request. So, I didn't put it  
15 on anyone's radar, to get the costs for the utility  
16 employees. But we'll take care of that this week.

17 CHAIRMAN IGNATIUS: So, by the end of  
18 this week?

19 MR. MASON: Yes.

20 MR. RICHARDSON: I think so. I'm  
21 nervous, because I know that I've got a pretty business  
22 day Friday. But, I think, if the Commission wanted to set  
23 a date, while it's my intention to get it done by this  
24 week, I think it will be no later than the middle of next

1 week.

2 CHAIRMAN IGNATIUS: Well, how about we  
3 set a date of close of business Monday, the -- I don't  
4 know what Monday's date is.

5 MR. PATCH: March 26.

6 CHAIRMAN IGNATIUS: March 26? Thank  
7 you. For both the outstanding record requests.

8 All right. Anything else before we  
9 resume with Mr. Skelton?

10 (No verbal response)

11 CHAIRMAN IGNATIUS: I appear to have  
12 hogged the copies of Record Request Number 2. I  
13 apologize.

14 All right. So, Mr. Richardson, you were  
15 cross-examining Mr. Skelton, correct?

16 MR. RICHARDSON: Yes. Yes.

17 CHAIRMAN IGNATIUS: Please proceed.

18 (Whereupon *John Skelton* was recalled to  
19 the stand, having been previously  
20 sworn.)

21 MR. RICHARDSON: Good morning, Mr.  
22 Skelton.

23 WITNESS SKELTON: Good morning.

24 MR. RICHARDSON: And, you understand

[WITNESS: Skelton]

1 you're still under oath?

2 WITNESS SKELTON: Yes, sir.

3 MR. RICHARDSON: Okay.

4 **JOHN SKELTON, PREVIOUSLY SWORN**

5 **CROSS-EXAMINATION (resumed)**

6 BY MR. RICHARDSON:

7 Q. I don't recall exactly where we left off last week, but  
8 do you recall that we were discussing essentially  
9 whether the Company -- excuse me, whether Suissevale  
10 had done its own study of what its water supply  
11 capacity needs were?

12 A. We had talked about projected build-out. I'm not sure  
13 what you mean by "water supply capacity"?

14 Q. Essentially, the capacity of the system to serve the  
15 demand that the houses within the development would  
16 create.

17 A. Well, when you talk about "system", I mean, our system  
18 is, you know, we have plenty of lines and pumps and  
19 valves and stuff like that.

20 Q. Right.

21 A. So, if you're talking about source or --

22 Q. Right. Source of supply. Whether you have sufficient  
23 water supply capacity to meet the demand the system  
24 has?

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[WITNESS: Skelton]

1 MR. PATCH: Chairman Ignatius, I think  
2 I'm going to object to the question. I don't quite  
3 understand. I mean, they're a customer of Lakes Region.  
4 So, I don't know why he'd be asking Suissevale about  
5 whether they have sufficient capacity. I mean, they're --  
6 it just doesn't seem to make sense to me.

7 CHAIRMAN IGNATIUS: Well, there was  
8 testimony about a build-out, with Suissevale going through  
9 and assessing build-out and needs. And, along those  
10 lines, maybe you can clarify that question, Mr.  
11 Richardson.

12 MR. RICHARDSON: Uh-huh.

13 BY MR. RICHARDSON:

14 Q. Mr. Skelton, do you have your testimony in front of  
15 you?

16 A. Yes, I do.

17 Q. Okay. Let's turn toward the beginning of it.

18 CMSR. HARRINGTON: Excuse me. Could you  
19 give me the date of the testimony please?

20 MR. RICHARDSON: Yes.

21 CMSR. HARRINGTON: To make sure I have  
22 the right one.

23 MR. RICHARDSON: It should be  
24 "October 14th, 2011", and I believe it's Suissevale

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1 Exhibit 1.

2 BY MR. RICHARDSON:

3 Q. And, you state in your testimony that Suissevale "owns  
4 the system". I'm looking at Page 3 of 10, around Line  
5 85, and the "distribution infrastructure".

6 A. We own the -- we own our distribution infrastructure.

7 Q. And, do you see on the next line, Line 86, where it  
8 says that Suissevale is "financially responsible for  
9 that infrastructure and the actual operation of the  
10 water system."

11 A. Correct.

12 Q. Okay. So, --

13 A. What I mean -- what I mean there is that, everything  
14 after the meter, we're responsible for its operation.  
15 We contract with someone to deal with that, but we're  
16 financially responsible. If a pipe breaks, we got to  
17 fix it.

18 Q. So, do I understand then that your view is is that  
19 Lakes Region Water is entirely responsible for assuring  
20 whether or not there's adequate supply capacity?

21 A. They supply water to our meter. Yes.

22 Q. And, you don't believe that, as the owner of the system  
23 and the person financially responsible for the system,  
24 you share in that obligation or Suissevale shares in

[WITNESS: Skelton]

1 that obligation, to evaluate the capacity of its own  
2 water system?

3 A. I'm having a hard time. I'm not sure I understand the  
4 question. We, I mean, as a member of the Board, we  
5 certainly, as a Board of Directors, we certainly  
6 believe that we have an obligation to -- we want to  
7 make sure that our members have a safe and adequate  
8 supply of water. That was why, in the '90s, we  
9 contracted with Lakes Region to become a wholesale  
10 customer, and we -- that's why, in the early, you know,  
11 in '04/'05, we agreed to contribute money to the  
12 storage tank and we signed a long-term agreement.

13 Q. Right. And, just to be clear, is it true that during  
14 the, I believe, the 1990's, there was actually a  
15 moratorium on new buildings being constructed within  
16 Suissevale, because there wasn't a sufficient supply at  
17 some point?

18 A. Well, you know, obviously, I wasn't a member of  
19 Suissevale in the '90s. But, I do understand, and, so,  
20 I'm not sure of the exact time frame, historically, I  
21 do know that there were water supply issues. The ten  
22 wells that we had drilled and were using for our own  
23 system were not adequate, and we had some shortages.  
24 And, which is what I understand was what led to

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[WITNESS: Skelton]

1 eventually talking to and contracting with Lakes  
2 Region. So, the precise -- whether there was  
3 moratoriums, I know that there wasn't a lot of building  
4 going on.

5 Q. So, if it was an issue in the past, what did Suissevale  
6 do on its own to evaluate whether this storage tank  
7 that was contributed to in 2005/2006, that period, what  
8 evaluation did Suissevale do to determine if that would  
9 be sufficient to meet Suissevale's needs?

10 A. Well, we had discussions with Lakes Region. And, we  
11 were told that -- we were told that building a 325,000  
12 gallon tank, which was like three times what might be  
13 needed otherwise, was going to be a long-term solution.  
14 I mean, we were relying upon Lakes Region and their  
15 expertise.

16 Q. So, you did no studies of your own at that time?

17 A. We did not hire an independent engineer. We did, as I  
18 testified, my understanding is that there was some of  
19 that projection of build-out. But, if you are asking  
20 whether we did our own calculations, no. We were in  
21 discussions with Lakes Region.

22 Q. Uh-huh.

23 A. And, that was why the storage tank project, and our  
24 contribution, was linked to a long-term Water Supply

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[WITNESS: Skelton]

1 Agreement.

2 Q. Right. But that -- now, did that Water Supply  
3 Agreement contain any assurances that it would be  
4 sufficient to meet the maximum build-out within  
5 Suissevale?

6 A. I'm not sure I follow your question. I know that it  
7 has -- that Lakes Region was committing to supply  
8 Suissevale safe drinking standard type water at the  
9 meter.

10 Q. Let me ask you this. You're aware that the well yield  
11 at the -- Skelly's, the well field at Skelly's has  
12 declined in its capacity or its well yields?

13 A. Anecdotically, I think that that's true, from some of  
14 the stuff that I've read in some of the exhibits that  
15 Lakes Region has proposed or submitted in this case.  
16 But we don't have actual records of yields. I know  
17 that, in 2008, it was reported that there were three  
18 wells, and, in 2011, they're reporting that there's  
19 only two wells that are active. So, if they have taken  
20 a well out of service, then, yes, there is a declining  
21 well yield. And, I believe that Mr. Mason testified  
22 that --

23 Q. Yes.

24 A. -- starting in '07 or '08, the yields for those wells

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[WITNESS: Skelton]

1 started going to go down.

2 Q. Right. And, so, essentially, two things have happened,  
3 would you agree? One is is that there's an issue of  
4 the supply demand increasing as the build-out has  
5 occurred, since 2003, when the discussions first began  
6 about obtaining the commitment, and the other thing  
7 that has happened is is the well yield at the existing  
8 facilities has decreased?

9 A. I would agree that there has been, as reported by Lakes  
10 Region, that its well yields -- there has been a  
11 change.

12 Q. Uh-huh.

13 A. I would not agree that there has been material change  
14 in demand, at least on the Suissevale side, since the  
15 '05/'06 time period. I mean, there has been some.

16 Q. Right.

17 A. But not material. That's not the issue, in our view,  
18 of what's going on there.

19 Q. Okay. So, -- but you recall last week, when I asked  
20 you about this, there was discussion of the number of  
21 building permits -- or, excuse me, the number of houses  
22 that had been added, and that was what's shown in LRW  
23 Exhibit 15, as now revised? Do you have that in front  
24 of you?

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[WITNESS: Skelton]

1 A. I have -- I have both the original and the -- I brought  
2 a copy of the revised one with me.

3 Q. Right. So, --

4 A. Or, the one that's blacked out.

5 Q. So, I'll bring you back to what we discussed last week,  
6 which is that there was a beginning of a financing  
7 commitment in 2003. And, at that point, we were  
8 looking at a number of houses that was below 340, which  
9 is what's shown in 2005, right?

10 A. Actually, 2000 -- this chart is actually wrong. My  
11 understanding is that, at year-end 2005, we had 350,  
12 not 340.

13 Q. Okay. But I'm asking you about 2003. And, I think you  
14 provided testimony as to what you thought the number  
15 was back then. And, I recall it being somewhat lower,  
16 in the 2 -- 320.

17 A. It was -- my understanding is that, as of the end of  
18 the year in 2003, there were 314.

19 Q. Okay.

20 A. In '04, there were 330. And, in '05, there were 350.

21 Q. So, in 2003, when the financing discussions began, and  
22 we're looking at a 314 then, to 211 today, that's an  
23 increase of -- excuse me, 364, that's an increase of 50  
24 homes connected to the system?

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[WITNESS: Skelton]

1 A. From 2000 and -- yes. Okay. That math, I agree with  
2 that math.

3 Q. And, that's not a material increase, in your view?

4 A. Not -- well, I don't consider it material, in the sense  
5 that, when I look at the total gallons that were  
6 purchased, you know, last year we purchased  
7 12.3 million gallons; and, in 2003, 10.5 million; 2004,  
8 11.9 million. So, the total purchases has not changed,  
9 you know, maybe 5, 6, 10 percent over that span of that  
10 time. So, I just don't see a dramatic increase in the  
11 total gallons that have been being pumped across.

12 Q. Well, let me ask you this then. You state that  
13 Suissevale was told, back when this financial  
14 commitment was made, that this storage tank would be  
15 "sufficient for its needs", is that -- did I  
16 appropriately paraphrase your testimony?

17 A. We were told that, by building a storage tank that had  
18 325,000 gallons of capacity, that that would be able to  
19 deal effectively with the peak seasonal demands that  
20 occur during those vacation weeks. That they would be  
21 able to use the existing wells on Monday, Tuesday, and  
22 Wednesday, to fill up the tank. And, then, on  
23 Thursday, Friday, Saturday, and Sunday, when everyone  
24 comes up on Fourth of July Weekend, there would be

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[WITNESS: Skelton]

1 plenty of water in storage to draw down. And, I  
2 understand that, from DES records, that 325,000 gallons  
3 is about three times what would otherwise be required  
4 for that total system.

5 Q. Right. But, I guess my question to you is, is that we  
6 don't have a written document that memorializes that  
7 communication that you just paraphrased for us?

8 A. I'm not aware of one. Again, we just -- we were going  
9 by what Lakes Region -- the conversations that were  
10 taking place at the time.

11 Q. So, all we can do is guess as to whether those  
12 conversations would include a full build-out or were to  
13 meet the existing requirements?

14 A. Well, I would have expected that, if Lakes Region  
15 believed otherwise, and they believed that this was  
16 only part of the solution, and that there was much  
17 significantly more to come, in terms of requirements  
18 for the system, that they would have provided us with a  
19 report, an analysis, and the like. The 2008 --

20 Q. But you don't -- you don't have any documents that show  
21 that that was the case. I mean, there was no statement  
22 or report that said "this is for a full build-out."

23 A. Well, I know, I have a copy of a report in 2008 that  
24 Lakes Region submitted to the DES by Lewis Engineering,

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[WITNESS: Skelton]

1 that talked about that, at least as of the Spring of  
2 2008, that they thought that the existing supplies, the  
3 existing water sources, and the storage tank coming on  
4 line, was going to be sufficient for the 2008 summer  
5 season.

6 Q. Right. Now, you understand there's two ways that a  
7 system -- there's two independent requirements that DES  
8 has. One is, there's a question of "whether or not the  
9 well yield capacity is sufficient?" And, the second  
10 is, "whether or not there is sufficient storage  
11 capacity?" You understand those are reviewed  
12 separately by DES?

13 A. I'm not an expert on what DES may or may not require.  
14 I can only go by what I've seen in some reports.

15 MR. RICHARDSON: I'm going to show you a  
16 document here that Tom is distributing. I'd like to mark  
17 it for identification as "Lakes Region Exhibit", and I  
18 believe we're up to "17" now?

19 MS. HOWARD-PIKE: Correct.

20 CHAIRMAN IGNATIUS: Any objection to  
21 being marked for identification?

22 MS. THUNBERG: None.

23 CHAIRMAN IGNATIUS: So marked.

24 MR. PATCH: Not for identification. We

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1 reserve the right to object, depending on the testimony.

2 CHAIRMAN IGNATIUS: Absolutely.

3 (The document, as described, was  
4 herewith marked as **Exhibit LRW 17** for  
5 identification.)

6 CHAIRMAN IGNATIUS: Okay.

7 BY MR. RICHARDSON:

8 Q. Mr. Skelton, have you seen this document before?

9 A. I first saw this last spring, when Mr. Patch and I met  
10 with some DES representatives to discuss Suissevale.

11 Q. And, was it the DES representatives that provided this  
12 to you?

13 A. We may -- Suissevale may have gotten it otherwise.  
14 But, I remember we met with Ms. Pillsbury, Ms. Klevens,  
15 and Mr. Roy.

16 Q. Uh-huh.

17 A. And, I do remember being provided a copy of this at  
18 that time.

19 Q. Well, do you see where it shows, I'll represent to you  
20 that this is prepared by DES, as it states, dated  
21 "March 4th, 2011". And, I think it says by, is it  
22 Cynthia Klevens and Steve Roy, both of whom are with  
23 DES, right?

24 A. When we met with them, you know, that was certainly

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1 what we understood, or I understood.

2 Q. So, you see on the bottom, there's a column for  
3 "Paradise Shores-Balmoral", a column for "Suissevale"  
4 or "POASI", as it's marked, and then there's a  
5 "Combined" column. And, you see on the bottom,  
6 essentially, the facts and figures that DES used to  
7 reach the conclusion. And, the first --

8 A. Wait a minute. When you say the "facts and figures",  
9 are you referring to the "references" or something  
10 else?

11 Q. Well, I was just asking if you saw the columns and you  
12 understood the chart?

13 A. I see three columns --

14 Q. Yes. Okay. So, --

15 A. -- as stated.

16 Q. So, at the bottom, you see there's a question.  
17 Question (a), "is more source capacity required?" And,  
18 it says "no." And, then, in parentheses, "2007 or  
19 2010", right?

20 A. I see that.

21 Q. And, then, for "Suissevale POASI", it says "n/a". Did  
22 DES explain to you what was meant by that?

23 A. We didn't really talk about this. All they did was  
24 said that they had prepared this recently, they had

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1 provided it to Lakes Region, and they wanted to make  
2 sure, since we were a customer of Lakes Region, they  
3 wanted to make sure we had a copy. We didn't -- we  
4 didn't have an opportunity, nor was it purposeful at  
5 the time, to start questioning conclusions or what was  
6 going on.

7 Q. But, then, you see, for the "Combined Water System",  
8 under "more source capacity required", DES is  
9 apparently indicating "yes", additional source capacity  
10 is needed. Is that what DES has told you?

11 A. They presented this number -- they presented this.  
12 And, they didn't tell us details. They said that, in  
13 their view, that there needed to be some additional  
14 source.

15 Q. Right. So, let me ask you about the bottom line then,  
16 under (b). "Is more storage required?" And, you see,  
17 under Suissevale's system, it says "yes"; whereas,  
18 under "Paradise Shore", it says "no", and, then, under  
19 the "Combined System", it also says "no".

20 A. I see that's what it says. But, again, I don't know  
21 what the purpose of this particular chart was, and why  
22 -- what they were trying to portray in breaking out the  
23 two columns.

24 Q. Well, I guess my question to you is, is has DES ever

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1 explained to you the distinction between having  
2 adequate storage capacity and then having adequate  
3 source capacity?

4 A. Have they ever explained it? The only time I have met  
5 with DES is that one time. We talked a little bit  
6 about what would be some of the requirements. I have  
7 an understanding that there's both capacity and  
8 storage.

9 Q. Right.

10 A. And, when I had indicated, here's where -- remember I  
11 had indicated that the 325 was about "three times"?  
12 Now, I remember where I get that from. Where the  
13 minimum storage capacity for the combined system was  
14 123,000, and we've got 325, that's -- when I had said  
15 "three times", now I remember where I got that from.

16 Q. Right. But, you see, in the "combined system", under  
17 the "Design Requirements", they're different, based on  
18 whether the systems are combined into what I would call  
19 a "large production well" versus what is a different  
20 set of rules for a small production well, right?

21 A. I believe that's -- that's true.

22 Q. And, in fact, in 2011, is it your understanding that  
23 the combined system had a demand of closer to  
24 191,000 gallons?

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1 A. I'm not sure I --

2 Q. It's not on this chart. I'm just wondering if you've  
3 had that discussion with DES?

4 A. About the 2011 demands?

5 Q. Yes.

6 A. No, we have not had -- we did not have any discussions  
7 with DES about 2011.

8 Q. Well, I guess my question to you is this. It appears  
9 to me that DES is saying that the storage tank is  
10 adequate to meet DES's requirements for storage tanks.  
11 Are you aware of any information that says that DES  
12 disagrees or has changed its position on that?

13 A. The adequacy of the storage tanks?

14 Q. That's right.

15 A. The 325? No. It's three times what we need.

16 Q. Okay.

17 A. I also know that DES supported the storage tank project  
18 back in 2003.

19 Q. All right.

20 CHAIRMAN IGNATIUS: Can I ask you a  
21 clarifying question, because I'm getting more lost by the  
22 second?

23 BY CHAIRMAN IGNATIUS:

24 Q. The storage, on this LRW 17, the storage under

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1 "Paradise Shores" is "325,000", which seems to be the  
2 number that Mr. Skelton keeps referring to is the  
3 storage tank that the Suissevale property owners built,  
4 and yet the storage under "Suissevale" is only  
5 "24,000". So, --

6 A. I could explain.

7 Q. That would help. Thank you.

8 A. So, and you look at this, and this chart reflects some  
9 historical information for Suissevale. So that, for  
10 example, if you're starting at the top, it identifies  
11 us as "PORS", P-O-R-S, that's that redistribution  
12 system. We have services we currently, you know, as of  
13 this, and I think that that's -- we have 364, they had  
14 "352", I think that they got that from the Lewis  
15 Report. But, then, it says "well sources", "10  
16 inactive wells". I had testified earlier that, you  
17 know, through the '80s and into the early '90s, we did  
18 have our own wells. And, we had ten of them. They  
19 have since been deactivated. So that -- but they're  
20 still, I think, in DES records, and that's why they  
21 say. We had a pump house, that had pumps in it, and we  
22 had three 8,000 gallon storage tanks, for a total  
23 storage capacity of 24,000, that we were using up  
24 through the mid '90s. Even after we connected to Lakes

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1 Region, we still pumped our own water. Yes, I think it  
2 was probably three or four years, up until probably in  
3 the '90 -- well, some part in the mid to late '90s  
4 where it actually got decommissioned. So, those  
5 storage tanks are still there. Whether they could  
6 actually be used or not, I have no -- I have no  
7 understanding.

8 But, in 2000 and -- in that '05, '06,  
9 '07, because we actually finally executed the Water  
10 Contribution Agreement in 2007, we contributed \$300,000  
11 towards the construction of that 325,000 gallon storage  
12 tank, that we intended to be used for the entire  
13 Paradise Shores system, of which we were a customer.  
14 And, we required, as part of that process, that not  
15 only -- we would only contribute if there was a  
16 long-term Water Supply Agreement at the same time. We  
17 weren't going to pay a lot of money towards a project  
18 if we weren't going to get some long-term protection.

19 CHAIRMAN IGNATIUS: All right. Thank  
20 you. And, others may want to clarify further, but that's  
21 helpful.

22 MR. RICHARDSON: I'm just about ready to  
23 wrap up.

24 CHAIRMAN IGNATIUS: Okay.

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1 BY MR. RICHARDSON:

2 Q. Mr. Skelton, you -- that Supply Agreement that you  
3 have, it's your understanding that was predicated upon  
4 Suissevale -- excuse me, Lakes Region being essentially  
5 your sole supplier? There was no other provider of  
6 water, once that agreement was entered into?

7 A. Well, we didn't have a contract with anyone else.

8 Q. And, the pricing was also predicated upon Suissevale  
9 being supplied by Lakes Region?

10 A. I'm not sure I agree with that.

11 Q. Well, let me ask you this. Is it your position that  
12 that agreement allows Suissevale to take no water for  
13 11 months of the year, and then, during the driest  
14 month or the hottest month, in July, when the demand is  
15 highest, you can simply call upon it, like it's an  
16 option contract?

17 MR. PATCH: Chairman Ignatius, I'm just  
18 worried we're starting to stray from the purpose of this  
19 hearing. I don't think the purpose of this hearing is to  
20 get into the valuation of the Water Supply Agreement, you  
21 know? It seems to me, this is a rate case about, you  
22 know, whether or not Lakes Region is entitled to rate  
23 increases. So, I don't know why we need to get into sort  
24 of the legal interpretations of what the Water Supply

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1 Agreement does or does not provide. It seems to me we're  
2 getting a bit far afield.

3 CHAIRMAN IGNATIUS: Mr. Richardson.

4 MR. RICHARDSON: At the outset, when  
5 Mr. Skelton's testimony was introduced, he was asked to  
6 explain by Mr. Patch whether or not, essentially, the  
7 company's development of its own supply would mean, as I  
8 understood it, leaving Lakes Region entirely or whether  
9 there would be, you know, something in between, where they  
10 might develop their own supply and call on Lakes Region.  
11 I'm just curious what his understanding of that testimony  
12 is.

13 The reason why it's very important is,  
14 because, obviously, the payments that Lakes Region  
15 receives are an important aspect of its revenue  
16 requirement. It's an important risk factor in setting  
17 what the Company's rates should be.

18 CHAIRMAN IGNATIUS: Well, I think both  
19 Mr. Mason and Mr. Skelton have testified about whether  
20 Suissevale is going to be "in or out" was the phrase used  
21 the other day, and whether there would be changes to that  
22 relationship. So, I think pursuing this a bit further is  
23 allowable.

24 MR. RICHARDSON: Okay. I'll try to keep

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1 it to the point.

2 CHAIRMAN IGNATIUS: Thank you.

3 BY MR. RICHARDSON:

4 Q. Mr. Skelton, is it your position that the Supply  
5 Agreement that you have with Lakes Region allows  
6 Suissevale to basically call upon demand whenever it's  
7 needed?

8 A. I wouldn't characterize it that way. I think that the  
9 relationship is somewhat of a complicated one. I think  
10 that the Water Supply Agreement and the rate  
11 calculation formula that's included there is a  
12 complicated one. And, that's why I testified that how  
13 that plays out, I'm not really sure yet. Do I think  
14 that we have to buy 100 percent of our water needs from  
15 Lakes Region? I don't believe so. I think that if --  
16 and, as I said, that we're looking for alternative  
17 sources to be able to supplement that system and see if  
18 we can help provide water into that system that's going  
19 to help serve our needs. Which is similar to what we  
20 did when we first started dealing with Lakes Region.  
21 We wouldn't -- the step increase request that was  
22 submitted by the Company, that's been withdrawn, but,  
23 as submitted, would have made Suissevale pay the  
24 highest rates of any customer. And, so, how that plays

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1 out is going to be pretty significant. And, I think  
2 that there's a lot more evaluation that would need to  
3 go into it to be able to answer that.

4 Q. So, then, the question I have, though, is really on the  
5 opposite side. Assuming, as I believe is, Suissevale  
6 is exploring, you add your own source capacity to your  
7 own system, then you'd be looking at reducing the  
8 amount of water that you purchase under the agreement?

9 A. Potentially.

10 Q. And, what is the Company -- what is Suissevale's  
11 thoughts, if you have any, as to whether such a  
12 reduction is permitted?

13 A. I don't think -- I mean, I haven't -- I don't think  
14 I've formed an opinion. Well, let me back up. I don't  
15 think that the Water -- you know, the Water Supply  
16 Agreement, if Lakes Region is going to say they can  
17 charge us for whatever amount, and they can do whatever  
18 they want, in terms of costs, and they get to pass  
19 those costs onto us, and that we are helpless. To say,  
20 instead of buying 12 and a half million gallons, that  
21 we only buy 8 million gallons, as a way to control  
22 costs. If that's Lakes Region's position, I disagree  
23 with that. We're going to try and conserve water.  
24 We're looking at whether or not there's additional

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1 sources. If they had three wells in 2008, and they  
2 only have two wells now, and there's a well that can be  
3 drilled on our property that's going to be much more  
4 cost-effective to add into that system, isn't that  
5 something that we should be looking at?

6 Q. And, what I'm really trying to get at is, is the  
7 allocation of risk in the Supply Agreement is, is that,  
8 if you do that, there is a risk that the amount of  
9 water that Suissevale requires under the Supply  
10 Agreement decreases?

11 A. I think it would. But I disagree with your  
12 characterization of the allocation of risk. On a  
13 certain level, I think that Lakes Region has put all of  
14 their risk and burden upon Suissevale. The Water  
15 Supply Agreement, you know, if you take a look at that  
16 rate formula, --

17 Q. I understand that. I'm not --

18 A. -- we're paying 10 percent return on equity, we're  
19 paying for 22 percent income taxes. We're paying for a  
20 lot in that.

21 Q. I'm not trying to open up a whole discussion as to  
22 what's fair and what's not fair. I'm trying to simply  
23 get at a point. That what Suissevale has discussed  
24 doing, and what I believe you're evaluating, is adding

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1 your own source of supply. And, that that presents a  
2 risk to Lakes Region Water Company, because the volume  
3 of its sales to Suissevale would be correspondingly  
4 reduced, if nothing else changes. Do you agree with  
5 that?

6 A. I don't agree with that characterization. What I would  
7 say is that, what Lakes Region has told us, as of 2010,  
8 is that they don't have, apparently, the source to  
9 serve us. They don't have the money to be able to  
10 develop Mount Roberts to be able to serve us. And  
11 that, if they did develop Mount Roberts the way they  
12 projected, that our rates would essentially -- they  
13 would more than double.

14 Q. I'm trying to ask you a very simple question. And, I  
15 appreciate your desire to expound on other things.  
16 But, really, this is about what happens under the  
17 Supply Agreement, if and when you add additional source  
18 capacity. And, I'm curious why you can't agree or not  
19 agree with the simple question about, if you add your  
20 own source capacity, that would reduce the amount of  
21 water that you would take from Lakes Region, and,  
22 therefore, the amount of money that you pay under the  
23 current arrangement? Isn't that what the contract  
24 provides?

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1 A. I don't want to get into what the contract does or not  
2 provide, because I think it's a complicated question.  
3 I said that I think that if we --

4 Q. Well, I beg to differ.

5 CHAIRMAN IGNATIUS: Mr. Richardson, you  
6 can let him answer the question.

7 **CONTINUED BY THE WITNESS:**

8 A. If we purchase less than 12.5 million gallons, then,  
9 yes, we're going to pay less money.

10 BY MR. RICHARDSON:

11 Q. And, in fact, if Suissevale's wells that it develops  
12 are able to meet the requirements to serve your  
13 year-round residents, which are about a quarter of what  
14 Suissevale's homes are, is that right?

15 A. I think that's an approximation, but, yes.

16 Q. So, then, let's say your wells that you're developing  
17 are sufficient to meet that demand 11 months out of the  
18 year, then you wouldn't make any payments during those  
19 11 months?

20 A. See, I can't go there, because I don't know what's  
21 going to happen. I don't know whether these wells are  
22 going to actually work, whether DES is going to permit  
23 them. There's just too much unknowns to say how that  
24 would play out. And, so, --

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1 Q. Well, isn't it then kind of unfair to criticize the  
2 Company for its planning, when you can't even say where  
3 your own system is going to go?

4 A. No. I don't think that that's unfair at all, because  
5 one of the things that we are doing is we're doing  
6 investigation. We've hired HydroSource. We've hired  
7 another water system engineer that's looking at both  
8 our system operations and our unaccounted for water,  
9 which I think is a huge issue in Paradise Shores.

10 Q. And, that process started because, in 2008, Tom Mason,  
11 Jr., approached you and said this is something that he  
12 felt you ought to look at, isn't that right?

13 A. 2008 or 2010?

14 Q. I'm sorry, 2010.

15 A. When Tom Mason came to us, he didn't come to me, I  
16 believe he came to Bob Boyan, and said "Hey, give you a  
17 head's up. We just filed a rate case. There's a  
18 public notice coming out. And, that public notice said  
19 that our rates were going to go up by I think it's  
20 either 113 or 119 percent. You better take a look at  
21 that."

22 MR. RICHARDSON: Thank you. I have no  
23 further questions.

24 CHAIRMAN IGNATIUS: All right.

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1 Mr. Speidel, does Non-Advocacy Staff have questions?

2 MR. SPEIDEL: Yes. Actually, as a  
3 matter of fact, Non-Advocate Staff has a couple of short  
4 questions, Chairman Ignatius.

5 BY MR. SPEIDEL:

6 Q. Mr. Skelton, would it be fair to describe Suissevale as  
7 a fairly high-density residential development, vacation  
8 home development?

9 A. There's a fair number. We have probably over 400  
10 homes, you know, in not that big of an area. So,  
11 they're -- most of them are between a quarter and half  
12 acre lots.

13 Q. So, it would be fair to say that it would be fairly  
14 difficult to have each individual Suissevale member or  
15 homeowner drill their own wells to supply their own  
16 water, correct?

17 A. Certainly, for the quarter acre lots. Don't hold me to  
18 the numbers, but, if we have 360 homes connected to the  
19 water system now, I think that there's probably 45,  
20 maybe 50 that have their own wells. So, some  
21 homeowners, that have, say, a double or triple lot, and  
22 they can position a well within -- outside the septic  
23 area, some of them do that.

24 Q. Okay. With regards to that, it's most likely then that

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1 some form of community water system will remain the  
2 choice for Suissevale as a whole, correct?

3 A. Absolutely. My understanding -- excuse me. My  
4 understanding is, when it was -- the development was  
5 originally conceived in the '60s, it was with a  
6 community water system.

7 Q. Could you briefly describe any service reliability  
8 issues that have arisen in the last summer?

9 A. In this past summer? Summer 2011?

10 Q. Yes.

11 A. What do you mean by "service reliability issues"?

12 Q. Well, have there been any water outages, any problems  
13 with bacteria, anything of that sort?

14 A. Oh. I don't know the details, but I know that there  
15 were, within the past year, there were a couple of  
16 instances where -- that we got notice that there was  
17 some, I don't want to use the word "contamination", but  
18 there was something in the system that then required --  
19 there was a process that we had to follow. We had to  
20 notify all the members. We had to put -- post, you  
21 know, notices on each door. So, there was -- I believe  
22 there was at least two of those instances. I know the  
23 last one was for chloroform, because I was just up at  
24 my house this past weekend and I was cleaning out some

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1 stuff, and I saw the notice.

2 Q. Oh, you mean the fecal coliform, something like that?

3 A. You know, I don't know what it was. I just know that  
4 it was responded to, it was taken care of. You know,  
5 and we work pretty closely with Lakes Region Water  
6 Services Company, the affiliate, who provides water  
7 services to Suissevale. And, you know, us and the  
8 affiliate that, you know, we put in play notification  
9 and some testing. And, my understanding is that they  
10 were -- they were resolved.

11 MR. SPEIDEL: Thank you. No further  
12 questions?

13 CHAIRMAN IGNATIUS: Thank you.  
14 Commissioner Harrison, questions? Either I have to get it  
15 right or you have to change your name.

16 CMSR. HARRINGTON: Change my name. I  
17 just had a couple of questions.

18 BY CMSR. HARRINGTON:

19 Q. In your testimony, which is however you pronounce it,  
20 "POASI", Exhibit 1, Page 4, on Line 127, what you state  
21 there is that "According to LRWC, the construction of  
22 the 375", which we understand to be 325, "thousand  
23 (375,000) gallon storage tank, which we understood to  
24 exceed the then-DES storage requirements, was designed

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1 to meet the seasonal supply needs for the entire  
2 Paradise Shores system." First question: Is the  
3 Paradise Shore system, is that just the POASI part that  
4 you represent or is it that other, --

5 A. (Witness shaking head in the negative).

6 Q. -- Balmoral system as well?

7 A. It would be both.

8 Q. It would be both. Okay. And, is there anything in the  
9 contract that POASI signed with Lakes Region Water  
10 Company that expresses any type of guarantee or  
11 anything to the point that, if this -- or, the capital  
12 agreement, if this 325,000 gallon water storage tank  
13 was built, that there would be a guarantee of water  
14 supply for some time into the future?

15 A. A specific -- a specific guarantee, no.

16 Q. Okay. Going to Pages 5, 6, and 7, of the same exhibit,  
17 which is your testimony, it starts at the bottom of  
18 Page 5, and it talks about involvement and concerns,  
19 "why did you become involved?" And, it continues over  
20 for the next few pages. And, in my looking at this, it  
21 appears almost all, if not all, of the concerns  
22 originate with the Mount Roberts project. Either  
23 there's no money to build it or it's going to cost too  
24 much, and subsequently would have a major impact on the

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1 rates for POASI. I mean, you mentioned doubling them  
2 and so forth. There was also some concerns about the  
3 ownership of the property expressed and so forth. Now,  
4 the Company, Lakes Region Water Company, has at least  
5 verbally expressed that they're going -- they're  
6 withdrawing the provision from this proceeding on the  
7 Mount Roberts project. That it won't be -- the  
8 1.5 million needed for that will not be included in  
9 this. So, given that, do you have other concerns for  
10 this docket that are not related to Mount Roberts?

11 A. I have a hard time separating the two, in the sense  
12 that we believe that the questions surrounding that  
13 Mount Roberts calls into question long-term viability  
14 and the managerial planning by the Company. But other  
15 --

16 Q. Excuse me.

17 A. But, other than that, the utility, the only  
18 relationship we have with the utility is as a wholesale  
19 customer. And, you know, the water comes through the  
20 meter, and it's been a, you know, it's been safe.  
21 We've had a couple of those issues, but they have  
22 always been dealt with. So, and because our contract  
23 is different than the rates, you know, and our contract  
24 is really going to be driven by capital investments.

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[WITNESS: Skelton]

1 That's why the Mount Roberts project raised such a red  
2 flag.

3 Q. Okay. So, you feel as though that something has to be  
4 done beyond the 325,000 gallon tank to ensure adequate  
5 supply to POASI in the future, either Mount Roberts or  
6 something else, or you investigate your own supply?  
7 And, is that because you've done independent studies or  
8 are you just relying on the Lakes Region Water  
9 Company's assertion that that's the case?

10 A. I think a little bit of all of that. That, you know, I  
11 mean, obviously, DES is saying that there needs to be  
12 more source. And, so, you know, we take that  
13 seriously. The one -- I think there needs to be a --  
14 if we're going to talk about source capacity within  
15 Paradise Shores, that global system, I think there  
16 needs to be a comprehensive approach. And, that we  
17 just can't look at, "okay, do we need another well?"  
18 Because I have been -- I've been looking at this pretty  
19 hard for the last, you know, period of time that I've  
20 been involved in this docket proceeding. And, I look  
21 at, for example, the unaccounted for water within the  
22 system. Both on the Balmoral side of the equation,  
23 which is, in their 2010 Annual Report, they report  
24 23 percent unaccounted for water, over 6.2 million

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[WITNESS: Skelton]

1 gallons. There's some of that on our side. And, we've  
2 taken steps to try and address that. And, so, one  
3 thing that I'm thinking is, that if we were to control  
4 unaccounted for water, would that reduce the need for  
5 additional source capacity? Lakes Region reported they  
6 produced 27 million gallons of water in 2010. We  
7 purchased 13.7 million gallons. That means that  
8 another 12 and a half million gallons was distributed  
9 amongst, you know, the Balmoral customers. And,  
10 there's a -- their annual report, there's a lot of,  
11 again, 6.2 million gallons of unaccounted for water,  
12 2.1 of which is in the third quarter.

13 Q. And, just so we're clear on this, when you say  
14 "unaccounted for water", I'm assuming what you're  
15 saying is, at the meter, at the POASI meter that you  
16 use for the billing purposes for Lakes Region, they  
17 said "this is how much water we're supplying to your  
18 system." And, then, you have metered customers in each  
19 people's home. And, the difference between the total  
20 of the metered customers and what Lake Region, is that  
21 the unaccounted for?

22 A. Yes. So that they report in their annual report  
23 27 million gallons of production.

24 Q. Into your system?

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[WITNESS: Skelton]

1 A. Into the global Balmoral.

2 Q. Okay.

3 A. There's a meter that says "13.7 million", this is in  
4 2010. That 13.7 dropped in 2011. But, in 2010, 13.7  
5 million gallons went into our system. Another 6 plus  
6 million went into the individual Balmoral homes,  
7 because their homes have individual meters. They  
8 report in their annual report 6.2 million gallons of  
9 unaccounted for water.

10 My view is that, if there's that much in  
11 Balmoral, there's probably some within our system.  
12 And, so, a comprehensive approach should be "let's get  
13 under control how much unaccounted for water."

14 Q. Okay. I think I can take this one. You mean, in your  
15 system and the POASI system, there's no individual  
16 meters on the houses?

17 A. Correct.

18 Q. Yes. There was a lot of discussion going back and  
19 forth on whether POASI was going to or should be able  
20 to seek alternate sources of water, by drilling wells  
21 or alternate supplies. Is there anything in the  
22 contract between Lakes Region Water and POASI that  
23 mandates a minimum water purchase by POASI on a yearly  
24 basis?

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[WITNESS: Skelton]

1 A. No.

2 Q. So, I'll understand that to mean, if, for some reason,  
3 you put in a well some place on POASI's property and  
4 you struck it rich with water, and you've got thousands  
5 of gallons of water out of that well, you could simply  
6 reduce your consumption, the amount you purchase from  
7 Lakes Region, and there would be no penalty involved?

8 A. That's my understanding.

9 CMSR. HARRINGTON: Okay. Thank you.

10 That's all I had.

11 CHAIRMAN IGNATIUS: Commissioner Scott.

12 CMSR. SCOTT: Good morning.

13 BY CMSR. SCOTT:

14 Q. Back to the discussion you just had. So, if Suissevale  
15 was able to -- I've got the wrong notes here -- it was  
16 able to find some wells that were productive again,  
17 would that -- do you envision, I know this is very  
18 exploratory, it sounds like, from your comments, do you  
19 envision that requiring any kind of involvement from  
20 the utility or capital investment?

21 A. From Lakes Region or from us?

22 Q. From the Lakes Region, the utility, Lakes Region.

23 A. I don't believe that they -- no. Well, no. I do think  
24 that, and why I was -- I was struggling with

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[WITNESS: Skelton]

1 Mr. Richardson's questions about, and I said it was  
2 "complicated", that, you know, if, for example, I don't  
3 know whether I would call it "striking it rich", but  
4 if, for example, those wells turned out to be  
5 water-producing, good quality water, and were otherwise  
6 able to be permitted, my hope would be that Mr. Mason  
7 and I would sit down and say "Okay. What do you think  
8 is best for the long term of the system and how might  
9 we, you know, structure this?" Where -- how that would  
10 play out, I just think it's too early to tell.

11 Q. That's fair enough. And, my other question is, getting  
12 back to Mr. Harr -- Harrington's first question, again,  
13 not in writing, but Mr. Mason has put in his verbal  
14 testimony that "right now the rate case portion of  
15 Mount Roberts is off the table." So, that's not  
16 currently their desire to have us consider that as part  
17 of their rate case, is my understanding. That being  
18 the case, are there other impacts that, I guess I  
19 didn't quite understand your answer for Mr. Harrington?

20 A. From a pure utility perspective, do we have concerns  
21 about either the amount or the quality of water that's  
22 coming across the meter? No. We think that, if there  
23 are long-term water supply issues, that raises, in our  
24 mind, a concern about the overall utility operations.

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[WITNESS: Skelton]

1 CMSR. SCOTT: That's helpful. Thank  
2 you.

3 BY CHAIRMAN IGNATIUS:

4 Q. Mr. Skelton, attached to your testimony were the Supply  
5 Agreement dated in 2006 and the Capital Contribution  
6 Agreement dated in 2007?

7 A. Correct.

8 Q. Are those still the operative documents or have they  
9 been amended or replaced with anything more recent?

10 A. Those are still the operative ones. I'll just note  
11 that there is an exhibit, there's -- the Water Supply  
12 Agreement had an Exhibit A that had, you know, that  
13 formula that I mentioned. And, I don't see a copy of  
14 that exhibit here. But nothing has -- there hasn't  
15 been any amendments to either agreement since their  
16 execution in '06 and '07.

17 Q. You testified the other day that you -- your  
18 association had sent letters to Lakes Region, I think  
19 you said "in January and March", of last year, would  
20 that be?

21 A. This year.

22 Q. Oh, that's this year? Thank you. About some of the  
23 exploratory work you're doing, is that fair?

24 A. Correct.

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[WITNESS: Skelton]

1 Q. Have you received a response from Lakes Region, the  
2 utility company, saying that would be contrary to the  
3 intent of the Water Supply Agreement?

4 A. We have not received any formal communication in  
5 response.

6 Q. Have you had any conversations that lead you to think  
7 that that's the Company's response?

8 A. Other than the questions from Mr. Richardson, we had  
9 one other conversation. But I think that that would be  
10 -- I'm talking about that we had a conference call one  
11 after -- a Friday afternoon, but I think that that was  
12 probably deemed "settlement" conversations.

13 Q. All right. And, I appreciate you're trying to respect  
14 that distinction. And, I'm not asking you to get into  
15 anything involving any settlement discussions. I'll  
16 leave it at that.

17 In your testimony, you described  
18 concerns about the decision-making and management of  
19 Lakes Region, the utility. Can you give any more  
20 detail on -- or, any examples you have that give you  
21 reason, here's a quote from your testimony on Page 9,  
22 Line 332: "Since that time, we have become very  
23 concerned about the managerial competence and financial  
24 viability of LRWC." Can you give any more detail on

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[WITNESS: Skelton]

1 what you meant by that sentence?

2 A. It's really -- that sentence leads into the next  
3 sentence. And, this is what I had responded to when  
4 Commissioner Harrington asked me a question, really is  
5 the decision making associated with the Mount Roberts  
6 acquisition, proposed development, as well as some of  
7 the other actions reflected in the dockets create --  
8 create that concern.

9 I mean, I've learned, in the past, I  
10 became pretty active last, you know, well, a little bit  
11 over a year or so now. I've learned a lot since then.  
12 I will tell you that, up until the rate case that  
13 included the Mount Roberts proposal, I don't, you know,  
14 it wasn't on our radar screen in the Board of  
15 Directors. We had a contract, we were getting water.  
16 The cost was going up pretty substantially. But, you  
17 know, we were -- I don't want to use the word  
18 "content", but, you know, that wasn't -- we had other  
19 issues that we were dealing with as an association.  
20 When that rate case came in, and Mount Roberts was put  
21 on the table, that would have more than doubled, that's  
22 what triggered for us.

23 Q. Do you have other specific instances of concern? I  
24 mean, the sentences that we've just looked at are

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[WITNESS: Skelton]

1           conclusory, and they make reference to other actions of  
2           the Company, but don't identify anything. So, is there  
3           anything else specific that you think of to back up  
4           that sentence, those two sentences?

5   A.   From the utility's perspective, no. It's that Mount  
6        Roberts, it's the lack of planning, and our concern, as  
7        I said to Mr. Richardson, in response to one of  
8        Mr. Richardson's questions, that if, in fact, something  
9        else needs to happen, if they don't have the financial  
10       capability to put that in place, then that's, you know,  
11       that's a concern. And, so, that's what I was referring  
12       to, when I said "information that I've learned from  
13       these dockets", is I would not have known about their  
14       financial capabilities, or I would not -- we would not  
15       have focused on them, back in, say, June of 2010. We  
16       have since then.

17                   CHAIRMAN IGNATIUS: Thank you. All  
18        right. Nothing else from the Bench. Mr. Patch, any  
19        redirect?

20                   MR. PATCH: I do. Thank you.

21                   **REDIRECT EXAMINATION**

22   BY MR. PATCH:

23   Q.   Mr. Skelton, you were asked a question by  
24        Mr. Harrington about a reference in a 2003 PUC order,

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[WITNESS: Skelton]

1           indicating that Lakes Region had completed negotiations  
2           with Suissevale for a capital contribution toward the  
3           water storage project. Do you recall that question?

4   A.   Mr. Richardson, you mean?

5   Q.   Yes.

6   A.   Yes.

7   Q.   And, the implication of that was that it was resolved  
8           in 2003. Although, I think, as you pointed out in  
9           response to a question from the Bench this morning, the  
10          actual agreement, which is attached as "Exhibit 2", the  
11          actual Capital Contribution Agreement, you know, is  
12          dated August of 2007, is that correct?

13  A.   That's correct.

14  Q.   And, can you provide the Commission with just a little  
15          bit more context about the discussions with Lakes  
16          Region, I think you referred to them as involving both  
17          the Water Supply Agreement and the Capital Contribution  
18          Agreement, sort of the time frames for that, and when  
19          the final capital contribution itself was made?

20  A.   We started, as I came on the Board in 2003, there were  
21          some discussions then. My understanding is, we  
22          believed that going forward with a water storage  
23          project was a good thing. We agreed that contributing  
24          money towards that was a good thing. There were

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[WITNESS: Skelton]

1 various discussions, ongoing discussions, from that  
2 time period through 2007, when the final contract was  
3 executed, as to how much and when we would contribute.  
4 And, there was a linkage between the water supply --  
5 the Contribution Agreement, committing to pay the 300,  
6 was contingent upon getting that long-term Supply  
7 Agreement in place, and that was in 2006. And, the  
8 last -- we made some interim payments, even though the  
9 tank was not operational. Mr. Mason testified there  
10 was litigation, it leaked, they had to basically  
11 rebuild the entire thing. It came on line I believe in  
12 the -- just before the Summer of 2008, and that would  
13 have been when the last payment would have been made.

14 Q. Now, that -- excuse me -- there have been a few  
15 questions about and some responses from you about the  
16 build-out situation in Suissevale. I think  
17 Mr. Richardson had made reference to "no one knowing  
18 where the projected build-out would all end". Could  
19 you explain what your understanding is of the build-out  
20 situation?

21 A. There's a limited number of lots in Suissevale, just as  
22 there are in, my understanding, is in Balmoral. And,  
23 we have always looked at the vacant lots, to try and  
24 estimate whether or not they're buildable. And, as I

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[WITNESS: Skelton]

1 testified, that, you know, we provided that kind of  
2 information to Lakes Region. Part of which is  
3 reflected in that 2008 report that Lakes Region  
4 submitted to DES.

5 Q. Now, there have been some questions about the number of  
6 connections and the amount of water usage that there  
7 has been over the years. You know, I think  
8 Mr. Richardson's -- or, Lakes Region's LRW Exhibit 15  
9 contain some information there, and you had, I think,  
10 some corrections to some of the numbers. I'm going to  
11 show you a chart and ask you a couple of questions  
12 about this, which provides similar information, but  
13 information prepared by, as I understand it, by -- I've  
14 learned to correct my pronunciation, "POSI" [sic].

15 CHAIRMAN IGNATIUS: Now, if you could  
16 just get "Harrison" right, we'd be okay.

17 CMSR. HARRINGTON: I could always change  
18 my name, if it would be easier.

19 (Atty. Patch distributing documents.)

20 BY MR. PATCH:

21 Q. Could you first just tell me what this is that I've  
22 just handed you.

23 A. This is a chart that I asked our business manager,  
24 Robert Boyan, to get together some numbers,

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[WITNESS: Skelton]

1 essentially, that was in response to that Exhibit 15  
2 which had been marked. And, I wanted to identify the  
3 number of -- from 2000 through 2011, the number of  
4 connections, the gallons purchased by Suissevale. And  
5 that, as I indicate, that's, for the first couple of  
6 years, that's calculated based upon the invoices. And,  
7 then, probably from '05 to 2011, we get a report from I  
8 believe -- I believe Mr. Dawson actually provides it to  
9 Mr. Boyan. We get a report that's pretty  
10 comprehensive, that includes meter readings. And, I  
11 think that it goes back through 2005 what we purchased.

12 CHAIRMAN IGNATIUS: Before you go on,  
13 Mr. Skelton, is there any objection to this being marked  
14 for identification as "POASI 2"?

15 MR. RICHARDSON: No. No.

16 CHAIRMAN IGNATIUS: So marked, thank  
17 you.

18 (The document, as described, was  
19 herewith marked as **Exhibit POASI 2** for  
20 identification.)

21 **CONTINUED BY THE WITNESS:**

22 A. So, you have the year, our records as to the number of  
23 connections, houses that are connected to the  
24 distribution system. And, as I believe I responded in

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[WITNESS: Skelton]

1 response to Staff's question, that there's probably  
2 another 45 or so houses within Suissevale that have  
3 their own wells. That would be in addition to these.  
4 So, if there's 364, I believe we probably have around  
5 410 houses within Suissevale; 364 of which are  
6 connected to the distribution system.

7 "Gallons purchased". "Gallons per  
8 connection" is just simply dividing connections into  
9 gallons purchased. We do not have meters. So, that  
10 number is -- it's a little inaccurate, in the sense  
11 that each house is not necessarily consuming  
12 33,000 gallons a year, because there's unaccounted for  
13 water. So, we think it's probably, you know,  
14 substantially less than that. But this does what I was  
15 indicating was that, if you look at, from 2005 through  
16 2011, and when you look at the total gallons purchased,  
17 I just don't think that there has been a material or a  
18 dramatic increase in what Suissevale has been consuming  
19 in these last five or six years.

20 BY MR. PATCH:

21 Q. Okay. I'm going to move on. I'm going to show you LRW  
22 Exhibit 8. And, this is as a follow-up to some  
23 questions I believe from the Bench, and also  
24 Mr. Richardson. And, that's a copy of the 2010 Annual

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[WITNESS: Skelton]

1 Report by Lakes Region, is that correct?

2 A. Yes.

3 Q. And, I'd ask you to -- this is to put some references  
4 to some of the numbers you've already provided. Please  
5 look at Page 123.

6 A. Okay. I'm there.

7 Q. And, you see across the top they have different  
8 columns, there's a "2 PS" about four columns in?

9 A. Yes.

10 Q. And, what's your understanding of what "PS" stands for?

11 A. System Number 2, "PS", my understanding is that's  
12 Paradise Shores. And, that would be the combined  
13 Balmoral-Suissevale system.

14 Q. And, if you look down into the "Water Purchased"  
15 section, the second section there, there's a number  
16 "700". What would you understand that number to  
17 represent?

18 A. If you go back to I believe it's Schedule S-2, which is  
19 Page 118 of LRW 8, it indicates 700,000 gallons were  
20 purchased, I don't believe there was a cost, but that  
21 were purchased from Mount Roberts in the June and July  
22 of 2010.

23 Q. And, then, in the section below that, there's a --  
24 there's a "Total Year" figure in the same column of

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[WITNESS: Skelton]

1 "27,267". What do you understand that to be?

2 A. That's referenced in thousand gallons. So, my  
3 understanding is that is total water produced or  
4 acquired. So, it's available water within the system  
5 of 27 million gallons.

6 Q. And, "within the system", you mean the "Paradise Shores  
7 system"?

8 A. The whole, the combined system.

9 Q. So, that's the 27 million you've -- you referenced when  
10 you answered one of the questions from the Bench  
11 earlier, is that correct?

12 A. That's where I got that information.

13 Q. And, then, over on the next page, Page 124, under "Lost  
14 Water", you see the number "Total Year", again in the  
15 same column, "6,258"?

16 A. Yes.

17 Q. And, what is your understanding of what that number is,  
18 represents?

19 A. Again, that's expressed in 1,000 gallons, so that would  
20 be, based upon this report, I understand that to  
21 reflect that Lakes Region is reporting  
22 6.2 million gallons of "lost water" in 2010.

23 Q. And, then, below that, there's a "Total Year"  
24 percentage, under the -- sort of the final section on

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[WITNESS: Skelton]

1 that page, "Lost Water", it says "23 percent". What's  
2 your understanding of that?

3 A. That reflects what percentage that 6.2 million gallons  
4 is of the 27 million gallons, the total production.

5 The one thing that I would point out is that this chart  
6 and these calculations assumes that every gallon of the  
7 13.7 million gallons that went into Suissevale actually  
8 was consumed and that there was no lost water. So, as  
9 I indicated, I think we have lost water on our side of  
10 the brook, in our system, that we need to deal with as  
11 an association.

12 Q. Now, I mean, just for comparison purposes, in 2011, I'm  
13 on POASI Number 2, it appears that Suissevale used  
14 12,359,000 gallons approximately, is that correct?

15 A. Right. To be accurate, we purchased.

16 Q. Purchased.

17 A. Some of that, I think, probably leaked into the ground  
18 in our system.

19 Q. So, the lost water, if you compare the 6.2 million to  
20 that, is actually a little more than half of the amount  
21 of water that is billed to or was billed to Suissevale  
22 during 2011, is that correct?

23 MR. RICHARDSON: I'm going to have to  
24 object to this.

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[WITNESS: Skelton]

1 BY THE WITNESS:

2 A. Correct.

3 MR. RICHARDSON: Because I have not, and  
4 this was not in the witness's direct testimony,  
5 unaccounted for water wasn't raised on cross. I mean,  
6 there are additional factors this witness hasn't taken  
7 into account. And, I'm either going to cross-examine him  
8 on them or call one of my own witnesses back to explain  
9 the distinctions between unaccounted for water in a  
10 metered system versus an unmetered system and compare the  
11 two.

12 I'm concerned we're -- we're not focused  
13 on the issue that's ultimately to be decided in this case.  
14 I mean, we could spend a lot of time on this, but I don't  
15 think it would really get us further to where we want to  
16 be at the end of today, and hopefully not coming back for  
17 another day.

18 CHAIRMAN IGNATIUS: Mr. Patch, your  
19 response?

20 MR. PATCH: First of all, I don't have  
21 many more questions on this. I just thought it was  
22 important to point in the record where the numbers that  
23 Mr. Skelton had already provided were.

24 And, then, secondly, Lakes Region,

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[WITNESS: Skelton]

1 through Mr. Richardson, has been trying to suggest that  
2 the need for Mount Roberts was driven by increased demand  
3 at Suissevale. And, I think, if you look at these  
4 numbers, as Mr. Skelton has already testified, there's --  
5 it would appear that, if the Company were to address the  
6 unaccounted for water, the lost water, that they may be  
7 able to avoid the need for Mount Roberts altogether. I  
8 mean, those numbers are just so significant, I just think  
9 it's important for the Commission to realize that.

10 MR. RICHARDSON: And, my -- the only  
11 point raised on cross is that the demand has increased.  
12 And, I think the numbers speak for themselves.

13 CHAIRMAN IGNATIUS: Well, Mr.  
14 Richardson, there was, in response to your questions,  
15 Mr. Skelton did talk about "lost and unaccounted for  
16 water".

17 MR. RICHARDSON: Those were the  
18 Commission's questions.

19 CHAIRMAN IGNATIUS: Oh, I'm sorry. Is  
20 that where that began? All right.

21 MR. RICHARDSON: If it would make it any  
22 easier, I mean, we could offer our explanation as a record  
23 request, as it were. I don't really feel a need to go  
24 through and try and cross-examine Mr. Skelton about, you

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[WITNESS: Skelton]

1 know, what's included in the Balmoral unaccounted for  
2 water. I think it's an entirely subsidiary issue. And,  
3 you know, it was not in the testimony. So, I hadn't come  
4 in today preparing to address this issue.

5 CHAIRMAN IGNATIUS: Well, we're at a bit  
6 of a quandary. Because I agree with you that the issue  
7 had not been teed up in direct testimony by any party, and  
8 we've kind of drifted into it today with questioning from  
9 the Bench. A significant proportion of lost water,  
10 however, is a significant issue. And, so, --

11 MR. PATCH: Chairman Ignatius, could I  
12 just say one quick thing?

13 CHAIRMAN IGNATIUS: Yes.

14 MR. PATCH: I would have some concerns  
15 about them just responding in a record request, because we  
16 wouldn't have a chance to evaluate the information. It  
17 would be in the record, we wouldn't have a chance to ask  
18 questions about it. So, I just have some concerns about  
19 that as a way for the Company to respond.

20 CHAIRMAN IGNATIUS: Mr. Richardson.

21 MR. RICHARDSON: The bottom line that I  
22 would offer, if I were to call one of my own witnesses  
23 back to address this issue, would be that one system has  
24 meters, and that's the Balmoral system, and it's

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[WITNESS: Skelton]

1 experiencing approximately 11.7 gallons per minute over  
2 15 miles of pipeline. It's my understanding from my  
3 client that the Suissevale system, based on telemetry, is  
4 experiencing about 7. -- what is it? It's 7, 7 gallons  
5 per minute. But there are no meters. And, so, you know,  
6 when you have defective meters, that's another element.  
7 It doesn't mean that, because you have unaccounted for  
8 water, that's necessarily leaking.

9 The other issue we have is is the rates  
10 themselves, because, as Mr. Mason has already testified  
11 to, the bulk of the Company's customers are in the basic  
12 service charge. So, it doesn't necessarily -- the lost  
13 water doesn't necessarily equate into significant lost  
14 revenue. You know, this is an issue that the Company's  
15 having to address. There's a water conservation plan  
16 that's in Exhibit LRW 14. And, I'm just concerned that,  
17 you know, we're opening up a very complicated and nuanced  
18 area that isn't critical to what is being decided in the  
19 rate case today.

20 CHAIRMAN IGNATIUS: One moment please.

21 (Chairman and Commissioners conferring.)

22 CHAIRMAN IGNATIUS: I think we're going  
23 to allow a little bit more on this issue. We appreciate,  
24 Mr. Richardson, your comment. We don't want to have to be

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1 back again for yet another day here, and should be able to  
2 finish up today. The lost water information does appear  
3 in a Lakes Region Water Company exhibit. You know, LRW 8  
4 is where the percentages come from. So, I think it's not  
5 quite fair to say that "this is something new that no one  
6 could have anticipated."

7 Mr. Patch, if you have a few more  
8 limited areas that really target what's important to you  
9 about the lost water issue, we'll let you go ahead. And,  
10 I think that Commissioner Harrington has a follow-up  
11 question as well on the issue. But why don't you proceed.

12 MR. PATCH: I think, actually, with  
13 regard to the lost water, I've covered everything I'd like  
14 to cover, and I think the issue is before the Commission.  
15 I don't know if Mr. Harrington wants to ask that now or  
16 I've got a couple more areas I'll cover first?

17 CHAIRMAN IGNATIUS: Why don't you go  
18 ahead and finish.

19 MR. PATCH: Okay.

20 BY MR. PATCH:

21 Q. Mr. Skelton, I would like to address your attention to  
22 LRW 14. I can give you a copy of that, unless you have  
23 one up there?

24 A. I don't believe I have a copy of that.

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[WITNESS: Skelton]

1 (Atty. Patch handing document to Witness  
2 Skelton.)

3 BY MR. PATCH:

4 Q. In response to questions I believe both from  
5 Mr. Richardson and the Bench, you discussed, to some  
6 degree, the reduction from three to two wells. And,  
7 I'm looking at Page 35 of Exhibit LRW 14, where it says  
8 "Source & System Overview". And, just to, you know, so  
9 the record reflects, this is a "Report Form for Water  
10 Conservation Plans Small Community Water Systems", as  
11 noted on Page 34, for Paradise Shores, is that correct?

12 A. That's what I understand it to be, yes.

13 Q. And, at the top of Page 35, I'm going to read to you a  
14 sentence, "Reason for New Source". It says, "As stated  
15 in the Paradise Shores Preliminary Well Siting Report,  
16 Mount Roberts Well 2 and 4 will be used to supplement  
17 the declining yield of existing system wells along with  
18 improving capacity for an increase in demand." Did I  
19 read that correctly?

20 A. Yes.

21 Q. So, I mean, from this report then, it's clear that it  
22 isn't just an increase in demand, but there is, in  
23 fact, a declining yield of system wells?

24 A. Yes. And, I guess that was my biggest concern,

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1 starting with when Lakes Region put that chart  
2 together, LRW 15. I don't think that just focusing on  
3 what Suissevale may be purchasing tells the entire  
4 story. I think it's -- I agree with Mr. Richardson,  
5 it's more complex, it's more nuanced. And that, you  
6 know, when and if the Company comes in with a step  
7 increase or others that's specifically dealing with  
8 Mount Roberts, I suspect that there's going to be a  
9 whole lot of investigation and an evaluation is going  
10 to need to take place. I just wouldn't want this  
11 proceeding to paint Suissevale as this gobbling up all  
12 the water and causing the need for more source, because  
13 I don't think that that's accurate or fair.

14 Q. I'd ask you to look at the next paragraph --

15 MR. RICHARDSON: And, just for the  
16 record, no one's made that suggestion. I don't think  
17 that's anywhere in the record here today.

18 BY MR. PATCH:

19 Q. I'd ask you to look at the next paragraph on that same  
20 page, about in the middle of that, I'm going to read to  
21 you two sentences. "There are an estimated 50  
22 additional service connections within the Paradise  
23 Shores CWS that could exist at full build-out. This is  
24 the maximum number of services that could be added in

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1 the future; however, there is no evidence to suggest  
2 that this would happen any time in the near future."

3 Did I read that correctly?

4 A. Yes.

5 Q. And, is that your understanding as well?

6 A. Yes. As a matter of fact, that was -- both those  
7 charts indicate that there has been very little  
8 building, in Suissevale, since 2005. And, I would  
9 suspect that the same holds true in Balmoral.

10 Q. Now, there have been a couple of references, this is  
11 the final area of my redirect, so I appreciate the  
12 Commissioners' patience, but there have been a couple  
13 of references to the Lewis Report that was done in  
14 2008. Do you recall those?

15 A. Yes.

16 MR. PATCH: And, I have copies of that  
17 report that I would like to ask be marked for  
18 identification as an exhibit.

19 MR. RICHARDSON: Objection. This didn't  
20 come out on cross. I have no idea what this report is  
21 going to say.

22 MR. PATCH: Well, it's actually  
23 referenced specifically in the Replacement Exhibit 15 that  
24 he brought in this morning. If you look at the bottom, it

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[WITNESS: Skelton]

1 has, as references, the Lewis Report.

2 CHAIRMAN IGNATIUS: I don't think it's  
3 15, but, if you look at 17, --

4 MR. PATCH: Okay. I'm sorry.

5 CHAIRMAN IGNATIUS: -- there is the  
6 reference "Lewis Engineering response", is that what  
7 you're referring to?

8 MR. PATCH: That's right.

9 CHAIRMAN IGNATIUS: And, the reason for  
10 exploring it further today is what?

11 MR. PATCH: Well, there are a couple of  
12 references in this report that I think may help to have in  
13 the record, to clarify some of the questions that have  
14 been asked on cross and from the Bench.

15 MR. SPEIDEL: Is this to be marked as  
16 "POASI Exhibit 3", Mr. Patch?

17 MR. PATCH: That would be my hope.

18 MR. SPEIDEL: Okay.

19 CHAIRMAN IGNATIUS: All right. Well,  
20 let's mark it for identification. We'll let you get  
21 started, but I really am concerned that the further we go,  
22 the further we are from reaching conclusion.

23 MR. RICHARDSON: And, I'm concerned that  
24 we've just, I mean, I wish we could have an offer of proof

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1 what this exhibit is going to be used for before we hear  
2 the questions. Because the fact that DES referenced it as  
3 a footnote in one of its own analysis is, I mean, the  
4 witness had a chance to explain what his knowledge was of  
5 the system, and I didn't hear any -- any need to go beyond  
6 what the document said.

7 CHAIRMAN IGNATIUS: Well,  
8 Mr. Richardson, I think you did open the door with your  
9 Exhibit LRW 17. So, let's hear, Mr. Patch, how these  
10 relate. Let's mark it for identification as "POASI  
11 Exhibit 3".

12 (The document, as described, was  
13 herewith marked as **Exhibit POASI 3** for  
14 identification.)

15 BY MR. PATCH:

16 Q. Maybe the quickest thing to do would be, Mr. Skelton,  
17 if I were to ask you, I mean, you've had a chance to  
18 look at this report, is that correct?

19 A. Yes.

20 Q. Are there any, you know, I think there are only maybe  
21 two or three things, but are there two or three things  
22 in this report that you'd like to bring to the  
23 attention of the Commission that have been covered  
24 already, in one form or another, in questions that have

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1           been asked and answered?

2   A.   Well, I think it goes to Commissioner Ignatius's  
3       comment that LRW 17 is based, to at least some  
4       significant extent, on this report, POASI 3.  And, so,  
5       I don't -- if you're going to adopt any of the numbers  
6       or the rationale, you have to look at this.  The thing  
7       that I drew from the Lewis Engineering Report was that  
8       -- that at the time, in April of 2008, there were three  
9       wells that were operating.  We now know that there are  
10      only two, or at least that's what's been testified to,  
11      and that, and most significantly, that they -- that  
12      they were not projecting that, in April 2008, that they  
13      were going to need to tie into the Mount Roberts wells  
14      to supply well -- to supply water for that summer.  
15      And, so, something must have happened after 2008 that  
16      -- if Mount Roberts is now necessary.  The Company's  
17      position, as of 2008, was that it wasn't needed.

18                   And, I point to, on Page 3, the very top  
19      paragraph, second line:  "Our conclusion is that the  
20      water supply needs for the Summer of 2008 may be met  
21      with a combination of the existing Paradise Well Field  
22      wells, and the new water storage facility being in  
23      service."  As of this time, it hadn't come on service  
24      and it was coming on.  This quote -- continuing, it

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1 says, "This is backed up by having the existing test  
2 well", that's Mount Roberts, "near the water storage  
3 facility available, if needed, in an emergency." So,  
4 as of April of 2008, the Company's position was, their  
5 existing wells -- the combination of their existing  
6 wells and the water storage tank was sufficient to meet  
7 the summer needs.

8 CHAIRMAN IGNATIUS: But, Mr. Patch, I  
9 guess we're not at issue here over whether or not there  
10 was adequate water in 2008. So, do we need to go into  
11 this? I guess I'm not seeing the point. There has been  
12 testimony that the well declined -- the well yield has  
13 declined, and that they've gone from three to two, that's  
14 all established. So, you don't need this to do that.  
15 And, I'm not seeing the value of this additional exhibit.

16 MR. PATCH: Well, I think -- I think it  
17 relates to Exhibit 17 that the Company has introduced. I  
18 thought it was important for the Commission to sort of  
19 have this in the record. I think it also relates to the  
20 issue that, you know, Mr. Richardson was trying to make on  
21 cross-examination, about increased demand, you know, from  
22 Suissevale being the driving force for the need for Mount  
23 Roberts. And, he went through a number of questions about  
24 that chart in Exhibit 17. I'm all done. I have no

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1 further questions on this. But I would recommend that the  
2 Commission keep it in the record, and the responses that  
3 Mr. Skelton gave I think just enlarged the record on this  
4 issue.

5 CHAIRMAN IGNATIUS: Mr. Richardson.

6 MR. RICHARDSON: The Company has never  
7 suggested that "increased demand" was what led to the need  
8 for Mount Roberts. I think that there's a distinction  
9 here, and that's that the Company's position has been that  
10 the demand has increased since the original decision was  
11 made relative to the storage tank, and that these are  
12 separate -- storage requirements and well requirements are  
13 separate criteria that DES evaluates. I'm confused by  
14 what we've just heard this witness testify to. Because,  
15 as I understood his testimony, it was that he was saying  
16 that the -- this confirmed that the storage tank was  
17 intended to be sufficient to cover all the needs. But, if  
18 you look at it carefully, it says what we just heard, this  
19 is backed up by having the existing test well near the  
20 water storage facility available. That's the Mount  
21 Roberts well.

22 But, again, we are going way beyond the  
23 level of detail that was asked in cross. This is really  
24 an opportunity to expound upon the witness's direct

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1 testimony, except for we've done it out of order. And,  
2 now, I haven't had any opportunity to cross the witness.  
3 I don't see any benefit to it, but we're left with this  
4 evidence in the record that the Company really disagrees  
5 with at this point.

6 CHAIRMAN IGNATIUS: Well, again,  
7 Mr. Richardson, though, you put on LRW 17, and you  
8 specifically asked about those Questions (a) and (b),  
9 about "more source capacity required" and "more storage  
10 required". You went through those line-by-line. And, we  
11 are told that the source of the information that allowed  
12 DES to create this chart was the document that Mr. Patch  
13 has put in. So, although I'm not sure about his,  
14 Mr. Patch's questions --

15 MR. RICHARDSON: But that's just the  
16 numbers. I mean, this is about different conclusions that  
17 aren't anywhere in that document.

18 CHAIRMAN IGNATIUS: I'm not talking  
19 about Mr. Patch's questions, because, as I said, I didn't  
20 see a lot of relevance. I'm talking about the document  
21 itself, and how it seems to relate to what you  
22 specifically developed in your cross-examination about  
23 those Questions (a) and (b), and wanted us presumably to  
24 draw some conclusions about those "yes" and "no" answers.

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[WITNESS: Skelton]

1 Otherwise, I'm not sure why you would have gone through  
2 the questioning.

3 MR. PATCH: And, if I could just point  
4 out, there are actually conclusions in Exhibit 17, if you  
5 look at the bottom. I think they're even referenced as  
6 such. You know, they're done by DES. We haven't had DES  
7 here to -- you know, "is more source capacity required?"  
8 "Is more storage required?" Those seem like conclusory  
9 questions with answers to them, and we did not have DES  
10 here to ask questions about that chart. So, I think it's  
11 important to keep this in the record as a -- you know,  
12 and, actually, some of it is favorable to Lakes Region, as  
13 Mr. Richardson has already pointed out.

14 CHAIRMAN IGNATIUS: Can I get an  
15 understanding from the parties on a question of what the  
16 purpose of all of this is? Is the concern or is the point  
17 to be made that, not whether or not Mount Roberts is  
18 needed or isn't needed, but that -- or, that Mount Roberts  
19 should be or should not be included in any rate  
20 determination in this case, but it goes to whether the  
21 Company is adequately planning for the future and thinking  
22 about needs of its customers? Is that ultimately what the  
23 reasoning everyone wants this in or out goes to?

24 MR. RICHARDSON: That is the reason for

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[WITNESS: Skelton]

1 my cross-examination, is to simply respond to the  
2 witness's direct testimony, that it was promised that the  
3 storage tank would solve all of the future needs. And,  
4 there was a question raised by the Commission during the  
5 questioning of this witness as to whether or not -- or,  
6 that indicated that the Company had verbally withdrawn  
7 Mount Roberts from the case. And, that was actually done  
8 in response to a data request, I believe. And, so, we're  
9 really -- it has no relevance to the rate case. The  
10 Company has, I believe, made clear that we don't -- we're  
11 not requesting any costs for Mount Roberts. All of this  
12 is going to have to get reviewed in another proceeding.

13 So, I agree that the reason for going  
14 into it is very limited. The reason why I'm being  
15 cautious is, is because I think there's a disagreement  
16 about what the ultimate conclusion will be reached about  
17 under the 2007 docket. Our position is, is that that  
18 docket is limited to RSA 674:47-a [374:47-a?], which is  
19 what's in the order of notice, that refers to "an imminent  
20 and serious threat to public health and safety." And,  
21 that there's nothing in this case that we've heard that  
22 suggests that such a threat exists. So, ultimately, the  
23 Company feels none of this comes back in in any really  
24 significant way in this case, and we're -- we're spinning

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1 our wheels.

2 CHAIRMAN IGNATIUS: And, Mr. Richardson,  
3 is it your view that that's the only criterion which one  
4 could order receivership?

5 MR. RICHARDSON: That is what the  
6 statute says, that is what the Commission's order of  
7 notice says. So, yes. There are other statutes. For  
8 example, I believe 374, it's either 22 or 28, that refers  
9 to "revocation of a franchise". But that requires order  
10 of notice or notice and a hearing, and there's been no  
11 notice of that in this case. There's been no testimony on  
12 that criteria evaluating it. And, so, we would,  
13 obviously, object to proceeding under that statutory  
14 provision. That was what the parties argued.

15 CHAIRMAN IGNATIUS: The cite is  
16 "374:47-a", and not "674". And, I would ask you to take a  
17 look at the sentence that says "The Commission may also  
18 appoint a receiver or direct its staff to take such  
19 temporary action as is necessary to continue" -- "to  
20 assure continued service, if, after notice and hearing,  
21 the Commission finds that any public utility regulated  
22 under this chapter is consistently failing to provide  
23 adequate and reasonable service."

24 MS. HOLLENBERG: Chairman Ignatius, if I

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1 might comment on your question that started the response?

2 CHAIRMAN IGNATIUS: Yes.

3 MS. HOLLENBERG: And, I can do that  
4 after Attorney Patch, if he has anything to add at this  
5 point.

6 MR. PATCH: Well, the only thing I would  
7 like to say is that my clients, obviously, are concerned.  
8 You know, as Mr. Skelton testified, they became concerned  
9 when the rate case, you know, was introduced, and based on  
10 what they were told about the possibility of the rates  
11 going up. So, they became very concerned at that point.  
12 We don't have a position, at this point in time at least,  
13 on some of the issues raised by the Consumer Advocate and  
14 the Staff, but they're serious issues about the future of  
15 the Company. We're just trying to enlarge the record,  
16 specifically as it applies with regard to Suissevale,  
17 about sort of what the situation is and what the future  
18 might bring. And, so, I think, for that reason, you know,  
19 the Lewis Report, and the other documentation that's been  
20 provided, is important for the Commission to review.

21 CHAIRMAN IGNATIUS: All right.

22 Ms. Hollenberg.

23 MS. HOLLENBERG: Thank you. Just  
24 briefly. I think that what you're seeing, I mean, the

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1 question that you asked is "what is the purpose of the  
2 evidence that you're hearing right now?" And, what is  
3 coming to my mind, as a representative for residential  
4 customers, is that it's being given to the Commission  
5 perhaps not for a determination in this docket, but  
6 perhaps for one down the road, and suggesting to me that  
7 there may be an argument down the road that the customers  
8 of POASI not pay for the costs associated with Mount  
9 Roberts, which causes me some concern as a residential  
10 customer advocate.

11 And, you know, I'll take no position on  
12 whether or not you consider it. And, I'll defer to you in  
13 terms of the weight that you give to the evidence. But I  
14 do think that that issue is not presently before the  
15 Commission. Thank you.

16 CHAIRMAN IGNATIUS: Thank you. Any  
17 other comments on this issue?

18 (No verbal response)

19 CHAIRMAN IGNATIUS: If not, I think  
20 we'll take under advise -- I mean, ultimately, there will  
21 be a decision about what exhibits will become permanent  
22 exhibits. They're only marked for identification right  
23 now. So, can we move on?

24 MR. PATCH: I have no further questions

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1 of Mr. Skelton.

2 CHAIRMAN IGNATIUS: Thank you.

3 Mr. Richardson, yes.

4 MR. RICHARDSON: I believe you asked a  
5 question about the receivership statute.

6 CHAIRMAN IGNATIUS: Yes.

7 MR. RICHARDSON: And, if I understood  
8 correctly, you read from the sentence beginning "the  
9 Commission may appoint a receiver or direct its staff to  
10 take such temporary action as is necessary to [ensure]  
11 continued service, if, after notice and a hearing, the  
12 Commission finds that any public utility regulated is",  
13 and I'll skip ahead, "is failing to provide adequate and  
14 reasonable service." To me, that presupposes that there's  
15 already been a finding for the appointment of a receiver.  
16 That appears to be what it says. I don't think that we  
17 can leap-frog the standard for appointment of a receiver  
18 in a receivership docket, and simply get to another  
19 conclusion, which is "whether or not the service is  
20 reasonable?" I think that it is reasonable. But, you  
21 know, we're in a case where there's been a settlement.  
22 There was a monitoring period for several years. And,  
23 there was testimony that suggested that the companies  
24 should be sold, because it has inadequate access to

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[WITNESS: Skelton]

1 capital. That was what the issue coming in here was.  
2 And, what's happening is that all sorts of other issues  
3 are being wrapped into this case under this rubric of "is  
4 the Company" -- "could this Company's service be better?"  
5 And, the problem is is that the bulk of this wasn't in the  
6 testimony, and it simply wasn't relevant to the issues  
7 coming into the case, because the 2007 docket was about  
8 receivership.

9 CHAIRMAN IGNATIUS: Well, Mr.  
10 Richardson, I think you're a little late in the game to be  
11 raising issues of what was appropriately prefiled. There  
12 was a lot of testimony about the managerial competence of  
13 the Company in testimony, and you didn't move to strike  
14 that. So, I think we're -- to say today "that goes beyond  
15 what these consolidated cases were supposed to be taking  
16 on", I think is -- I would not grant any request to limit  
17 it at this point. But I do think we've got to keep on  
18 moving here. So, can we --

19 MR. RICHARDSON: Understood.

20 CHAIRMAN IGNATIUS: And, I'll take your  
21 interpretation of the statute and we'll think about that.  
22 Mr. Harrington had a question.

23 CMSR. HARRINGTON: Yes. This should be  
24 very quick.

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[WITNESS: Skelton]

1 BY CMSR. HARRINGTON:

2 Q. Mr. Skelton, I'm just trying to get the idea straight  
3 on this "missing water" thing, I always seem to go back  
4 to that, but it's been brought up a number of times.  
5 It sounds like, and tell me if I'm wrong here, we're  
6 talking about water is delivered to the meter by Lakes  
7 Water Company, to the meter that they use to bill your  
8 homeowners association for usage, is that correct?

9 A. I think it relates to water put into the entire system.

10 Q. Okay. Well, can we just back up?

11 A. Okay.

12 Q. You have a meter that Lakes delivers water to?

13 A. Correct.

14 Q. Okay. And, then, somewhere downstream of that meter,  
15 is that, with the missing water we're talking about, is  
16 something that occurs in the part of the system that's  
17 owned by POASI?

18 A. I think both. I think that there is -- I think that  
19 there's probably lost water that, when it comes through  
20 our meter, 13,700,000 gallons came through our meter.  
21 Some amount of that actually went into people's houses,  
22 and they drank it, and they showered, and they cooked  
23 with it and the like. Because we don't have individual  
24 house meters, we can't subtract the amount that -- the

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1 total amount going into all those houses from the 13.7.  
2 We're starting to track that, because we have a  
3 telemetry system that tracks the gallons per minute  
4 24/7. And, so, you try and look at how much water is  
5 going through the meter at 2:30 in the morning, when  
6 hopefully everybody is sleeping, and so it should be  
7 very low. And, if it's very high, that indicates "ooh,  
8 you may have a problem someplace. You better go  
9 investigate it."

10 Q. Okay. Just so we can keep this short. But, my issue,  
11 I guess what I'm trying to get clear here is, all the  
12 numbers we heard about of so-called "missing water" was  
13 water that was missing either in the Balmoral system or  
14 the POASI system, downstream of the delivery point from  
15 Lakes Region. So, it was in equipment that they don't  
16 own.

17 A. No. No. As a matter of fact, so, if there's a master  
18 meter before the Balmoral-Suissevale system, and the  
19 Balmoral-Suissevale system is cut in half. My  
20 understanding that 27 million gallons went into a pipe;  
21 13.7 went across Shannon Brook into Suissevale; 12 plus  
22 stayed in Balmoral. Of that 12 plus, when you  
23 calculate, you take 27, minus the 13.7, you come up  
24 with a number. You subtract from that the actual meter

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1 readings from the Balmoral customers, that's where I  
2 think they came up with the 6.2 million.

3 Q. Again, what I'm trying to determine is, is the losses  
4 are -- it comes out of the Lakes Region system, and  
5 their ownership of the pipe stops at the meter?

6 A. No. That 6.2, my understanding is that's lost or  
7 unaccounted for in their ownership system.

8 Q. Okay.

9 A. Before it gets to our meter.

10 Q. It's lost before it gets to your meter?

11 A. Correct.

12 CMSR. HARRINGTON: All right. Thank  
13 you.

14 CHAIRMAN IGNATIUS: All right. Do we --  
15 can we be done with this witness? In the normal course,  
16 we would not have any further questioning. Because this  
17 did go further afield than is normal on redirect, I don't  
18 want to disadvantage Mr. Richardson and the Company. But  
19 do you have any limited recross, I say that with some  
20 hesitation?

21 MR. RICHARDSON: I do. I can be very  
22 brief with it.

23 CHAIRMAN IGNATIUS: Thank you.

24 MR. RICHARDSON: I'm going to be at a

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[WITNESS: Skelton]

1 are using.

2 Q. Uh-huh. Now, the Suissevale system is unmetered, but  
3 you're measuring it during -- using telemetry, right?

4 A. We paid for and had installed the telemetry system last  
5 year.

6 Q. And, am I correct in understanding that it's about  
7 3.6 million gallons a year that's unaccounted for?

8 A. You know, I don't know that, but I heard Mr. Dawson say  
9 "7 gallons per minute". And, so, I did some quick  
10 math, the same, --

11 Q. Okay.

12 A. -- 60, 24, 365, and that comes out to  
13 3.7 million gallons. That very well may be. That's an  
14 issue that we need to deal with.

15 Q. Okay. And, it's your understanding that, "yes" or  
16 "no", that -- strike that question. I'm not going to  
17 go any further. Is it true there's about 1,200 lots in  
18 Suissevale's development?

19 CHAIRMAN IGNATIUS: Mr. Richardson, why  
20 is this necessary? How does that relate to the new  
21 exhibits?

22 MR. RICHARDSON: I'm just trying to get  
23 to -- trying to get to whether or not the evaluation of  
24 what's buildable and not buildable.

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1 CHAIRMAN IGNATIUS: That was fully  
2 developed and opportunity on your first round. So, why --  
3 what is it about this new exhibit that causes you to have  
4 to do it now?

5 MR. RICHARDSON: Well, I believe Mr.  
6 Patch asked some questions about what the maximum  
7 build-out capacity would be for Paradise Shores, Balmoral,  
8 and I just wanted to ask what the number of lots were that  
9 would be evaluated.

10 CHAIRMAN IGNATIUS: You also asked  
11 Mr. Skelton about build-out and could have done it then.  
12 I don't really care about the number. I just -- I don't  
13 want to begin another whole line.

14 MR. RICHARDSON: Understood. I just --  
15 I'd like to ask, I'd like the Commission to know the  
16 number of lots, so that it has an appreciation for --

17 CHAIRMAN IGNATIUS: If the witness  
18 knows, that's fine. But let's not begin a whole new set.

19 **BY THE WITNESS:**

20 A. I think, in 1960 or '62, when Suissevale was first  
21 conceived, there were probably 1,600 lots identified.  
22 Those are quarter acre lots. Those are not buildable.  
23 The total number of build -- and, so, most of them have  
24 been combined into double or triple lots. My

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1 understanding is, 364 -- we have 364 on the system,  
2 another 45, we got about 410 houses. And, I believe  
3 that we have 200, maybe a little bit less, of lot  
4 owners, of which I think that there's probably 40 to 45  
5 that are projected to be buildable. The others are  
6 underwater.

7 MR. RICHARDSON: Thank you. That was  
8 it.

9 CHAIRMAN IGNATIUS: All right. Thank  
10 you. Is there anyone else with a burning question or can  
11 we thank Mr. Skelton and move on?

12 (No verbal response)

13 CHAIRMAN IGNATIUS: Seeing no other  
14 questions, thank you for your patience. And, our hope is  
15 to go to 12:30 or a little before, and then take a lunch  
16 break. I think next up, would it be Staff Advocate and  
17 Mr. Naylor or the OCA? Had the two of you talked about  
18 switching off on that one or not?

19 MS. HOLLENBERG: No. We can proceed, if  
20 you'd like, the OCA.

21 CHAIRMAN IGNATIUS: All right.

22 MS. HOLLENBERG: If I might call Stephen  
23 Eckberg to the stand please.

24 (Whereupon **Stephen R. Eckberg** was duly

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[WITNESS: Eckberg]

1 sworn by the Court Reporter.)

2 MS. HOLLENBERG: Good afternoon, Mr.

3 Eckberg.

4 WITNESS ECKBERG: Good afternoon.

5 **STEPHEN R. ECKBERG, SWORN**

6 **DIRECT EXAMINATION**

7 BY MS. HOLLENBERG:

8 Q. Could you please state your full name.

9 A. My name is Stephen R. Eckberg.

10 Q. And, what is your position at the Office of Consumer  
11 Advocate?

12 A. I'm a Utility Analyst with that office.

13 Q. Did you file testimony in this proceeding?

14 A. Yes, I did.

15 MS. HOLLENBERG: Excuse me, Chairman, do  
16 you have copies of that testimony or do you require  
17 copies?

18 CHAIRMAN IGNATIUS: We do.

19 CMSR. HARRINGTON: Could you provide us  
20 the date?

21 MS. HOLLENBERG: The date is "October  
22 14, 2001".

23 BY MS. HOLLENBERG:

24 Q. Do you have a copy of that testimony before you?

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1 A. 2011, perhaps?

2 Q. 2011, sorry.

3 A. Yes, I do have a copy of that before me.

4 Q. And, I'd like to show you what I will ask to be marked  
5 or premarked as "OCA Exhibit 1". Could you please  
6 identify that for the record.

7 A. This is a copy of my direct prefiled testimony, dated,  
8 as you said a moment ago, "October 14th, 2011".

9 Q. Thank you. And, is your experience and qualifications  
10 for filing this testimony contained within that  
11 testimony?

12 A. Yes, they are provided in that testimony.

13 Q. And, do you have any changes or corrections that you'd  
14 like to make to that testimony today?

15 A. I have two minor edits I would like to make, yes. I'm  
16 looking in the main body of my testimony, on Page 12.  
17 At Line 12, there's a sentence that says: "The OCA is  
18 willing to consider such adjustments", and, after the  
19 word "adjustments", I'd like to add the words "as a  
20 post test year step increase", and then the sentence  
21 would continue, "if the costs related to those  
22 improvements have been audited", etcetera.

23 And, the second minor edit to my  
24 testimony is in my Attachment SRE-2 -- or, SRE

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1 Attachment 2, which provides details on my proposed  
2 adjustments to permanent rates. And, there's a minor  
3 editorial glitch on Page 6 of that attachment. In the  
4 final paragraph, the third line down, this section of  
5 my testimony does not have line numbers, but there's a  
6 reference to "Attachment SRE-X". And, that "X" was  
7 just a placeholder during the development of my  
8 testimony, and it should actually read "SRE-11".

9 Q. Thank you.

10 A. And, I believe that's all the editorial oversights.

11 Q. Thank you.

12 CHAIRMAN IGNATIUS: Let's mark that for  
13 identification as "OCA 1".

14 (The document, as described, was  
15 herewith marked as **Exhibit OCA 1** for  
16 identification.)

17 BY MS. HOLLENBERG:

18 Q. Mr. Eckberg, the OCA has had some conversations since  
19 the beginning of this proceeding with, particularly,  
20 with the Company and the Staff related to your revenue  
21 requirement recommendation in your testimony. And,  
22 would you agree that, for purposes of the Commission's  
23 decision, the OCA has decided to defer to Staff's  
24 recommendation for the revenue requirement, as a way of

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1 minimizing the decisions that the Commission needed to  
2 make in this case?

3 A. I think that's a fair representation. The OCA  
4 certainly appreciates the thoroughness that Staff  
5 witness, Mr. Laflamme, has put into the development of  
6 the revenue requirement. And, I think it's reasonable  
7 to say that many of the adjustments that I identified  
8 and proposed in my testimony were geared towards  
9 identifying issues which I felt were indicative of  
10 questionable management practices. I identified the  
11 issues, for example, that related to the affiliate  
12 agreements, and other things of that nature. Revenue,  
13 which I felt, for example, was not being collected as  
14 should be. So, these were examples of things I felt  
15 were indicative of a bigger picture.

16 Q. Thank you. And, would you agree that the OCA's  
17 deferral or, I guess, consent to the Staff's  
18 recommended revenue requirement does not necessarily --  
19 is not necessarily intended to convey that the OCA  
20 agrees with the basis for the adjustments that Staff  
21 makes or all of the adjustments that Staff makes, it's  
22 rather an agreement for a number?

23 A. I would agree with that. Yes. I won't expand on that.  
24 Thank you.

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1 MS. HOLLENBERG: Thank you. And, if I  
2 might ask Mr. Eckberg some questions about some of the  
3 information that was provided just before the hearing, and  
4 has come in during the hearing that's been of a new  
5 nature, if that's okay, if I could just --

6 CHAIRMAN IGNATIUS: Yes. Go ahead.

7 BY MS. HOLLENBERG:

8 Q. Mr. Eckberg, are you aware that, prior to the beginning  
9 of the hearing, the first day of the hearing, the  
10 Company provided some new materials in the form of  
11 exhibits?

12 A. Yes, I am. And, my understanding is that some of that  
13 material has been allowed into the record and some has  
14 not been allowed into the record.

15 Q. And, if you've reviewed this material, do you have any  
16 concerns about any of the information contained in  
17 those exhibits?

18 A. Well, certainly, some of the information contained in  
19 some of those exhibits does raise additional questions  
20 for me. Would you care for me to give an example, for  
21 instance?

22 Q. Yes, please.

23 A. We've had some discussion, for instance, about, during  
24 the hearing and witness testimony, about information in

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1 LRW Exhibit 14. And, even though this exhibit relates  
2 to the Mount Roberts' schedule, in communications  
3 between the Company and DES, there is some information  
4 in there, which, had it been introduced earlier, for  
5 example, probably would have been the subject of some  
6 discovery, at least from our office. For example, I'm  
7 looking at Page 31 of that exhibit, and that  
8 information provided on that page discusses "water well  
9 inventory". And, there's information there on that  
10 page that has to do with wells owned by "LRW Water  
11 Services". And, I don't know anything about that. But  
12 it certainly makes me interested in asking questions to  
13 get further information. So, the information that's  
14 provided in some of these exhibits is new information,  
15 and really isn't completely -- has not been completely  
16 reviewed by the parties.

17 Q. Thank you. Do you have anything else to add, before I  
18 allow the cross-examination to commence?

19 A. No, I don't, at this time.

20 MS. HOLLENBERG: Thank you.

21 WITNESS ECKBERG: Thank you.

22 MS. HOLLENBERG: The witness is  
23 available for cross. Thank you.

24 CHAIRMAN IGNATIUS: Thank you. I think,

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[WITNESS: Eckberg]

1 Mr. Patch, you would be the first person to cross-examine  
2 Mr. Eckberg.

3 MR. PATCH: No questions. Thank you.

4 CHAIRMAN IGNATIUS: Ms. Thunberg?

5 MS. THUNBERG: I have a bit. I'll try  
6 to fit it in in just 15 minutes.

7 WITNESS ECKBERG: I'm here until I'm  
8 released, so take all the time you need.

9 **CROSS-EXAMINATION**

10 BY MS. THUNBERG:

11 Q. Mr. Eckberg, on Page 18, Line 12, of your October 14th,  
12 2011 testimony, you recommend the Commission "explore  
13 voluntary receivership". Do you recall that?

14 A. Yes, I do recall that. And, could you give me that  
15 page reference once again.

16 Q. It's Page 18, Line 12. I was directing specifically,  
17 but I think you can speak off the top of your head,  
18 because I'm not going to focus on that page  
19 specifically.

20 A. Okay.

21 Q. But do you remember making a recommendation with  
22 respect to "voluntary receivership"?

23 A. I do remember that recommendation, and, in fact, it is  
24 right here where you cited. And, I would say that, you

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1 know, my suggestion here that the Commission follow  
2 this course of action was -- was an attempt to provide  
3 an option to the Commission for a resolution, or at  
4 least a step forward to what is a very difficult set of  
5 combined dockets here, trying to know what the best  
6 course of action is for this company.

7 Q. Now, you've stopped short of recommending the  
8 Commission pursue traditional receivership under  
9 374:47-a, is that right?

10 A. That is correct. I did not mention that in my  
11 testimony. Though, as I've just said, our effort here  
12 -- our intent was to provide an opportunity to take a  
13 more collaborative step, working with the Company and  
14 working with the parties. The OCA has certainly no  
15 objection, if the evidence is such and the Commission  
16 wishes to pursue a different type of receivership, I  
17 don't believe the OCA would have an objection to that  
18 course of action, as a different course.

19 Q. I just want to make sure I'm understanding what you  
20 just said. Is my characterization fair? That,  
21 although you've recommended "voluntary receivership" in  
22 your testimony, you are not opposed to a  
23 straightforward receivership under the -- as what is  
24 provided in the statute?

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1 A. That's correct. Though, it's my understanding that  
2 such a decision would perhaps require certain legal  
3 conclusions to be made. And, I am not qualified to  
4 make those conclusions myself. So, --

5 Q. Do you have a copy of Record Request Number 2 in front  
6 of you, which was the updated accounts payable?

7 A. Record Request 2, originally labeled "Record Request  
8 3". Yes, I believe I have that one.

9 Q. And, I draw your attention to the attachment, and to  
10 the bottom, where it notes "Total Payables". Tell me  
11 when you're there.

12 A. Yes. The bottom line, "Total Payables \$506,815".

13 Q. Now, this accounts payable is an increase from when you  
14 filed your testimony in October, is that correct?

15 A. Yes, it is. I believe that the test year, at the end  
16 of the 2009 test year, according to information  
17 available, most likely in the annual report of the  
18 company, test year payables were at around \$374,000.  
19 And, I believe, in Mr. Naylor's testimony, he made  
20 reference to an increase in payables at the year-end  
21 2010, the number had increased to about \$471,000. And,  
22 now, with this most recent update, we have a number  
23 just north of half a million dollars.

24 Q. Are you aware of the rate increases Lakes Region

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[WITNESS: Eckberg]

1 received under Docket 08-070, the step increases?

2 A. Yes, I am aware of those rate increases. There were  
3 three step increases. The first two step increases  
4 were implemented simultaneously, and the third step  
5 increase was implemented in conjunction with the  
6 temporary rates in the current rate case proceeding, I  
7 believe.

8 Q. I'm sorry. Did you just state that you are aware of  
9 the temporary rate increase?

10 A. Yes, I did say that I'm aware of the temporary rate  
11 increase. Uh-huh.

12 Q. Thank you. Knowing that these increases from DW 07 --  
13 or, 08-070 and the temporary rate increase has been in  
14 effect, does it cause you concern that the aged -- the  
15 accounts payable is continuing to increase?

16 A. Yes, it does. But I would also take the opportunity to  
17 point out that, in Docket 08-070, the Company did not  
18 have a full rate case proceeding. Those were simply  
19 step increases, which were related -- they were  
20 increases to rates related to very specific capital  
21 improvements. Those were authorized as a result of the  
22 settlement in the 08 -- or, excuse me, the 07-105  
23 docket. And, the OCA, at the time, offered testimony  
24 that we felt it would have been more advantageous and

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1 more appropriate for the Company to have a full rate  
2 proceeding related to those step increases.

3 So, I guess what I'm saying is, I don't  
4 believe that those step increases should be considered  
5 as full rate cases. I just wanted to make the  
6 differentiation between those two things.

7 Q. Are you still of the opinion that Lakes Region should  
8 have come in for more frequent general rate increases  
9 over the past number of years?

10 A. I think, based upon the evidence that the Company's  
11 receivables continue to increase, it's hard not to  
12 believe that additional rate increases in the past  
13 would have been appropriate. Though, of course, it's  
14 unusual to hear the OCA testify in favor of more rate  
15 increases. I realize that may not sound usual, but...

16 Q. On Page 19, do you recall that you had testified that  
17 you would -- OCA would support a "plan to return the  
18 Company to strong financial health"? Just draw your  
19 attention to that section of your testimony.

20 A. I'm on Page 19.

21 Q. Top line.

22 A. Yeah.

23 Q. Knowing that there have been past rate increases of  
24 varying types, and that accounts payable are

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1 increasing, do you still believe that the Company can  
2 achieve "strong financial health" in the near future?

3 A. It's hard to imagine that the Company will achieve  
4 "strong financial health" in the near future. I would  
5 point out that this sentence, the beginning part of  
6 this sentence also is that the OCA suggests to the  
7 Commission that Mr. Bob Montville, who was previously  
8 here and testified for the Company, be appointed as the  
9 receiver. That was our suggestion at that time. And,  
10 we do feel that Mr. Montville has added his financial  
11 expertise to the Company. Though, I think that the --  
12 at this point, the Commission may wish to consider the  
13 fact that the OCA at least believes that the Company  
14 could benefit from a receiver who has more experience  
15 with the regulated environment. I think that  
16 Mr. Montville's experience is certainly financial, but  
17 not necessarily very strong in the regulated  
18 environment that we work in here at the Public  
19 Utilities Commission. And, I think that such  
20 assistance to the Company would be beneficial.

21 Q. I just want to clarify, because I think you're  
22 referring to Page 18, Lines 21 through 22?

23 A. That's correct. And, that's the sentence that  
24 continues onto the top of Page 19 that you referred to.

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[WITNESS: Eckberg]

1 Q. Is it now OCA's position that Bob Montville should not  
2 be appointed as a temporary receiver?

3 A. No, that's not the OCA's position. I'm simply  
4 suggesting that the Commission may wish to consider a  
5 receiver who has additional skills. I'm not familiar  
6 personally with the receivership process. I've never  
7 had a firsthand experience with it. I don't know  
8 whether, for example, a team of individuals could be  
9 appointed as a receiver team. I simply raise that as a  
10 theoretical possibility, to address your question.

11 Q. Thank you. I'd like to direct your attention back to  
12 Record Request Number 2, and the listing of "Aged  
13 Accounts Payable".

14 A. Yes.

15 Q. And, towards the bottom, there are a number of entries  
16 to towns?

17 A. Yes. I see those.

18 Q. Would you suspect that those are payments for property  
19 taxes?

20 A. I would suspect that's what they are, yes.

21 Q. And, if unpaid -- if property taxes remain unpaid, are  
22 you familiar that they go to a process of tax lien?

23 A. If they -- that's my general understanding, if they  
24 remain unpaid for a certain period of time. I am not

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[WITNESS: Eckberg]

1 familiar with what that period of time is, nor is there  
2 any indication here on the sheet about how old these  
3 payables are.

4 Q. The fact that, if these payments are for property  
5 taxes, the fact that property taxes for a regulated  
6 utility are unpaid, would you consider that to be  
7 evidence that it does not possess the requisite  
8 managerial skills to maintain a franchise?

9 A. I would say it's not in line with the usual  
10 expectations of a well-managed utility, that there are  
11 unpaid property taxes, yes.

12 MS. THUNBERG: Chairman Ignatius, I  
13 don't know if it's helpful to get an offer of proof from  
14 the Company, because I'm making some assumptions in this  
15 line of questioning that I think would benefit from either  
16 a "yes" or "no" from the Company, if that is possible?

17 CHAIRMAN IGNATIUS: As to whether those  
18 are, in fact, tax bills?

19 MS. THUNBERG: Correct.

20 CHAIRMAN IGNATIUS: I think that's fair.  
21 Mr. Richardson, do you know?

22 MR. RICHARDSON: Subject to check, I  
23 believe they are property tax bills. I don't know the  
24 vintage, although I understand from my client that a

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[WITNESS: Eckberg]

1 significant portion is for the current year, and that  
2 they're working with the municipalities on paying these.

3 CHAIRMAN IGNATIUS: Thank you.

4 BY MS. THUNBERG:

5 Q. Mr. Eckberg, with respect to the payments to the towns,  
6 the Town of Campton, all the way to the Town of  
7 Wolfeboro, do you see that they are in the column of  
8 "Over 90" days aged, do you see that?

9 A. Yes. Did you -- you mentioned "Wolfeboro"?

10 Q. Yes.

11 A. Okay.

12 Q. Oh. My apologies. Exclude Wolfeboro. Thank you for  
13 noting that.

14 A. Yes, I see that. I do see that now. That, for most of  
15 the towns listed, the amounts owed are in the far right  
16 column, which is the "Over 90" days aged payables. The  
17 Town of Wolfeboro amount is in the "31 to" -- excuse  
18 me, only in the "31 to 60" days aged column.

19 Q. Now, if a municipality were to act on a tax lien and  
20 conduct a tax sale, do you think that that would result  
21 in an imminent threat to the utility's ability to  
22 provide safe and adequate service?

23 MR. RICHARDSON: Objection. Calls for  
24 speculation.

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[WITNESS: Eckberg]

1 CHAIRMAN IGNATIUS: Well, it's asking  
2 for his opinion, and not speculating on a factual result,  
3 but his view of what that would mean. Is that not fair?

4 MR. RICHARDSON: No. It's the  
5 foundation, though, that's really wanting in this case.  
6 Because Mr. Eckberg may have knowledge about the property  
7 tax lien process, I wish that I had more than I did, I  
8 know it's a complicated process. And, I'm not sure that  
9 there's been a foundation qualifying for him to offer his  
10 opinion on that subject.

11 CHAIRMAN IGNATIUS: Ms. Thunberg.

12 MS. THUNBERG: I'll offer it -- I'll ask  
13 the question a different way. Thank you.

14 BY MS. THUNBERG:

15 Q. Mr. Eckberg, with respect to your opinion or  
16 recommendation that the Commission pursue receivership,  
17 or voluntary receivership, noting that that testimony  
18 was in October, now that you see that the Company has  
19 back taxes, does that change your opinion on whether  
20 the Commission should pursue true receivership or  
21 voluntary receivership?

22 A. I think that my opinion would not change solely based  
23 upon the fact that there are property taxes in arrears  
24 here that are due. I believe that was really what your

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1 exact question was. I certainly have concerns about  
2 that issue. I have concerns about other issues as well  
3 on these accounts payable. I see that, for instance,  
4 there's amounts owed to Public Service of New  
5 Hampshire. And, I think that it's pretty critical that  
6 the power -- that the Company have electrical power  
7 supplied to its water systems for them to operate as  
8 well. So, there is any number of issues which are of  
9 concern to me here on this list.

10 Q. Thank you for segueing to my next question. If we were  
11 to overlay that there are back property taxes, does  
12 adding the late utility payments that you see on this  
13 sheet, and I will draw your attention to the FairPoint  
14 entries; NHEC, which I believe is "New Hampshire  
15 Electric Co-op"; PSNH; R. E. Prescott, which I believe  
16 is fuel oil; Verizon Wireless. And, does that tip the  
17 scale for you, adding those utilities?

18 A. Just to be clear, your question is, "do these items tip  
19 the scale to change my recommendation from a "voluntary  
20 receivership" to a "forced receivership"?" Is that the  
21 exact question you're asking me?

22 Q. Correct. I know that your position right now -- or,  
23 you've testified earlier is that you do not oppose it.  
24 I'm trying to see, with new information, at what point

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1           you tip to affirmatively recommending that the  
2           Commission pursue receivership?

3   A.    I don't think that I'm going to change my testimony.  
4           I'd really not -- I'd rather not -- I guess that feels  
5           almost like a settlement question to me, you know.  So,  
6           I think I'd like to stay with my testimony and the  
7           additional information that I've provided this morning  
8           -- or, this afternoon, excuse me.

9   Q.    I'm going to ask you just a couple more questions on  
10          this point.

11  A.    Fair enough.

12  Q.    At the time of your testimony, you were aware of  
13          certain DES violations with Lakes Region, is that  
14          correct?  Or, let me rephrase that.  At the time of  
15          your testimony, had you apprised yourself of the  
16          current status of compliance Lakes Region had with DES?

17  A.    I think, at the time of my testimony, I was generally  
18          aware, yes, of the general status of compliance with  
19          various matters with DES.  That's a good place, I  
20          think, for me to offer the commentary that I certainly  
21          appreciate DES's efforts generally.  We have some  
22          communications here back and forth from Mr. Stephen Roy  
23          of DES, and he's not in the room today, he was here  
24          during the last day of hearing.  And, I would commend

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1 DES for their efforts generally to keep all parties  
2 informed of activities related to Lakes Region Water,  
3 when Lakes Region either has a violation or when they  
4 correct a violation and make positive progress, and DES  
5 communicates with Lakes Region. Mr. Roy has done an  
6 excellent job of keeping all parties informed of that,  
7 so that everyone knows what's going on, because there  
8 has been a lot of focus on this company generally for  
9 quite a while.

10 Q. Now, Mr. Eckberg, when you referred to "communications  
11 from Stephen Roy", are you referring to a most recent  
12 communication transmittal regarding Deer Cove and  
13 Indian Mound Golf Club?

14 A. I believe there was a recent communication about that.  
15 But that's really just one example of what I was  
16 referring to about how Mr. Roy works to try to keep all  
17 parties in the loop about what's going on.

18 MS. THUNBERG: At this point, I'd like  
19 to mark for identification purposes a packet of two  
20 Notices of Violation.

21 (Atty. Thunberg distributing documents.)

22 BY MS. THUNBERG:

23 Q. And, ask Mr. Eckberg if these Notices of Violation were  
24 what Mr. Roy communicated to you recently?

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1 CHAIRMAN IGNATIUS: And, Ms. Thunberg,  
2 before you go further, should we -- it's already 12:35,  
3 and our court reporter has been going strong here for  
4 quite a while. Is this a breaking point? Are you going  
5 to have a number of questions on this issue?

6 MS. THUNBERG: I'm not going to have a  
7 number of questions on this. I'm trying to keep it  
8 limited, because this is something that did not come out  
9 in direct. I either could call Mr. Mason or briefly get  
10 it through Mr. Eckberg. So, I have probably three  
11 questions, four questions.

12 CHAIRMAN IGNATIUS: And, then, do you  
13 have other areas for Mr. Eckberg as well?

14 MS. THUNBERG: No. I'm wrapping up.

15 CHAIRMAN IGNATIUS: All right. Then,  
16 why don't you continue.

17 MS. THUNBERG: Thank you.

18 CHAIRMAN IGNATIUS: Yes. So, is it your  
19 intention to mark this as "Staff Advocate Exhibit" --

20 MS. HOWARD-PIKE: Ten.

21 CHAIRMAN IGNATIUS: -- "10" for  
22 identification?

23 MS. THUNBERG: Thank you. For  
24 identification, yes.

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1 (The document, as described, was  
2 herewith marked as **Exhibit Staff**  
3 **Advocate 10** for identification.)

4 BY MS. THUNBERG:

5 Q. Mr. Eckberg?

6 A. Yes.

7 Q. Have you -- are you aware of these Notices of  
8 Violation?

9 A. What I'm aware of is I had an e-mail, I was cc'd on an  
10 e-mail communication from Steve Roy yesterday, where he  
11 provided some information generally about two  
12 relatively recent Notices of Violation; one that  
13 related to Indian Mound Golf Club, which is one -- the  
14 name of one of the Company's regulated systems, and the  
15 other one was related to the Deer Cove system. There  
16 was also some information in there about the Paradise  
17 Shores/Suissevale water system in that e-mail.

18 So, I'm aware that there were two --  
19 that there's some information about two specific  
20 Notices of Violation. But these Notices of Violation  
21 that you've handed me, I have not seen these before.  
22 So, I don't -- I guess I'm just saying that I don't  
23 know that these are specifically the ones that relate  
24 to this e-mail. Perhaps there is some information in

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[WITNESS: Eckberg]

1 here that would connect the e-mail communication with  
2 this specific information. I have not reviewed that  
3 yet.

4 Q. Okay. With respect to compliance with DES then, are  
5 you aware that Lakes Region continues to have instances  
6 of non-compliance with DES?

7 A. I guess, based upon the e-mail communication that I  
8 received, I am aware that there are several new Notices  
9 of Violation, yes.

10 Q. Okay. I'd like to just touch briefly on the Indian  
11 Mound Golf Club Notice of Violation, and where it says  
12 "Significant Deficiencies". And, it talks on the  
13 bullet regarding "Treatment Inoperative", do you see  
14 that?

15 A. I do see that bullet point, yes. "Treatment  
16 Inoperative - At the time of the inspection, treatment  
17 was inoperative due to hazardous flooding conditions  
18 that prohibit entering the pumphouse to maintain the  
19 treatment operations." I'm not sure what the  
20 treatment protocol or what sort of treatment is not  
21 functioning.

22 Q. Would a situation involving flooding through a -- from  
23 a temporary water line, to the point where it renders  
24 the treatment inoperative, would that rise to be a

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1 serious and imminent threat to the health and welfare  
2 of customers, in your opinion?

3 MR. RICHARDSON: Objection. She's  
4 asking for speculation again. And, he's stated that he  
5 doesn't know what the treatment is.

6 CHAIRMAN IGNATIUS: That's a -- well,  
7 any response, Ms. Thunberg? I'm inclined to agree with  
8 Mr. Richardson.

9 MS. THUNBERG: I don't think -- well,  
10 true, the treatment is not specified here, but there's  
11 some treatment that is necessary pursuant to the rules.  
12 And, the rules over at DES are there to protect public  
13 health and safety. So, I think the question is not so  
14 speculative to not be useful.

15 MR. RICHARDSON: It's my understanding,  
16 from talking to Mr. Mason, that the --

17 CHAIRMAN IGNATIUS: Well, let's -- but,  
18 no, no, no. Hold on. This is whether or not Ms. Thunberg  
19 can ask Mr. Eckberg about treatment. Mr. Eckberg says he  
20 doesn't know what the treatment is. So, I will sustain  
21 the objection.

22 BY MS. THUNBERG:

23 Q. Mr. Eckberg, do you have an opinion as to at what point  
24 continued Notices of Violation, such as Deer Cove and

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1 Indian Mound Golf Club, rise to creating a -- or,  
2 strike -- I'm not asking that question. Thank you.

3 Are you familiar with the requirement  
4 that utilities must provide safe and adequate service?

5 A. Yes. I'm aware that that's a general obligation that a  
6 utility has.

7 Q. If a utility allows flooding of a pumphouse to occur,  
8 would you consider that to be unreasonable?

9 A. I'm waiting for Attorney Richardson to object, perhaps.  
10 But, no such objection, okay.

11 MR. RICHARDSON: Sorry. I didn't  
12 actually hear the question.

13 **BY THE WITNESS:**

14 A. I don't think I am quite qualified to answer that  
15 question. I believe your question is, "does flooding  
16 in a pumphouse rise to the level of a serious  
17 violation?" Is that -- do I understand your question  
18 correctly? Or, does it --

19 **BY MS. THUNBERG:**

20 Q. Let me cut to the chase. With the new information that  
21 I'm placing before you today, is it moving you to be  
22 more fervent in recommending the Commission pursue  
23 traditional receivership at all?

24 A. I think not, I think it does not increase my fervor in

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1 that matter. I think it merely continues to feed my  
2 ongoing fervor in that feeling. And, I'm not trying to  
3 be witty, I don't think. But I'm really -- I think  
4 these violations that you've shared are simply  
5 indicative of the ongoing challenges that face the  
6 Company. I have no doubt that the Company will respond  
7 to these matters in some manner. Whether -- I don't  
8 know what that manner will be. Whether, for instance,  
9 I would think it's an appropriate manner or not, I  
10 don't know, because I have no idea what the response  
11 will be. So, I -- And, that's why I say I think it  
12 just continues to feed my ongoing concerns about the  
13 ability of the Company to manage itself.

14 MS. THUNBERG: I have no further  
15 questions. Thank you.

16 CHAIRMAN IGNATIUS: Thank you. Let's  
17 take a break. It's now 12:45. We'll break for lunch, and  
18 be back here, if you can be back at 1:45, and we'll begin  
19 as soon as we can, I would appreciate that. Thank you.  
20 We'll stand adjourned until 1:45.

21 **(Whereupon the lunch recess was taken at**  
22 **12:45 p.m. and the hearing to resume**  
23 **under separate cover so designated as**  
24 **"Afternoon Session Only".)**

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