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Richard L. Sallquist
Sallquist, Drummond & O'Connor, P.C.
4500 South Lakeshore Drive
Suite 339
Tempe, Arizona 85282
Phone: (480) 839-5202
Fax: (480) 345-0412

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION OF JOHNSON UTILITIES COMPANY FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY FOR WATER AND WASTEWATER SERVICE.	DOCKET NO. WS-02987A-04-0288
IN THE MATTER OF THE APPLICATION OF JOHNSON UTILITIES COMPANY FOR AN EXTENSION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR WASTEWATER SERVICE.	DOCKET NO. WS-02987A-04-0889
IN THE MATTER OF THE APPLICATION OF JOHNSON UTILITIES COMPANY FOR AN EXTENSION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR WATER AND WASTEWATER SERVICE.	DOCKET NO. WS-02987A-05-0088 **NOTICE OF FILING TESTIMONY**

Johnson Utilities Company ("Johnson" or the "Company") by and through undersigned counsel, hereby provides Notice of Filing of the Direct Testimonies of Brian P. Tompsett, P.E. and Larry Davis pursuant to Procedural Orders in each Docket dated August 11, 2006.

51030.00000.1793

RESPECTFULLY submitted this 21st day of August 2006.

SALLQUIST, DRUMMOND & O'CONNOR, P.C.

By: _____

Richard L. Sallquist
4500 South Lakeshore Drive, Suite 339
Tempe, Arizona 85282
Phone: (480) 839-5202
Fax: (480) 345-0412

Original and fifteen copies of the foregoing filed this 21st day of August 2006:

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

A copy of the foregoing mailed/hand delivered this 21st day of August 2006, to:

Hearing Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Utilities Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Legal Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

_____

51030.00000.1793

Johnson Utilities Company
Certificate of the Convenience and Necessity Applications
in Docket Nos.
WS-02987A-04-0288
WS-02987A-04-0889
WS-02987A-05-0088
Direct Testimony of
Brian Tompsett
Pre-filed August 21, 2006, 9:30 AM

EXHIBITS

A-1 Letter of Credit, dated January 23, 2006
A-2 Letter to Brian Bozzo, dated January 26, 2006

1. Please state your name and business address.

A. My name is Brian Tompsett, and my business address is 5230 East Shea Blvd, Scottsdale, Arizona 85254

2. By whom are you employed and in what capacity?

A. I am employed by Johnson Utilities Company as the Executive Vice President of the Company.

3. How long have you been so employed?

A. I have been employed by the Company for approximately 4 years, but have been involved in the engineering aspects of this particular system for approximately 10 years.

4. Please give a brief resume' of your education and experience as it relates to the utility business.

A. I have a Bachelor of Science degree in Civil Engineering and have been a licensed Professional Engineer for approximately 18 years. I have been involved in the design and operation of water and wastewater facilities for approximately 22 years.

5. Will you please describe for the record the location of the Johnson Utilities Company's water and wastewater systems?

A. Johnson Utilities system is located in Pinal County, Arizona. The southern most portion of the system is located north of Hunt Highway approximately 5 miles northwest of the Town of Florence. The system extends north to the intersection of Gantzel Road and Ocotillo Road, which approximately 2 miles east of the Town of Queen Creek's incorporated limits.

6. Are you familiar with the Commission's Decisions that have been issued in the subject dockets, namely, Decision Nos. 68235, 68236, and 68237, all as issued on October 25, 2005?

A. Yes, I am.

7. Are you aware that those Decisions require the Company to file a $500,000 Performance Bond as a condition of those Certificate expansions?

A. Yes, I am.

8. Has the Company filed that Performance Bond as required?

A. No, it is not.

9. Will you please explain the Company's efforts in obtaining a Performance Bond?

A. Yes, on November 7, 2005 our Counsel had a telephone conference with David Ronald and Brian Bozzo of the Staff regarding the form of the bond. Staff indicated that they would provide the form of a bond recently filed by another company that was acceptable to the Commission. However, we did not receive that bond and Staff was again contacted on December 5, 2005. Still not having received the form, counsel wrote a letter to Mr. Bozzo on December 14, and the form a bond was received by the Company on December 16, 2005.

10. How did you then obtain a bond substantially in that form?

A. We had numerous discussions with various banks and bonding companies attempting to obtain a traditional Performance Bond containing the language in the Staff provided form. Unfortunately, we could not obtain such a bond.

11. Was it the actual bond that could not be obtained, or was it the cost of that bond?

A. It was both. We were advised that the terms of the bond were not in the form contemplated by the bond underwriters, and that in the event such a bond was issued the annual premium would be approximately $ 10,000.00.

12. How would that adversely impact on the Company and its customers?

A. That is a recurring cost that would be in place during the term of the bond, which given the nature of the litigation, could have been in effect several years.

13. But given the size of the Company, is that expense really significant?

A. If there was no other option that may be true. However, the Company had an alternative that was virtually cost free and that we believed was a prudent alternative. That alternative provided the protection the Commission sought, and avoided any cost for the Company's ratepayers.

14. Given that, what did the Company do?

A. We obtained a Letter of Credit from National Bank of Arizona containing the language of the Staff's proposed form, and docketed that with the Commission on January 23, 2006. A copy of that bond is attached to this testimony as Exhibit A-1.

15. Were their subsequent communications with Staff regarding the issue?

A. Yes. On January 25, 2006 I received a verbal request from Brian Bozzo requesting an explanation as to why the Company filed a Letter of Credit, not a bond. On

January 26, the Company responded regarding the efficacy of the Letter of Credit. A copy of that letter is attached as Exhibit A-2. We received no response from that letter, and again on March 3, 2006 Counsel requested clarification, to which the Staff responded the Letter of Credit was "unacceptable". Based upon those discussions with Staff, on March 14, 2006 the Company filed Applications to Amend Decision Numbers 68235, 68236, and 68237. In response to that Application the Staff filed a Reply on April 21, 2006 indicating that the Letter of Credit was acceptable.

16. Mr. Tompsett, what do you believe to be the motivation and intent of the Commission in requiring the Performance Bond?

A. Due to the fact that the Company's principal and a related entity were Defendants in outstanding litigation that could have substantial financial consequences, we believe the Commission required the Performance Bond to guarantee that in the event the litigation was resolved against the Defendants, that financial impact would not adversely impact the Company's utility operations. I would also add that Johnson Utilities Company was not a named defendant in the outstanding litigation.

17. Will the Performance Bond provide that assurance?

A. Yes it would.

18. Do you believe the Letter of Credit as provided will provide that assurance to the Commission and protection of customers?

A. Yes, as Mr. Larry Davis, the Chief Credit Officer of National Bank of Arizona will testify, we believe the protection is actually much greater with the Letter of Credit than with the Performance Bond.

19 If that is so, why would the Commission not specify that all financial assurances it requires in new and extension Certificates to be posted as Letters of Credit, as opposed to Performance Bonds?

A. Again as Mr. Davis will explain, not all companies, especially small startup companies, have the ability to obtain a Letter of Credit. Banks typically require substantial assets, often cash, as collateral for Letters of Credit. Many individuals and companies simply cannot meet the bank's requirements.

20. You attempted to comply by posting the Letter of Credit shortly after the Decisions were issued. Why did you do that?

A. A condition of the Decisions was that the Company would not provide retail service to customers within the expansion areas prior to posting the bond. In two of the expansion areas the timing was not critical because the development was in a normal construction cycle and customers would not be requesting retail service for a number of months. However, in Section 17, Township 2 South, Range 8 East, the parcel in Decision No. 68236, the Company was assuming the wastewater operations of AUSS. The subdivisions had been constructed and had already received subdivision approvals from the Arizona Department of Real Estate. There was an existing customer base at the date of the Decision. Even prior to the Decision, and at all time subsequent to the Decision, the Company has provided service only under a Wholesale Agreement with the developers, and is not providing direct retail service, or customer billing, to the individual homeowners within that parcel.

21. To date has the Company provided any retail service to any of the areas as forbidden by any of the Decisions?

A. No, we have not.

22. Mr. Tompsett, is it your opinion that the Company's posting of the Letter of Credit meets the compliance requirements of the subject Decisions?

A. I certainly recognize that the precise language of the Decisions state "Performance Bond". However, I believe the intent of the requirement and the level of assurance that the Commission was seeking by that requirement is more than met by the Letter of Credit docketed on January 23, 2006.

23. What would be your request of the Commission regarding these matters?

A. I would request that the Commission issue a clarifying decision in those dockets essentially adopting the language provided by the Staff in its Reply dated April 21, 2006 which found the Letter of Credit an acceptable alternative to the required Performance Bond.

24. Does this conclude your testimony?

A. Yes, it does.

JOHNSON UTILITIES, L.L.C

5230 East Shea Boulevard * Scottsdale, Arizona 85254
PH: (480) 998-3300; FAX: (480) 483-7908

January 24, 2006

Brian Bozzo
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

RE: Johnson Utilities, L.L.C.: Compliance with Decision No. 68235; 68236; 68237
RE: $500,000 Performance Bond
WS-02987A-05-0088; WS-02987A-04-0889; WS-02987A-04-0288

Dear Mr. Bozzo:

Pursuant to the above mentioned decision, Johnson Utilities hereby submits this compliance filing in accordance with the Commission's order to procure a $500,000 performance bond prior to retail service being provided to any customers in the CC&N extension area. Enclosed please find the $500,000 Performance Bond from National Bank of Arizona in the form of an Irrevocable Standby Letter of Credit attached hereto as Attachment No. 1. Johnson Utilities will file on or before April 15, 2006 a letter of bond confirmation as required by this Decision.

If you need any additional information in regards to this compliance item, please do not hesitate to contact me. Thank you for your time and consideration in this matter.

Sincerely,

Daniel Hodges
Johnson Utilities, LLC

Cc: Ernest Johnson, Director
Brian Tompsett, Johnson Utilities
Richard Sallquist, Sallquist, Drummond & O'Connor
Docket Control

EXHIBIT A-1

ATTACHMENT 1

National Bank
OF ARIZONA

LC #: 10566
Date: January 6, 2006
Amount: 500,000.00

ARIZONA CORPORATE COMMISSION
1200 West Washington
Phoenix, AZ. 85007

IRREVOCABLE STANDBY LETTER OF CREDIT

GENTLEMEN:

AT THE REQUEST OF: **JOHNSON UTILITIES, L.L.C., an Arizona limited liability company, 5230 East Shea Blvd., Suite 200, Scottsdale, Az. 85254**

FOR THE ACCOUNT OF: **JOHNSON UTILITIES, L.L.C., an Arizona limited liability company, 5230 East Shea Blvd., Suite 200, Scottsdale, Az. 85254**

WE HEREBY OPEN IN YOUR FAVOR OUR IRREVOCABLE STANDBY LETTER OF CREDIT FOR SUM OR SUMS NOT EXCEEDING **FIVE HUNDRED THOUSAND AND NO/100 U.S. DOLLARS**

AVAILABLE BY YOUR DRAFT(S) AT SIGHT ON US

NATIONAL BANK OF ARIZONA
Documentation Dept. AZ 7013
6001 N. 24th Street,
PHOENIX, AZ 85016

WHEN DRAWN IN ACCORDANCE WITH THE TERMS AND ACCOMPANIED BY THE DOCUMENTS LISTED BELOW.

KNOW ALL MEN BY THESE PRESENTS, THAT WE, JOHNSON UTILITIES, L.L.C., AS PRINCIPAL AND NATIONAL BANK OF ARIZONA, AS SURETY ARE HELD AND FIRMLY BOUND UNTO THE ARIZONA CORPORATE COMMISSION IN THE AMOUNT OF FIVE HUNDRED THOUSAND AND 00/100 ($500,000.00) LAWFUL MONEY OF THE UNITED STATES OF AMERICA FOR THE PAYMENT OF WHICH THE PRINCIPAL AND SURETY ARE HEREBY JOINTLY AND SEVERALLY BOUND.

NOW THEREFORE, IF THE SAID PRINCIPAL, OR ANY ASSIGNS OF HIS FAILS TO PROVIDE COMPETITIVE WATER AND WASTEWATER SERVICES SO FURNISHED, THE SAID SURETY WILL PAY THE SAME TO THE USERS OF THE PRINCIPAL WITH THE CONSENT OF THE ARIZONA CORPORATE COMMISSION AS TRUSTEE, AN AMOUNT NOT EXCEEDING THE SUM HEREINABOVE SPECIFIED, THEN THIS OBLIGATION SHALL BE NULL AND VOID; OTHERWISE IT SHALL REMAIN IN FULL FORCE AND EFFECT.

PROVIDED FURTHER, THAT REGARDLESS OF THE NUMBER OF YEARS THIS LETTER OF CREDIT SHALL CONTINUE IN FORCE AND THE NUMBER OF PREMIUMS WHICH SHALL BE PAYABLE OR PAID, THE SURETY SHALL NOT BE LIABLE THEREUNDER FOR A LARGER AMOUNT, IN THE AGGREGATE, THAN THE AMOUNT OF THE BOND.

THIS LETTER OF CREDIT SHALL BE AUTOMATICALLY EXTENDED FOR AN ADDITIONAL PERIOD OF ONE YEAR FROM THE PRESENT OR EACH FUTURE EXPIRATION DATE UNLESS WE HAVE NOTIFIED YOU IN WRITING, NOT LESS THAN THIRTY (30) DAYS BEFORE SUCH EXPIRATION DATE, THAT WE

Unless otherwise expressly stated, this Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits, established by The International Chamber of Commerce Publication, applicable on the date of this Letter of Credit.

National Bank
OF ARIZONA

ELECT NOT TO RENEW THIS LETTER OF CREDIT. OUR NOTICE OF SUCH ELECTION SHALL BE SENT CERTIFIED MAIL TO YOUR ABOVE ADDRESS (OR SUCH OTHER ADDRESS AS YOU MAY ADVISE US OF IN WRITING).

PARTIAL DRAWINGS ARE ALLOWED.

THE ORIGINAL OF THIS LETTER OF CREDIT MUST BE PRESENTED WITH ANY AND ALL DRAWINGS EFFECTED HEREUNDER. WE HEREBY AGREE WITH YOU THAT DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT, THAT SUCH DRAFTS, WILL BE DULY HONORED IF PRESENTED AT NATIONAL BANK OF ARIZONA, DOCUMENTATION DEPT. AZ 7013, 6001 NORTH 24th STREET, PHOENIX, AZ 85016 ON OR BEFORE **JANUARY 6, 2007** .

DRAFTS DRAWN UNDER THIS CREDIT MUST BE ENDORSED AND CONTAIN THE CLAUSE "DRAWN UNDER NATIONAL BANK OF ARIZONA LETTER OF CREDIT NO. **10566** DATED **JANUARY 6, 2006.**"

NATIONAL BANK OF ARIZONA

SVP

AUTHORIZED SIGNATURE

Unless otherwise expressly stated, this Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits, established by The International Chamber of Commerce Publication, applicable on the date of this Letter of Credit.

SALLQUIST, DRUMMOND & O'CONNOR, P.C.
ATTORNEYS AT LAW
TEMPE OFFICE
4500 S. LAKESHORE DRIVE
SUITE 339
TEMPE, ARIZONA 85282

RICHARD L. SALLQUIST

PHONE (480) 839-5202
FACSIMILE (480) 345-0412
E-MAIL dick@sd-law.com

January 26, 2006

EMAIL AND US MAIL

Mr. Brian Bozzo, Compliance Officer
Arizona Corporation Commission
Utilities Division
1200 West Washington Street
Phoenix, Arizona 85007

Re: Johnson Utilities Company; Docket Nos. WS-02987A-04-0288, WS-02987A-04-00889, & WS-02987A-05-0088; Decision Nos. 68237, 68236, & 68235, respecively; Compliance Bond

Dear Mr. Bozzo:

We are writing in response to your question to Mr. Tompsett regarding the efficacy of providing a Letter of Credit as opposed to a performance bond as the compliance requirement in subject Decisions. We submit that the Letter of Credit not only meets the requirement of those Decisions, but is a superior financial assurance than the form of performance bond you provided as a guide to the compliance requirement.

Please note the features of the Letter of Credit filed in the subject Dockets on January 23, 2006 that are equal to, or superior to, the form of bond you provided.

1. The purpose and function of the two instruments is identical. The funds will be available to the Commission in the event of adverse consequences to the Company resulting from the subject litigation.

2. The language of the Letter of Credit is virtually identical to the bond form you provided.

3. A Letter of Credit is a more secure financial instrument than a bond. The issuer of the Letter of Credit actually holds the Principals cash in the amount of the Letter of Credit, not just lien rights on assets as with a bond. In the commercial world, a secured party would vastly prefer a Letter of Credit to a bond.

EXHIBIT A-2

4. The Letter of Credit is available to the Commission upon presentation of "draft(s) at site" as set forth in the Letter of Credit. Contrast that with the complex and time-consuming "claim" required under a bond or insurance instrument. It should be noted that those procedures are not even set forth in the bond terms.

5. The Letter of Credit provided to the Commission is issued by a well-established local bank, not a foreign insurance company. Therefore, executing on the Letter of Credit is much easier for the Commission.

As you are aware, in the past the Commission has, when requiring financial assurances associated with new certificated areas, included language in decisions requiring a "performance bond or letter of credit". Many small companies that are either underfinanced or whose owners have no established banking relationship are unable to obtain a letter of credit. In this instance a Letter of Credit is available. We believe the purpose and intent of the Commission is to be certain that funds are available to assure the ongoing operation of the utility and the provision of the service which the Commission has authorized. Either financial assurance would provide that, however as stated above, we believe the Letter of Credit provides even greater assurances to the Commission and is consistent with their intent.

In the event you have further questions please do not hesitate to call.

Sincerely,

Richard L. Sallquist

Cc: Docket Control (15 copies in each Docket)
David Ronald
Brian Tompsett

Johnson Utilities Company
Certificate of the Convenience and Necessity Applications
in Docket Nos.
WS-02987A-04-0288
WS-02987A-04-0889
WS-02987A-05-0088
Direct Testimony of
Larry Davis
Pre-filed August 21, 2006, 10:00 AM

EXHIBITS
A-1 Letter of Credit, dated January 23, 2006
A-2 Letter to Brian Bozzo, dated January 26, 2006

1. Please state your name and business address.

A. My name is Larry Davis, and my business address is 6001 N. 24th Street, Phoenix, Arizona 85016.

2. By whom are you employed and in what capacity?

A. I am employed by National Bank of Arizona as the Chief Credit Officer of the Company.

3. How long have you been so employed?

A. I have been with the Bank for approximately 10 years.

4. Please give a brief resume' of your education and experience as it relates to the utility business.

A. I have been in the banking business in Arizona for over 35 years. That includes 18 years with Arizona Bank, 5 years with Caliber Bank, and 10 with National Bank.

5. Are you familiar with George Johnson and the Johnson Utilities Company?

A. Yes, I am.

6. How long has National Bank of Arizona had a banking relationship with Mr. Johnson and his companies?

A. We have been working with Mr. Johnson since the mid 1990's.

7. Were you approached by the Company regarding a Performance Bond or Letter of Credit in the amount of $500,000?

A. Yes, we were.

8. What could the Bank offer in that regard?

A. We are a bank, not an insurance company, so we could only provide the Letter of Credit.

9. I show you what is the marked is Exhibit A-1. Is that a copy of the Letter of Credit the Bank issued to Johnson Utility Company in favor of the Arizona Corporation Commission?

A. Yes, it is.

10. Does this Letter of Credit contain the specific terms requested by the Company and as mandated by the Commission?

A. Yes, we were informed that the Commission required substantially that language in the instrument.

11. For the record, will you briefly explain what a Letter of Credit is?

A. There are many types of Letters of Credit. The one provided in this instance is referred to as a Stand-By Letter of Credit and is designed to guarantee an action or certain performance. If that contracted for performance is not completed, then the beneficiary under the Letter of Credit realizes the proceeds.

12. So that I get the right terminology, we please identify the names of the parties to the Letter of Credit for the Bank, the Company, and the Commission?

A. Yes, the Bank is known as the "Surety" and the Company is known as the "Principal". The Commission would be the "Trustee" under this instrument.

13. How is the Bank, and for that matter the Commission, secured under this instrument?

A. Due to the long-term and ongoing relationship between the Bank and Mr. Johnson's entities, how we are quite familiar with his financial statements, including his fixed and liquid assets. The Bank enters into other documentation with Mr. Johnson that places a lien on his assets sufficient to secure the Letter of Credit. In this instance the Letter is secured by cash.

14. In the event of the Principal's failure to perform under the Letter of Credit, how would the Trustee make a claim or execute on the Letter of Credit?

A. Presumably the Commission will take some official action to determine that the Company has, in fact, failed to perform as contemplated. Upon presentation of that document to our Documentation Department at 6001 N. 24th St Phoenix, AZ 85016, along with a request for the funds, the Bank would provide the proceeds of the Letter of Credit.

15. So the documentation required would merely be the Commission's determination that the Company had not performed?

A. Yes.

16. How long would it be from the Commission's request for funds until the Letter of Credit was funded?

A. Technically the Bank has seven days to pay under the Letter, however, we typically fund within 48 hours of the request.

17. What with the Bank do upon satisfying the Commission's claim?

A. As indicated, the Bank has fully secured this amount with other assets of Mr. Johnson, and we would then be forced to execute under those documents in the amount of the Letter of Credit.

18. In your opinion is there any risk to the Trustee under this arrangement?

A. None whatsoever.

19 Are there costs to the Company for the Bank issuing a Letter of Credit?

A. They are typically 1-3% of the face amount.

20. How would the Letter of Credit be impacted in the unlikely event that the Company should declare bankruptcy?

A. We would be subject to any Bankruptcy Court ruling, just like everyone else. However, I am certain that if the Commission would request the lift of the Court's Stay on fund disbursement, it would be granted to permit continuing utility service.

21. What would be the impact if the Bank were to have financial difficulties or declare bankruptcy?

A. We would not speculate on that event. National Bank of Arizona is a $42 billion dollar company that has been operating in Arizona since 1982. Our parent is Zion's National Bank, a publicly traded company. Additionally, the cash collateral is subject to FDIC $100,000 insurance.

22. Mr. Davis, are you familiar with Performance Bonds?

A. I am not an expert, but I am generally familiar with those documents.

23. Are the terms contained in your Letter of Credit typical to a Performance Bond?

A. I do not believe so. Bonds are typically tied to a narrowly defined event or specific contract that has defined terms of default. They typically would not reference a

rather ambiguous "failure to provide competitive water and wastewater services" as the operative language.

24. Other than that, how are Performance Bonds different than Letters of Credit?

A. A Performance Bond is basically an insurance policy. With a bond, the Commission would be looking to the assets of the insurance company. With a Letter of Credit, the Commission is relying upon the fact that the Bank has the cash under its control to perform under the Letter of Credit. A bond is a "process" requiring the insurance company to investigate the claim made under that bond. A Letter of Credit, on the other hand, is an "event" under which the Trustee in this instance merely presents the request for funding.

25. Are the Bond premiums more than Letter of Credit fees?

A. Yes, I understand those annual premiums can run from 2 to 10 % of the Bond, depending on the event secured and the financial strength of the secured party.

26. How does one make the claim on a Performance Bond?

A. The Commission would make a claim, not unlike the claim under any insurance policy, and then the insurance company and its underwriters would scrutinize the claim to see if it was within the terms of the bond. My understanding is that this typically takes a number of weeks, if not months.

27. What proof would the Commission need to present?

A. Again, bonds are typical insurance policies and may contain substantial fine print. The claim procedure would no doubt vary from insurance company to insurance company.

28. In your opinion which document or instrument better secures the Commission and the Company's customers in the event a claim would need to be made in this matter?

A. I believe it is well accepted in the financial industry that a Letter of Credit is substantially more secure than a Performance Bond.

29. Does that include your testimony?

A. Yes, it does.