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BEFORE THE ARIZONA CORPORATIC

IN THE MATTER OF THE APPLICATION)
OF SUN LEISURE ESTATES UTILITIES)
COMPANY, INC., FOR A)
CERTIFICATE OF CONVENIENCE AND)
NECESSITY.)

DOCKET NO.
W-02386A-08-0189

EVIDENTIARY
HEARING

At: Tucson, Arizona
Date: February 24, 2009
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1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before the
3 Arizona Corporation Commission, 400 West Congress Street,
4 Tucson, Arizona, commencing at 10:15 a.m. on the 24th day
5 of February, 2009.

6

7 BEFORE: BELINDA A. MARTIN, Administrative Law Judge

8

9 APPEARANCES:

10 For the Arizona Corporation Commission Staff:

11 Mr. Kevin Torrey
12 Staff Attorney, Legal Division
13 1200 West Washington Street
14 Phoenix, Arizona 85007

14 For Sun Leisure Estates Utilities Company, Inc.:

15 NOBLE LAW OFFICES
16 By: Mr. Jason Y. Moyes
17 1405 West 16th Street, Suite A
18 Yuma, Arizona 85364

18

19

20

MICHELE E. BALMER
Certified Reporter
Certificate No. 50489

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25

1 ALJ MARTIN: Let's go ahead and go on the record.
2 This is the time set for the hearing in Docket
3 No. W-02386A-08-0189, in the matter of the application of
4 Sun Leisure Estates Utilities Company for a Certificate of
5 Convenience and Necessity.

6 Good morning. Welcome to the Arizona Corporation
7 Commission. This is Belinda Martin, the Administrative
8 Law Judge assigned to this matter.

9 At this time I would like to take appearances for
10 the record. On behalf of the Applicant?

11 MR. MOYES: Good morning, Your Honor. Jason
12 Moyes on behalf Sun Leisure Estates Utilities Company.

13 MR. SWYSGOOD: Chuck Swysgood, president of the
14 water board.

15 ALJ MARTIN: Thank you, Mr. Swysgood.

16 I don't think your microphone is on, Mr. Moyes.

17 MR. MOYES: Jason Moyes on behalf of Sun Leisure
18 Estates Utilities Company.

19 ALJ MARTIN: Thank you.

20 And on behalf of Staff?

21 MR. TORREY: Your Honor, Kevin Torrey appearing
22 on behalf of Commission Staff.

23 ALJ MARTIN: Okay. Appearing telephonically is
24 Mr. Swysgood. As I mentioned, Mr. Swysgood, while you're
25 on the phone, if you could, if you need to jump in with a

1 question or something, mostly you'll be doing testimony,
2 but if you need to jump in with a question, feel free to
3 do so. Okay?

4 MR. SWYSGOOD: Yes, ma'am.

5 ALJ MARTIN: And thank you for taking the time to
6 jump on the telephone for the hearing.

7 MR. SWYSGOOD: Thank you for allowing me.

8 ALJ MARTIN: You're welcome.

9 I guess the first matter, I need to check with
10 counsel for Staff to see if he has any objection to
11 Mr. Swysgood appearing telephonically for this hearing.

12 MR. TORREY: We do not, Your Honor.

13 ALJ MARTIN: Thank you.

14 And I just wanted to verify, I noticed that the
15 address on the Staff Report, the service list was
16 initially sent to an incorrect address, but I want to
17 verify that the company did, in fact, get a copy of the
18 Staff Report. Mr. Moyes?

19 MR. MOYES: We did, Your Honor, yes.

20 ALJ MARTIN: Thank you.

21 All right. And at this time what I would like to
22 do is open this up for public comment. And at this time
23 if there are any members of the public present who wish to
24 make comment in this matter, now is the time.

25 Let the record reflect that there are no members

1 of the public present.

2 And at this time I would like to ask if the
3 parties have any opening statements or if they wish to
4 waive. Mr. Moyes?

5 MR. MOYES: We'll waive, Your Honor.

6 ALJ MARTIN: Thank you.

7 Mr. Torrey?

8 MR. TORREY: Your Honor, Staff waives opening as
9 well.

10 ALJ MARTIN: Very well. Thank you.

11 Okay. Then, Mr. Moyes, if you could call the
12 witness for the company.

13 MR. MOYES: Mr. Swysgood, if you could please
14 testify for us. Could you please state your full name for
15 the record.

16 ALJ MARTIN: I'm sorry. Hold on, Mr. Swysgood.
17 We're going to be having you sworn in by the court
18 reporter.

19

20

CHARLES G. SWYSGOOD,

21 called as a witness on behalf of the Applicant, having
22 been first duly sworn by the Certified Reporter to speak
23 the truth and nothing but the truth, was examined and
24 testified as follows:

25

1 DIRECT EXAMINATION

2

3 Q. (BY MR. MOYES) Hello, Mr. Swysgood. This is
4 Mr. Moyes. Could you please state your full name for the
5 record.

6 A. Charles G. Swysgood, S-w-y-s-g-o-o-d.

7 Q. And Mr. Swysgood, can you state your position
8 with the company?

9 A. I'm the president of the Sun Leisure Utilities
10 Company water board.

11 Q. And for how long have you been the president of
12 the board?

13 A. I think going on a little over two years now.

14 Q. Okay. And is it correct that you're here today
15 as part of your application for renewal of a Certificate
16 of Convenience and Necessity for the company?

17 A. That is correct.

18 Q. Is it your understanding, Mr. Swysgood, that all
19 of the requirements set forth by the Corporation
20 Commission Staff have been met by the company to meet
21 sufficiency requirements?

22 A. To my knowledge, they have been met.

23 Q. Okay. Are there any matters that you need to
24 discuss at this hearing or any other outstanding
25 requirements that the company is yet pursuing?

1 A. No, not at this time. It's pretty clear in the
2 Staff Report.

3 MR. MOYES: Your Honor, we don't have any further
4 questions at this time.

5 ALJ MARTIN: Thank you, Mr. Moyes. Just out of
6 curiosity, does Mr. Swysgood wish to adopt Staff's -- or
7 the application and -- oh, they haven't been introduced
8 yet. Never mind. I take that back.

9 All right. Mr. Torrey, any cross?

10 MR. TORREY: I have just a few questions, Your
11 Honor.

12

13

CROSS-EXAMINATION

14

15 Q. (BY MR. TORREY) Mr. Swysgood, the Sun Leisure
16 Estates Utilities Company operates in Yuma; is that
17 correct?

18 A. In Yuma County, yes, sir.

19 Q. And can you give us a brief description of the
20 community?

21 A. The community is a senior community, 55 and
22 older. Approximately, I think, there's 58 or 59 residents
23 in the park. And it's a small park by comparison to a lot
24 of them.

25 Q. These 58 or 59 residents that you have described,

1 are they full-time residents or part-time?

2 A. Some of them are full-time and some of them are
3 part-time. I think there's about 32 of them that are
4 full-time.

5 Q. The facilities that you use to serve water to
6 these customers, could you give us just a brief
7 description of those facilities?

8 A. Yes, sir. We have a 15,000-gallon storage tank.
9 We have two booster pumps. We have a 1,000-gallon
10 pressure tank, and then we have the main lines and stuff
11 that run to the house with an inch supply line to the
12 meter and three-quarter out of the meter to the house.

13 Q. How many wells does the company currently
14 operate?

15 A. One.

16 Q. And what is the production of that well right
17 now?

18 A. It's about between 126 and 130 gallons a minute.

19 Q. Is it the company's belief that that particular
20 well currently provides enough water to serve the
21 customers that you have in the Sun Leisure Estates
22 community?

23 A. As long as it's functioning properly, it supplies
24 enough water for the community.

25 Q. Now, you mentioned functioning properly. And I

1 believe in previous hearings we've had some testimony from
2 the company about the potential failure of this well or
3 some potential issues that could arise with this well.
4 Could you please -- are you familiar with those issues?

5 A. Yes, sir.

6 Q. Could you please, just for the record in this
7 matter, give us an overview of what you believe the issues
8 are with that well?

9 A. Yes, sir. We have just the one well that
10 currently we're operating on. Prior to this well that
11 we're on now, we had two wells, the current well plus the
12 older well that was drilled when the community was
13 established.

14 The well we're on now was drilled in the latter
15 part of 2001 as a backup well because the original well
16 was experiencing problems with sand and contaminating and
17 so on. So May of 2007, the original well quit and we had
18 a well driller come out. And he looked at it and tried to
19 pull the old pump, and we can't even pull the old pump
20 because it's caved in.

21 So we've had some earthquake activity in this
22 area and we're located at -- the ground is sand and some
23 clay, but it finally caved in and it became inoperable.
24 And then last year we came before the Commission for an
25 emergency rate increase to drill another backup well just

1 so we could have water in the event that something would
2 happen to the well we're currently on.

3 Q. Now, since the earthquake activity that you have
4 described, have there been any issues with production from
5 the remaining well that's in service?

6 A. So far, no.

7 Q. Have there been any issues of water quality from
8 that well?

9 A. Not that I'm aware of. The tests all come
10 back -- we had a little bit of nitrate, but they took care
11 of that. So other than that, it's -- all of the coliform
12 tests and everything have been good.

13 Q. In terms of the ADEQ requirements, is the company
14 completely in compliance with all of the ADEQ drinking
15 water standards?

16 A. To the best of my knowledge, we are.

17 Q. And did I understand you correctly that you're up
18 to date on all of your ADEQ testing?

19 A. Yes. To my knowledge, we're up to all of the
20 requirements of ADEQ.

21 Q. Is the community that Sun Leisure Estates serves,
22 is that community growing currently?

23 A. No, sir. The community can't grow anymore
24 because of the air base that's just to the north. We're
25 on the south end of the runways to the marine air base,

1 and so this development is as large as it's ever going to
2 get.

3 Q. You have had a chance to review the Staff Report
4 that was issued in this matter, right?

5 A. I have.

6 Q. And are you familiar with Staff's
7 recommendations?

8 A. Yeah. As far as the conditions?

9 Q. Yes.

10 A. Yes, I am.

11 Q. I'll go over those just briefly with you.

12 Staff has recommended approval of the
13 application. Are you aware of that?

14 A. Yes, sir.

15 Q. And Staff is also further recommending that Sun
16 Leisure continue to charge its existing rates and charges
17 in the proposed CC&N extension area. Is that agreeable to
18 the company?

19 A. Yes, it is.

20 Q. Staff also recommends that Sun Leisure uses the
21 depreciation rates that have been approved by the National
22 Association of Regulatory Utility Commissions. Is that
23 agreeable to the company?

24 A. Yes. And a copy of those rates were attached to
25 your report.

1 Q. Okay. I will read you Staff's Recommendation
2 No. 3. Staff recommended that the company be ordered --
3 the company be required that any new entity that may be
4 retained to replace the current property management
5 company and/or the statutory agent should become familiar
6 with all ACC rules and regulations to make certain that
7 the appropriate paperwork is filed with the Corporations
8 Division and Utilities Division.

9 Is that acceptable to the company?

10 A. It is, sir.

11 Q. It's my understanding that all of the company's
12 issues that have resulted in the previous revocation of
13 the corporate status have been worked out; is that
14 correct?

15 A. That is correct.

16 Q. And the company is a fully functioning, approved
17 corporation at this time, correct?

18 A. That is correct.

19 MR. TORREY: Your Honor, I have no further
20 questions for Mr. Swysgood.

21 ALJ MARTIN: Thank you, Mr. Torrey.

22

23 EXAMINATION

24

25 Q. (BY ALJ MARTIN) Good morning, Mr. Swysgood. I

1 have a few questions, if I may.

2 A. Yes, ma'am.

3 Q. I'm sorry. This is Judge Martin.

4 A. I'm sorry. Yes, Judge.

5 Q. Oh, no, that's fine. I just thought I should
6 identify myself so you know who you're talking to.

7 You mentioned that the company has completed all
8 of its required filings to bring its corporate status up
9 to date, correct?

10 A. To the best of my knowledge, that is true, Judge.

11 Q. And it's current with all of its required filings
12 since its corporate status has been reinstated?

13 A. Yes, ma'am.

14 Q. Who are the directors? The names?

15 A. The directors are myself as president, Terry
16 Ericsson is director at large, and Don Peterson is vice
17 president.

18 Q. Okay. Thank you.

19 A. Three members of the board.

20 Q. And just out of -- for my curiosity, have you had
21 any dealings with the company's rate application that will
22 be required to be filed later this year?

23 A. We're in the process of working on that now,
24 ma'am.

25 Q. And you anticipate that that will be filed on

1 time?

2 A. I think we are extended until July, and it will
3 be filed by then, yes, ma'am.

4 Q. Okay, great. The Staff Report talks about the
5 property management company being Diana Crites &
6 Associates. Is that still the same company, or did you
7 hire somebody new?

8 A. No, that's the same company, ma'am. It's been
9 the same company since the one that previously done it a
10 few years ago when this thing lapsed, but they've been our
11 management company for the last few years.

12 Q. Okay. And that company is familiar with, as
13 Mr. Torrey mentioned, the NARUC accounting methods, the
14 depreciation tables and such?

15 A. I will go over that with them. I can't speak for
16 them, but I'm sure that they are because we have worked on
17 this thing before. I don't know about the exact
18 depreciation schedule, but I'm sure they'll be able to
19 handle it.

20 Q. Okay. You mentioned that the property -- that
21 you can't bring in new customers, but what is the physical
22 size of the property? Do you know?

23 A. Oh, geez. I know when I sent a bunch of stuff
24 in to Staff I had a map of the unit. There's just three
25 or four streets in the complex. I'm going to have to make

1 a guess here, ma'am. To the best of my knowledge, it
2 would be probably a quarter of a mile long by, oh, maybe
3 about half of that wide.

4 Q. Okay.

5 A. That is just a rough estimate, ma'am. It's hard
6 to say without -- I don't have that map in front of me
7 that can tell you the exact footages on it.

8 Q. Okay. And these are all -- the property is all
9 home lots. There's no vacant property that can be used
10 for like parks or fountains or anything like that?

11 A. No, ma'am. There's one vacant lot left, but it's
12 sold and the water connection is to it. So there's no
13 other vacant facilities here.

14 Q. Okay. And I think in your affidavit of
15 publication you said you had posted notice or sent letters
16 to 59 parties. The Staff Report has about 57 customers.
17 Is there --

18 A. That's right, ma'am. We posted it -- we mailed
19 it out to all of the lot owners in the park, plus posted
20 one on the bulletin board of the community center besides
21 publishing it in the paper.

22 Q. Okay. What is the lot number for the community
23 center? Do you know?

24 A. Oh, geez.

25 Q. If you don't know, I'm just kind of curious as to

1 where it sort of is located.

2 A. There's two lots there that it occupies, and I
3 think it's 48 and 49, but I'm not really sure.

4 Q. All right. Let's see. Do you know,
5 Mr. Swysgood, who the current statutory agent is for the
6 company?

7 A. No.

8 Q. And who is the company's certified operator?

9 A. It's Sunstates Environmental laboratories here in
10 Yuma. I don't know the guy's name.

11 Q. Sunstates?

12 A. Sunstates, yeah.

13 Q. All right. Thank you.

14 A. They're the ones that do all of our water testing
15 and everything.

16 ALJ MARTIN: I believe that's all of the
17 questions that I have for you, Mr. Swysgood. Let me ask
18 Mr. Moyes if he has any follow-up questions that he would
19 like to ask.

20 MR. MOYES: We don't have any follow-up
21 questions, Your Honor. Just for your reference, there's a
22 map -- I don't know how helpful it will be to you --
23 attached to the Staff Report that shows in the little
24 white box in Section 28, those being square mile blocks,
25 you can at least get a visual estimate of the size of the

1 property.

2 ALJ MARTIN: Okay. I just didn't know if anybody
3 knew what the actual square footage of the area was.

4 MR. MOYES: As far as the statutory agent, it
5 should be Diana Crites.

6 ALJ MARTIN: All right. I have no further
7 questions. Mr. Torrey, do you have anything else that you
8 would like to ask?

9 MR. TORREY: I don't have anything further, Your
10 Honor. I was going to ask a follow-up question, but I
11 believe that Mr. Moyes is correct. Diana Crites, to the
12 best of Staff's knowledge, is the statutory agent.

13 ALJ MARTIN: All right. Mr. Swysgood, I think
14 everybody is done with you, but what I would like to ask,
15 if it's possible for you to stay on the line for the
16 remainder of the hearing.

17 MR. SWYSGOOD: Yeah. No problem, ma'am.

18 ALJ MARTIN: Great. Just in case we have
19 anything else that we need to check with you.

20 MR. SWYSGOOD: Sure.

21 ALJ MARTIN: Thank you very much, sir.

22 MR. SWYSGOOD: Thank you, ma'am.

23 ALJ MARTIN: Mr. Moyes, do you have any other
24 witnesses that you would like to call?

25 MR. MOYES: We do not.

1 ALJ MARTIN: Very well. That being the case,
2 Mr. Torrey.

3 MR. TORREY: Your Honor, in the interest of
4 convenience, would you like to take a minute to take a
5 look at these exhibits that we have, the additional data
6 responses that you had spoken about earlier and the
7 company's four annual reports from 2001 to 2004? I could
8 get those marked and give a copy to Mr. Moyes.

9 ALJ MARTIN: Yes. Let's go ahead and take care
10 of all of that now.

11 MR. TORREY: Okay.

12 (A brief recess was taken.)

13 MR. TORREY: Your Honor, I'm ready whenever you
14 are.

15 ALJ MARTIN: Great. Go ahead and call your first
16 witness, please.

17 MR. TORREY: Thank you, Your Honor. Staff calls
18 Mr. Jian Liu.

19

20

JIAN LIU,

21 called as a witness on behalf of ACC Staff, having been
22 first duly sworn by the Certified Reporter to speak the
23 truth and nothing but the truth, was examined and
24 testified as follows:

25

1 DIRECT EXAMINATION

2

3 Q. (BY MR. TORREY) Mr. Liu, can you state your full
4 name and your business address for the record, please.

5 A. Jian Liu. My business address is 1200 West
6 Washington Street, Phoenix, Arizona.

7 Q. You are employed with the Corporation Commission;
8 is that correct?

9 A. Yes.

10 Q. And in what capacity?

11 A. I'm a water/wastewater engineer.

12 Q. And can you briefly describe for the record your
13 experience in the utility business.

14 A. I have been an engineer for more than 20 years,
15 and the last nine years are focused on water/wastewater.

16 Q. And in conjunction with the application of Sun
17 Leisure Estates Utilities Company that we're hearing
18 evidence on this morning, have you had a chance to review
19 information from the company regarding their engineering?

20 A. Yes.

21 Q. And on the stand in front of you there's an
22 exhibit that's been marked S-1 for identification
23 purposes. Do you see that?

24 A. Yes.

25 Q. And can you identify that exhibit for the record,

1 please.

2 A. It's a Staff Report, dated February 3, 2009.
3 It's regarding the Sun Leisure CC&N application.

4 Q. And within that Staff Report, do you see on the
5 last three pages, do you find an exhibit that's been
6 marked Exhibit 2 of that memorandum?

7 A. Yes.

8 Q. Can you identify Exhibit 2, please.

9 A. That's an engineering memo regarding this
10 application prepared by me.

11 Q. And it was prepared directly by you or under your
12 direct supervision?

13 A. Yes.

14 Q. And if I were to ask you a series of questions to
15 elicit the information contained in Exhibit 2, would your
16 answers be the same or substantially similar to the way
17 the information appears in Exhibit 2?

18 A. Yes.

19 Q. Can you briefly summarize your findings in
20 regards to the physical plant of Sun Leisure Estates
21 Utility Company.

22 A. This water system has one well producing
23 130 gallons per minute; one storage tank, the storage
24 capacity is about 15,000 gallons; and the two booster
25 pumps. So based on the water usage data provided by the

1 company, Staff concludes the company has adequate capacity
2 to serve existing customers.

3 Q. Does Staff have any concerns regarding the
4 physical plant, that it will be unable to serve the
5 current customer base?

6 A. Not at the normal operation, no.

7 Q. Is there anything that may cause Staff to change
8 that opinion?

9 A. Yeah. If there is a major earthquake or
10 something like that, and that may cause some problems.

11 Q. As of now, is there any reason to believe that
12 any kind of earthquake activity is putting this system at
13 risk?

14 A. I cannot tell.

15 Q. Is Staff convinced that the company is in
16 compliance with all of the requirements of the Arizona
17 Department of Environmental Quality in terms of the water
18 service?

19 A. Yes.

20 Q. Is there anything about Exhibit 2 that you
21 believe needs to be changed or modified in any way to make
22 it accurate?

23 A. No.

24 Q. Is there anything else that you would wish to add
25 to your testimony regarding the water system today?

1 A. No.

2 MR. TORREY: Then, Your Honor, Mr. Liu is
3 available for cross-examination.

4 ALJ MARTIN: Thank you.

5 Mr. Moyes, do you have any questions for Mr. Liu?

6 MR. MOYES: No, Your Honor. We rest.

7 ALJ MARTIN: Thank you.

8

9

EXAMINATION

10

11 Q. (BY ALJ MARTIN) Mr. Liu, we know the prior
12 issues with the company and earthquakes and that sort of
13 thing, but currently you have not been made aware of any
14 issues that face the company with its -- the well's
15 production right now?

16 A. Staff do not believe they have any issues right
17 now.

18 Q. Thank you. Did you ever go out and look at the
19 company's system?

20 A. No.

21 Q. ALJ MARTIN: I have no other questions.

22 Mr. Torrey, do you have any follow-up?

23 MR. TORREY: I don't, Your Honor.

24 ALJ MARTIN: Thank you, Mr. Liu. Thank you very
25 much.

1 THE WITNESS: Thanks.

2 ALJ MARTIN: Okay. Mr. Torrey, you can call your
3 next witness, please.

4 MR. TORREY: Your Honor, Staff calls Ms. Vicki
5 Wallace.

6

7

VICKI WALLACE,

8 called as a witness on behalf of ACC Staff, having been
9 first duly sworn by the Certified Reporter to speak the
10 truth and nothing but the truth, was examined and
11 testified as follows:

12

13

DIRECT EXAMINATION

14

15 Q. (BY MR. TORREY) Ms. Wallace, can you state your
16 full name and business address for the record, please.

17 A. I'm Vicki Wallace, and my business address is
18 1200 West Washington Street, Phoenix, Arizona, 85007.

19 Q. And you're employed by the Arizona Corporation
20 Commission; is that correct?

21 A. That's correct.

22 Q. And can you briefly summarize your experience in
23 the utility regulations business.

24 A. I'm currently the Chief of Consumer Services and
25 Special Projects and have been in that capacity for

1 approximately six years. And then I also have a number of
2 years of utility experience in the Oklahoma jurisdiction.

3 ALJ MARTIN: Excuse me one moment.

4 Mr. Swysgood, are you able to hear okay?

5 MR. SWYSGOOD: I can barely hear Ms. Wallace.

6 ALJ MARTIN: Is the microphone on?

7 THE WITNESS: Yeah. Maybe it's not close enough.

8 ALJ MARTIN: Thank you. Sorry.

9 Q. (BY MR. TORREY) In conjunction with the
10 application of Sun Leisure Estates Utilities Company that
11 we're hearing evidence on this morning, did you oversee
12 the preparation of a Staff Report in that matter?

13 A. I did.

14 Q. And on the stand in front of you, do you see an
15 item that's been marked S-1 for identification purposes?

16 A. Yes, I do.

17 Q. Can you identify Exhibit S-1, please.

18 A. That is our Staff Report.

19 Q. And as I stated earlier, did you oversee the
20 preparation of that Staff Report?

21 A. I did.

22 Q. Did you prepare portions of that on your own
23 individually?

24 A. I did.

25 Q. Before I begin with the portions that you

1 prepared, could you locate an Exhibit 1 to that
2 Exhibit S-1.

3 A. Yes.

4 Q. And can you identify that for the record, please.

5 A. That is Staff's report in this case, dated
6 February 3, 2009.

7 Q. The Staff Report has an Exhibit 1 attached to it?

8 A. Oh, Exhibit 1. I'm sorry. Yes. And that's a
9 report that was prepared by Barbara Wells.

10 Q. And is it correct to say that that Exhibit S-1 --
11 or I'm sorry -- Exhibit 1 of the Staff Report is the legal
12 description and a brief map of the facilities?

13 A. Yes, it is.

14 Q. And are you prepared to adopt Ms. Wells'
15 testimony as your own today?

16 A. I am.

17 Q. Going back to Exhibit S-1, are there any things
18 in Exhibit S-1 that you believe should be changed or
19 modified on the stand today to make this exhibit accurate?

20 A. Not to my knowledge.

21 Q. Okay. If I were to ask you a series of questions
22 to elicit the information that appears in S-1 on the stand
23 today, would your answers be the same or substantially
24 similar to the way they appear in Exhibit S-1?

25 A. Yes, they would.

1 MR. TORREY: Your Honor, Staff moves to admit
2 Exhibit S-1.

3 ALJ MARTIN: Mr. Moyes, any objection?

4 MR. MOYES: No.

5 ALJ MARTIN: Thank you. So admitted.

6 (Exhibit S-1 was admitted into evidence.)

7 Q. (BY MR. TORREY) Ms. Wallace, can you briefly
8 summarize Staff's conclusions regarding this application.

9 A. Staff concludes that the company did not -- we do
10 not feel that the company intentionally violated
11 Commission rules by falling out of compliance with the
12 annual reports for the Utilities Division and the
13 Corporations Division.

14 There was a series of years where a CPA was doing
15 their accounting work, and he passed away and they were
16 unaware of the filing requirements. So we do not feel the
17 company intentionally became out of compliance, and they
18 are in compliance now with all of our rules.

19 As far as our recommendations, we recommend
20 approval, and I believe Mr. Torrey just read into the
21 record what our recommendations were.

22 Q. And those remain Staff's recommendations today;
23 is that correct?

24 A. That is correct.

25 Q. And the Staff is not recommending any additional

1 fines as a result of the company not being in compliance
2 with the Corporations Division; is that correct?

3 A. That is correct.

4 Q. To the best of your knowledge, is the company
5 currently in compliance with the annual reporting
6 requirements of the Utilities Division?

7 A. Yes, they are.

8 Q. And did you also bring with you a few of the most
9 recent annual reports from Sun Leisure Estates?

10 A. I brought with me the annual reports of 2001,
11 2002, 2003, 2004. Those were the ones that they were
12 delinquent in filing, and they have now been filed.

13 Q. On the stand in front of you, could you please
14 find an exhibit that's been marked S-3 for identification
15 purposes.

16 A. Yes.

17 Q. And can you identify that document?

18 A. S-3 are the 2001 through 2004 annual reports.

19 Q. Exhibit S-3, is that the 2001 annual report?

20 A. Oh, okay. Sorry. I didn't look at it, did I?

21 ALJ MARTIN: Trick question.

22 THE WITNESS: Okay. Exhibit 3 is the 2001 annual
23 report; Exhibit 4 is the 2002 annual report; Exhibit 5 is
24 the 2003 annual report; and Exhibit 6 is the 2004 annual
25 report.

1 Q. (BY MR. TORREY) And to the best of your
2 knowledge, are those true and accurate copies of the
3 annual reports filed by Sun Leisure Estates over those --
4 well, in compliance with those years?

5 A. Yes, they are.

6 Q. And to the best of your knowledge, is the company
7 up to date on its annual reporting requirements?

8 A. Yes, they are.

9 Q. On the stand in front of you, could you also find
10 an exhibit that's been marked S-2 for identification
11 purposes.

12 A. Yes.

13 Q. And can you identify Exhibit S-2, please.

14 A. S-2 is the company's response to Staff's
15 insufficiency letter. It's the data responses.

16 Q. And essentially what was the Commission -- what
17 additional information was the Commission looking for with
18 these data responses?

19 A. They were looking for a list of all of the major
20 components of the existing water system, the water use
21 data report, a copy of required county permits, a copy of
22 the certificate of good standing from the corporations
23 division, the compliance with ADEQ, the legal description
24 and map, and a copy of the paid receipt for Yuma County
25 property taxes, as well as the annual report information.

1 Q. And with the exception of the annual reports, are
2 each of those documents that you named off attached to
3 your letter of June 11 requesting that information?

4 A. Yes, they are.

5 Q. And so in response to your letter of June 11, if
6 you include Exhibits S-3, 4, 5, and 6, the responses from
7 the company would be complete; is that correct?

8 A. That is correct.

9 Q. Is there anything else that you believe -- that
10 does not appear in the Staff Report that you believe that
11 the Commission should hear in relation to this
12 application?

13 A. Not at this time, no.

14 MR. TORREY: Your Honor, I have no further
15 questions for Ms. Wallace.

16 ALJ MARTIN: Did you want to move for admission
17 of 2 through 6?

18 MR. TORREY: I do, Your Honor. I apologize.
19 Staff moves to admit Exhibits S-2, 3, 4, 5, and 6.

20 ALJ MARTIN: Any objection, Mr. Moyes?

21 MR. MOYES: No objections, Your Honor.

22 ALJ MARTIN: Thank you. So admitted.

23 (Exhibits S-2, S-3, S-4, S-5, and S-6 were
24 admitted into evidence.)

25 ALJ MARTIN: Mr. Moyes, do you have any questions

1 for Ms. Wallace?

2 MR. MOYES: We do not.

3 ALJ MARTIN: Thank you. But, of course, I do.

4

5

EXAMINATION

6

7 Q. (BY ALJ MARTIN) Good morning, Ms. Wallace. How
8 are you?

9 A. Good morning. All right.

10 Q. Except for having to drive to Tucson.

11 A. It's all right.

12 Q. One of the Staff's recommendations was that any
13 new property manager hired by the company should be made
14 aware of Staff's -- of the Commission's requirements and
15 regulations and such.

16 Do you have a way that you would propose that the
17 company ensure that the new property management company or
18 CPA, or whoever they hire, be made aware of that?

19 A. Just that they be told where they can find the
20 rules of the Commission and past orders concerning the
21 company, past decisions.

22 Q. Do you think that the company should be required
23 to file something with the Commission if they hire a new
24 property manager or CPA?

25 A. I think that would be -- yes, I think that would

1 be beneficial.

2 Q. Okay. Looking at the company's past filings,
3 have they not used the NARUC depreciation tables or -- I
4 know this is a standard recommendation, but I'm just
5 wondering past practices.

6 A. That was part of the engineering report. So I'm
7 sorry, I'm not aware of it.

8 Q. Sorry about that. Okay.

9 On Page 1 of the Staff Report, if you could turn
10 there.

11 A. Okay.

12 Q. Let's see. The first paragraph in the background
13 section, you reference -- towards the end you reference
14 two decision numbers, 62622 and 62633. Are those correct?
15 Looking at the dates that they were issued and such, 62622
16 I know was issued on June 9, 2000, but 62633 doesn't sound
17 or look correct.

18 A. If I can get my book, I can look.

19 Q. Yes, please.

20 A. You mean we've got a typo?

21 And you were asking me about 62633?

22 Q. Yes.

23 A. I'm sorry, I don't have that one.

24 Q. Okay.

25 A. Wait a minute. I'm sorry. No, I don't.

1 Q. Okay. Because I noticed that 62622 was issued
2 June 9, 2000, but the 33 goes to something else.

3 A. Would you like for Staff to file something?

4 Q. I guess my question is: What was the order that
5 granted the company's current rates and charges? If you
6 have that.

7 A. Yeah. Just a moment.

8 Okay. According to a decision in the interim
9 rate case, dated 70375, dated June 13 of 2008, it says:
10 In Decision No. 62622 -- oh, but you're talking about 33.

11 MR. MOYES: Your Honor?

12 ALJ MARTIN: Mr. Moyes.

13 MR. MOYES: If I may, from that same decision, I
14 believe I have the correct decision number referencing the
15 1990 rate case. If you would allow me, it appears to be
16 Decision No. 57078, granted on September 19, 1990.

17 ALJ MARTIN: Okay. That seems right, since the
18 company hadn't had a rate increase in a while, as I
19 recall.

20 MR. MOYES: That's correct.

21 ALJ MARTIN: Very good.

22 Q. (BY ALJ MARTIN) Does that sound about right?

23 A. It does. And I actually have it; I just can't
24 find it.

25 Q. That never happens to me. I can put my fingers

1 on everything -- yeah.

2 Let's see. And in reviewing financial
3 information provided by the company with the Staff's data
4 requests, do you have any opinion as to the company's
5 financial ability to maintain service pending the
6 company's ordered rate application that is to be filed
7 later this year?

8 A. I believe that the company is financially able
9 to, with its current rate structure, to stay above board.
10 And according to information that they submitted to me,
11 they actually indicated that -- they actually indicated
12 that with its current rates, Sun Leisure was able to pay
13 all of its bills, with about 22 percent of its income
14 going into reserves for repairs.

15 ALJ MARTIN: Okay, great. I believe that's all
16 the questions that I have.

17 Mr. Torrey, do you have any follow-up?

18 MR. TORREY: I do not, Your Honor.

19 ALJ MARTIN: Mr. Moyes, do you have anything?

20 MR. MOYES: No, Your Honor.

21 ALJ MARTIN: All right. Thank you, Ms. Wallace.
22 Thank you very much.

23 THE WITNESS: You're welcome.

24 ALJ MARTIN: Mr. Torrey, do you have any other
25 witnesses?

1 MR. TORREY: Your Honor, Staff has no further
2 witnesses.

3 ALJ MARTIN: Thank you.

4 Very well. With that, I would like to ask
5 Mr. Moyes if you would care to make any closing
6 statements?

7 MR. MOYES: No. We'll waive closing as well,
8 Your Honor.

9 ALJ MARTIN: Mr. Torrey?

10 MR. TORREY: Your Honor, Staff will waive closing
11 as well.

12 ALJ MARTIN: Very well. Then let me -- oh,
13 Mr. Moyes, did you have any exhibits that you wished to
14 have admitted?

15 MR. MOYES: We did not.

16 ALJ MARTIN: All right. Thank you.

17 Mr. Torrey, I would like to confirm that we've
18 admitted Staff's Exhibits S-1, S-2, S-3, S-4, S-5, S-6.
19 Is that what you have?

20 MR. TORREY: That's correct, Your Honor.

21 ALJ MARTIN: Very well. Then this concludes this
22 hearing, and the matter will be taken under advisement
23 pending submission of a recommended opinion and order to
24 the Commission. I thank everybody for their participation
25 and their time today.

1 Mr. Swysgood, are you still there?

2 MR. SWYSGOOD: Yes, ma'am.

3 ALJ MARTIN: Sir, thank you very much for taking
4 the time out to jump on the phone with us. We really
5 appreciate it, and we'll be talking with you soon.

6 MR. SWYSGOOD: Thank you, Judge. Appreciate you
7 letting me do it by telephone.

8 ALJ MARTIN: Thank you. Take care, bye-bye.

9 MR. SWYSGOOD: Take care, bye.

10 ALJ MARTIN: With that, we'll go off the record.

11 (The Proceedings concluded at 11:00 a.m.)

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1 STATE OF ARIZONA)
) ss.
 2 COUNTY OF MARICOPA)

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4 I, MICHELE E. BALMER, Certified Reporter
 5 No. 50489 for the State of Arizona, do hereby certify that
 6 the foregoing printed pages constitute a full, true and
 7 accurate transcript of the proceedings had in the
 8 foregoing matter, all done to the best of my skill and
 9 ability.

10

11 WITNESS my hand this 1st day of March, 2009.

12

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Michele E. Balmer
 MICHELE E. BALMER
 Certified Reporter
 Certificate No. 50489

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