



0000095154

1 BEFORE THE ARIZONA CORPORATION COMMISSION

2

3 IN THE MATTER OF THE APPLICATION) DOCKET NOS.
 4 OF ARIZONA-AMERICAN WATER COMPANY,) WS-01303A-02-0867
 5 INC., AN ARIZONA CORPORATION, FOR) WS-01303A-02-0868
 6 A DETERMINATION OF THE CURRENT) WS-01303A-02-0869
 7 FAIR VALUE OF ITS UTILITY PLANT) WS-01303A-02-0870
 8 AND PROPERTY AND FOR INCREASES IN) W-01303A-02-0908
 9 ITS RATES AND CHARGES BASED)
 10 THEREON FOR UTILITY SERVICE BY ITS)
 11 SUN CITY WEST WATER AND WASTEWATER)
 12 DISTRICTS.)

8

9 AND RELATED MATTERS.)

10

10

11 At: Phoenix, Arizona

12 Date: December 4, 2003

13 Filed: **DEC 08 2003**

14

15

REPORTER'S TRANSCRIPT OF PROCEEDINGS

16

VOLUME I

17

(PAGES 1 THROUGH 73)

18

19

ARIZONA REPORTING SERVICES, INC.

20

Court Reporting

21

Suite Three

22

2627 North Third Street

Phoenix, Arizona 85004-1103

23

By: MICHELE E. BALMER, RPR
Certified Court Reporter
Certificate No. 50489

24

Prepared for:

25

ACC

CERTIFIED COPY
(When in red)

**FOR
INTERNAL
&
INTERAGENCY
USE
ONLY**

Pursuant to the contract with Arizona Reporting Service all transcripts are available electronically for internal agency use only.

Do not copy, forward or transmit outside the Arizona Corporation Commission.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX TO EXAMINATIONS

WITNESS	PAGE
(None)	

INDEX TO EXHIBITS

NO.	DESCRIPTION	ID	AD
(None)			

1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before
3 the Arizona Corporation Commission, 1200 West
4 Washington Street, Phoenix, Arizona, commencing at
5 10:00 a.m. on the 4th day of December, 2003.

6
7 BEFORE: MARC SPITZER, Chairman
8 WILLIAM A. MUNDELL, Commissioner
9 MIKE GLEASON, Commissioner
10
11 TEENA WOLFE, Administrative Law Judge

12 APPEARANCES:

13 For the Arizona Corporation Commission Staff:

14 MR. TIMOTHY J. SABO
15 MR. GARY HORTON
16 MR. JASON GELLMAN
17 Staff Attorneys, Legal Division
18 1200 West Washington Street
19 Phoenix, Arizona 85007

20 For Arizona-American Water Company:

21 FENNEMORE CRAIG, P.C.
22 By: Mr. Norman D. James
23 Mr. Jay L. Shapiro
24 Suite 2600
25 3003 North Central Avenue
Phoenix, Arizona 85012
(602) 916-5370

For the Arizona Utility Investors Association:

Mr. Walter W. Meek, President
2100 North Central Avenue, Suite 210
Phoenix, Arizona 85004

1 APPEARANCE (Continued):

2 For the Sun City Taxpayers' Association

3 Mr. Raymond E. Dare
4 12611 North 103rd Avenue, Suite D
5 Sun City, Arizona 85351

6 For Sun Health Corporation:

7 JENNINGS, STROUSS & SALMON, P.L.C.
8 By: Mr. Robert Taylor
9 Mr. Kenneth Sundlof
10 201 East Washington Street, 11th Floor
11 Phoenix, Arizona 85004

12 For Frank J. Grimmelmann:

13 MR. FRANK J. GRIMMELMANN
14 42441 North Cross Timbers Court
15 Anthem, Arizona 85086

16 For the Residential Utility Consumer Office:

17 RESIDENTIAL UTILITY CONSUMER OFFICE
18 By: Mr. Daniel Pozefsky
19 Suite 200
20 1110 West Washington Street
21 Phoenix, Arizona 85007

22 For the Town of Youngtown:

23 MARTINEZ & CURTIS
24 By: Mr. Paul R. Michaud
25 2712 North 7th Street
Phoenix, Arizona 85006

MICHELE E. BALMER
Certified Court Reporter
Certificate No. 50489

1 ALJ WOLFE: Good morning, and welcome to the
2 Arizona Corporation Commission.

3 This is the time and the place set for the
4 hearing to commence in the matter of the application of
5 Arizona-American Water Company, Inc., an Arizona
6 corporation, for a determination of the current fair
7 value of its utility plant and property, and for
8 increases in its rates and charges based thereon for
9 utility service by its Sun City West water and
10 wastewater districts, it's Mohave water district and
11 Havasu water district, it's Anthem water district, its
12 Agua Fria water district, and its Anthem/Agua Fria
13 wastewater district, and its Tubac water district.

14 My name is Teena Wolfe. I'm the Administrative
15 Law Judge assigned to this matter. With me here on the
16 bench this morning are Chairman Spitzer and
17 Commissioner Gleason.

18 We'll start the proceedings this morning by
19 taking appearances of the parties, beginning with the
20 Applicant.

21 MR. JAMES: Your Honor, Commissioners, Norman
22 James and Jay Shapiro for the Applicant Arizona-
23 American Water Company.

24 ALJ WOLFE: Thank you. Arizona Utility
25 Investors Association.

1 MR. MEEK: Good morning, Your Honor,
2 Commissioners. Bill Meek, President of the Arizona
3 Utility Investors Association.

4 ALJ WOLFE: Carlton Young. Is Carlton Young
5 present today?

6 Let the record reflect that he is not.

7 Fiesta RV park? Is a representative for Fiesta
8 RV Park present today?

9 Let the record reflect that there is no
10 representative present for Fiesta RV Park.

11 Sun City Taxpayers Association? Is there a
12 representative here today?

13 Sir, could you come up to the microphone and
14 enter your appearance for the record.

15 MR. DARE: My name is Raymond Dare.
16 R-A-Y-M-O-N-D, D-A-R-E.

17 ALJ WOLFE: Thank you, sir.

18 Sun Health Corporation.

19 MR. TAYLOR: Good morning, Your Honor,
20 Commissioners. My name is Robert Taylor, and Kenneth
21 Sundlof of Jennings, Strouss & Salmon on behalf of Sun
22 Health.

23 ALJ WOLFE: Thank you.

24 Frank Grimmelmann?

25 MR. GRIMMELMANN: Good morning, Your Honor.

1 Frank Grimmelmann, G-R-I-M-M-E-L-M-A-N-N, representing
2 the Anthem community and myself as an individual
3 consumer.

4 ALJ WOLFE: Okay. I understand that you are an
5 Anthem community resident, but in this matter since
6 you're not represented by counsel, you're representing
7 yourself Mr. Grimmelmann; correct?

8 MR. GRIMMELMANN: Correct. Thank you, Your
9 Honor, for clarifying that for me.

10 ALJ WOLFE: RUCO?

11 MR. POZEFSKY: Good morning, Your Honor. Good
12 morning, Mr. Chairman, Commissioner Gleason. Daniel
13 Pozefsky on behalf of RUCO.

14 ALJ WOLFE: Thank you. The Town of Youngtown.

15 MR. MICHAUD: Thank you. Good morning. Paul
16 Michaud and Larry Udall from the law firm of Martinez &
17 Curtis on behalf of the Town of Youngtown.

18 ALJ WOLFE: And for the Commission's Utilities
19 Division Staff.

20 MR. SABO: Your Honor, Tim Sabo, Gary Horton,
21 and Jason Gellman on behalf of Staff.

22 ALJ WOLFE: At this time we will take public
23 comment from the public for the record in this
24 proceeding. I will note that I will address any
25 procedural questions that the parties may have

1 following the taking of public comment.

2 Due to another need for this room today, we
3 will be adjourning the hearing for today's session at
4 1:00 p.m. or maybe prior to that, but at least by
5 1:00 p.m. And after we take public comment, then we
6 will commence with opening statements of the parties,
7 if there are any.

8 All right. So what I will do as far as public
9 comment is I'll go down the rows. I don't see that
10 there are lots of people.

11 Oh, I wanted to note also for the record that
12 the Commissioners have travelled around the state to
13 Anthem, Surprise, Sun City, Lake Havasu City, Bullhead
14 City and Tubac, in order to hear customers' public
15 comments for the record so that customers would have
16 the ability to make public comment without having to
17 travel to Phoenix for the hearing today.

18 And I'll note that I have read the transcripts
19 for all of those sessions, with the exception of the
20 transcript for the Tubac public comments session, which
21 I know just arrived today, and I will be reading that.

22 For those making public comment today, your
23 comments will be transcribed for the record by the
24 court reporter. So if you'll step up to the mic and
25 state your name and spell it, then you can go ahead

1 with your comments.

2 Also, Commissioner Mundell has just arrived.

3 Could you raise your hand if you wish to make a
4 public comment this morning?

5 Yes, sir. Could you come up to the mic.

6 MR. FEARNOW: My name is Bill Fearnow.

7 F-E-A-R-N-O-W.

8 And my wife and I have a house down in Tubac.
9 And it's been many months since I got notice of this,
10 and I didn't know the comment period would be before
11 the presentation.

12 But as I recall from what I received, it was
13 something like a 20 or 40 percent rate increase,
14 something really outrageous, which I thought had
15 absolutely nothing to do with the rate of inflation.
16 It just seemed to me that somebody came in and bought
17 these assets and figured they could make a killing by
18 getting the rates increased.

19 So to me, the proposed rates -- which I
20 honestly don't know exactly what they are but I'm sure
21 it's on the record here -- just seem to be all
22 completely out of whack with reality and what's
23 involved in getting water out of the ground and putting
24 it in the pipe and delivering it to folks.

25 Thank you very much.

1 ALJ WOLFE: Thank you.

2 Anyone else wish to make public comment for the
3 record today?

4 (No response.)

5 ALJ WOLFE: Well, I guess the public comment
6 sessions in the affected areas have been very
7 effective. And thank you very much for your comments,
8 sir.

9 With that, then, we will move to opening
10 statements if the parties are prepared with their
11 opening statements.

12 MR. JAMES: I assume you would like to hear
13 from the company first, Your Honor.

14 ALJ WOLFE: Yes, Mr. James.

15 MR. JAMES: All right. What I will try to do
16 today, Your Honor, Commissioners, is to provide an
17 overview of what is going on in this rate case, which
18 involves 10 different water and wastewater districts.
19 Seven water districts and three wastewater districts
20 specifically.

21 ALJ WOLFE: Mr. James, I'm very sorry to
22 interrupt you. There is a concern that maybe you can't
23 be heard on the Listen Line. So if you could --

24 MR. JAMES: Should I sit down or --

25 ALJ WOLFE: You may sit or stand at the podium

1 or hold the microphone.

2 MR. JAMES: Whatever you would prefer.

3 Okay. I'll use the podium then.

4 COM. GLEASON: Whichever you want. I was just
5 going to say that the Listen Line, those mics don't
6 pick up well.

7 MR. JAMES: That's no problem.

8 COM. MUNDELL: We had suggested in the public
9 comment meetings that people who would want to listen
10 in today on the Listen Line, we gave them that number.
11 So it's very important.

12 MR. JAMES: That's fine. I just want to make
13 certain that everybody does hear me. So I understand.

14 Again, just to backtrack briefly, I'll try to
15 just give an overview today. Obviously there's going
16 to be extensive presentations. There's a substantial
17 amount of prefiled testimony that's going to be
18 presented.

19 But by way of overview, again, this case
20 involves 10 separate districts that are owned by
21 Arizona-American Water Company. Seven water districts
22 and three wastewater districts.

23 All 10 districts were originally or formally
24 owned and managed by Citizens Communications Company.
25 They were acquired by Arizona-American in January 2002,

1 as authorized by the Commission in Decision No. 63584,
2 which was issued in April 2001.

3 The company is proposing, Your Honor, that we
4 use a test year in this case consisting of the 12-month
5 period ending December 31, 2001, with appropriate pro
6 forma adjustments to obtain a normal relationship
7 between revenue expenses and rate base.

8 The total -- well, the rate adjustments we're
9 asking for in this case, Your Honor, are based on
10 producing a 7.52 percent return on the company's fair
11 value rate base.

12 Now, let me put the increases in context,
13 because I think that's important. And they range quite
14 widely from district to district. For example, with
15 respect to the Anthem water district, the company is
16 essentially requesting no rate increase. And as you
17 recall, Anthem is a relatively new system. It's the
18 Del Webb project north of Phoenix. It has not been in
19 for rate increases ever.

20 The Commission, when it issued the CC&N for
21 Anthem, ordered the company to file an application for
22 rate review by 2004, or at such time as the company had
23 3,500 equivalent residential units. So no rate
24 increase is requested for Anthem water.

25 A one percent rate increase is being requested

1 for the Agua Fria water district. We have several
2 other districts going from extremes, and I'll address
3 this in more detail in a moment.

4 But the Sun City water district, we're
5 requesting a 72 percent increase, which I'll put in
6 perspective in a moment. Tubac water -- and we had a
7 customer speak a moment ago on Tubac -- we're
8 requesting a 71 percent rate increase.

9 Now, each of these systems has its own unique
10 characteristics, its own rate base, its own particular
11 issues and problems. And since it was raised this
12 morning, let me talk about Tubac first.

13 Tubac is the smallest of these districts. It
14 only has 500 customers. It has limited growth
15 potential. It has water supply issues. Because
16 although it's pumping groundwater, there's an issue
17 with respect to whether the water in that area is
18 actually groundwater or whether it's subsurface flow
19 from the Santa Cruz River.

20 All of the parties agree that some increase is
21 needed for this system. It just happens to be one of
22 those small rural systems that on a stand-alone basis
23 is more expensive to operate.

24 Sun City water and wastewater, I think you have
25 to sort of look at those together. Again, the rates

1 are being developed separately. They have separate
2 rate bases, but obviously both of those districts serve
3 the same customer group.

4 As I indicated, the Sun City water district --
5 with respect to the Sun City water district, Your
6 Honor, the company is requesting a 72 percent increase.
7 Now, what does that mean? The average water use in Sun
8 City is about 8,400 gallons. Under the present rate,
9 that equates to \$11.17 a month for water service.

10 Under the company's proposal, the charge for
11 using that average amount of water, 8,400 gallons,
12 would go up to \$19.42. So yes, it's a large increase
13 in a percentage basis. The monthly cost for water, we
14 would submit, is still very low.

15 In addition, we've also proposed -- which we're
16 not required to do -- but we've also proposed that to
17 the extent any of these rate increases are over 40
18 percent, that we would be willing to phase in the rate
19 increase in two steps. The first step would be a 40
20 percent increase. The balance would be picked up a
21 year later. Because, again, we're not trying to
22 overnight increase the rates dramatically.

23 So, for example, in the case of the Sun City
24 water system, if the company's recommendation were
25 approved, that would be phased in. The first step the

1 rates would go up to approximately \$15.50, assuming
2 average usage. A year later it would go up to \$19.42.

3 Now, on the wastewater side in Sun City, the
4 present rate for wastewater service per month for a
5 residential customer is \$12.87. The company is
6 proposing a 5 percent increase for Sun City wastewater.
7 So the rate would go up for a residential customer to
8 \$13.53.

9 If you combine the overall -- with the
10 company's increases, if you combine the typical monthly
11 bill in Sun City, we're talking about a bill that's
12 roughly \$34 a month for water and sewer service, which
13 we think is a reasonable amount.

14 We have an additional issue with respect to Sun
15 City that I'll just touch on briefly. One of the
16 reasons the wastewater service rate in Sun City is low
17 is because we have a contract with the City of Tolleson
18 under which wastewater is delivered to that city and
19 treated. So the company does not own a wastewater
20 treatment plant in Sun City.

21 Tolleson is making major upgrades to its
22 wastewater treatment plant. We have entered into an
23 amendment to our agreement with Tolleson that's going
24 to require Arizona-American to pay about \$10 million to
25 Tolleson over the next four years. That represents

1 Arizona-American's share of the upgrades to this plant,
2 which obviously treats wastewater from Tolleson. It
3 also treats wastewater from Peoria, and I believe a
4 couple of large industrial customers. So the \$10
5 million represents Arizona-American's share.

6 We are asking for approval of a surcharge in
7 this case that will allow us to recover the costs
8 associated with those payments to Tolleson under the
9 amendment to the Tolleson contract.

10 Let me talk for a minute about Sun City West.
11 Again, the company provides both water and wastewater
12 service in Sun City West. The company is requesting an
13 increase of 34 percent in Sun City West, and a 44
14 percent increase -- 34 percentage, I'm sorry, on the
15 water side and 44 percent on the wastewater side.

16 Again, let's put this in context. At the
17 present time under the present rates, average water use
18 in Sun City West is about 7,200 gallons per month. At
19 the present rate that equates to \$11.67 per month for
20 water service. Again, relative to other communities in
21 this area, that's an extremely low monthly payment for
22 water service. Under the company's proposal, Your
23 Honor, that would go up to \$15.71 per month.

24 On the wastewater side the monthly payment for
25 service, again to a residential customer, would be

1 \$16.24 per month. Again, a very low rate. That would
2 go up to \$22.74 per month under the company's proposal,
3 or approximately \$38 per month combined for water and
4 sewer. Again, a relatively low amount we would
5 contend. There are private sewer companies in this
6 state that are charging over \$40 a month just for sewer
7 service, and I'm certainly paying more than that to the
8 City of Phoenix for water and wastewater service.

9 I should also note that as far as I can tell,
10 Sun City West water district has never received a rate
11 increase since it began operating in 1978. I don't
12 exactly know why. Again, these systems were owned by
13 Citizens. But I should note that a number of these
14 districts have not had rate increases in some time.

15 Sun City Water received a rate decrease in its
16 last case. Sun City West received a rate decrease as
17 well. And as I say, I don't think its rates have ever
18 been increased, which in part is why the rates are so
19 low relative to other communities.

20 Briefly, let me talk about the other districts.
21 Agua Fria water, which is out on the west side of town
22 south of Sun City and extending down to the freeway,
23 the company is asking for a nominal increase of only
24 one percent. The rate on the typical monthly bill in
25 the Agua Fria division is \$22.69 per month for water.

1 Havasu. The company serves a relatively small
2 portion of Lake Havasu City. It doesn't serve all of
3 it. I think it has about 2,000 customers served by the
4 Havasu district. The current rates for that district
5 where approved in 1992. So it's been over 10 years
6 since that district has had any rate increase, and that
7 case was based on a December 31, 1999 test year. So
8 it's been a while since this district has been in for
9 any sort of rate relief.

10 We're asking for a 28 percent increase in
11 Havasu, which would cause the typical bill, again using
12 the average amount of water, to increase from \$19.46 to
13 about \$25 a month during the summer. Havasu has winter
14 and summer rates. The rates go up slightly in the
15 summer. They're slightly lower in the winter.

16 Mohave. The Mohave water district serves
17 primarily Bullhead City and sort of areas immediately
18 adjacent to Bullhead City. Again, the company is
19 asking for a small rate increase for that water
20 district, about three percent.

21 The bill in that case would go up about 60
22 cents per month and would be about \$18.27 assuming the
23 average residential usage. The rates for that
24 district, again, were set in 1990 based on a test year
25 that ended March 31, 1988. So, again, it's been a

1 while since that district has been before the
2 Commission.

3 Finally, let me talk for a minute about Anthem,
4 which I had mentioned before, which has not been before
5 Commission for any sort of rate adjustments ever.
6 Anthem's rates are higher. I know you had, I guess, a
7 relatively lively public comment session in Anthem.

8 Anthem's rates are higher, and it's in part for
9 two reasons. First, it is the newest system. As I
10 mentioned earlier, there was a CC&N granted to Citizens
11 in 1998. So its plant has all been constructed since
12 that time.

13 I think more importantly, its water supply is
14 completely different than the other districts. Anthem
15 is supplied entirely by treated Colorado River water
16 that is imported from the Colorado River and has to be
17 brought into Anthem and it has to be treated, in
18 contrast, for example, to Sun City where there is a
19 groundwater recharge program. Actual surface water is
20 being used there. And so the costs, frankly, are
21 higher than the other districts that rely primarily or
22 entirely on groundwater.

23 In addition, I should note that under Citizens'
24 agreement with Del Webb, there will be a \$1.4 million
25 payment that comes due, I believe, in June of 2004.

1 It's in 2004. I think the month is June. And the
2 company, even though that payment has not been received
3 and won't be received until some time after new rates
4 are put in effect, the company has made a pro forma
5 adjustment to its revenues to include that additional
6 \$1.4 million payment. So as a consequence of that, the
7 company, as I indicated, is actually proposing a very
8 slight decrease to rates for the Anthem water system.

9 So that is sort of an overview of what the case
10 is about. Again, each district is different depending
11 upon the customer base, the rate base, the service
12 characteristics of those particular districts.

13 Let me now move on and just summarize the main
14 issues from the company's perspective that we see in
15 this case. The first issue is the rate base. The
16 company has proposed a reproduction cost new, an RCN
17 rate base. We have submitted schedules. We submitted
18 an RCN study establishing the value, the reproduction
19 cost new value for each rate base of each district.
20 And we also submitted schedules establishing or showing
21 approximately the original cost rate bases for each
22 district.

23 The company is proposing that the Commission
24 use in this case, that the company use the RCN rate
25 basis as the company's fair value rate base. The

1 company believes that the RCN rate base is a better
2 approximation of the current value of the company's
3 utility plant and property. And as everyone knows,
4 under Arizona law, rates are to be based on the fair
5 value of the utility's plant and property as opposed to
6 historic costs.

7 The Staff initially was critical of the
8 company's RCN studies. The company made pretty
9 substantial revisions to those studies in its rebuttal
10 filing, which resulted in reducing on an overall basis
11 for all 10 districts, it resulted in reducing the
12 amount of the RCN rate base by about \$12 million. So
13 at this point I don't think there's any dispute about
14 the amount of the rate base.

15 There is a dispute among the parties, however,
16 over which rate base to use. As I indicated, we're
17 proposing use of an RCN rate base. RUCO and Youngtown
18 are proposing use of an original cost rate base. The
19 Staff is proposing the use of the average of original
20 cost and RCN, but ultimately develop the revenue
21 requirement based solely on the original cost rate
22 base.

23 The income statement revenues and expenses.
24 There are a number of issues, and I'm not going to
25 cover all of them today. I think the biggest issue

1 probably relates to pro forma adjustments that the
2 company has made to expenses.

3 When the company filed this case, it used
4 projected data for 2002 to essentially replace
5 Arizona-American's expenses for wages and salaries, for
6 corporate overhead, for service company charges, to put
7 its expenses in and take Citizens' expenses out.

8 We subsequently obtained data for 2002, so
9 we're now proposing to use the company's actual 2002
10 data for wages and salary expense, for service company
11 charges, and corporate overhead expenses.

12 I think all of the parties are in agreement.
13 There are some minor issues, I think, with respect to
14 the amount of that -- the amount of those particular
15 expenses, except for Staff. The Staff is proposing to
16 use Citizens' 2001 data rather than the -- rather than
17 Arizona-American's 2002 actual data.

18 It's our position that the company's data
19 should be used, actual data should be used, very simply
20 because Citizens' expenses were not normal. Citizens
21 entered into a contract to sell these districts to
22 Arizona-American in 2000 -- or excuse me -- in 1999.
23 October 1999.

24 So what essentially happened -- and it's
25 discussed at length in our witnesses' testimony and I'm

1 sure it will be covered during hearing -- but what
2 happened was Citizens was winding down. Its expenses
3 during 2001 were not normal reoccurring expenses.
4 Again, they were selling these districts. We had to go
5 through and get approvals here, in California, in
6 Illinois. It took time to work through that. The
7 actual transaction didn't close until January 15, 2002.

8 So using 2001 data we submit is simply not
9 representative. It's not a normal test year and,
10 therefore, it's appropriate to adjust it.

11 A couple of other issues on the expense side.
12 We do have a disagreement with RUCO with respect to the
13 calculation of property taxes. Essentially, RUCO is
14 proposing use of historic data as opposed to using or
15 including in the property tax computation revenues that
16 are going to result from this proceeding.

17 I believe we're in agreement with Staff, and
18 none of the other parties have challenged the way the
19 company is proposing to adjust property taxes based on
20 the revenues that will result from this proceeding.

21 We also have a disagreement with RUCO with
22 respect to rate case expense. We are requesting a
23 relatively large amount for rate case expense:
24 \$715,000. However, we're estimating that this case,
25 because of its complexity with 10 different districts,

1 is going to end up costing the company over \$1 million.

2 In fact, just to give you an idea of the costs
3 associated with this, the company's four filings the
4 company was required to make, our direct testimony, our
5 rebuttal testimony and our rejoinder testimony, and our
6 witness summaries, the copying costs alone, just the
7 copying costs, were almost \$50,000. The amount of
8 paper that we had to generate and file in this case is
9 substantial, Your Honor, as you know. You're probably
10 trying to read it.

11 So it is a high figure. But if it's averaged
12 over the number of customers that are involved in this
13 case, which is well over 100,000, it is not out of line
14 with prior company cases.

15 Another point I want to touch on -- because
16 this gets a bit confused, I think, in the testimony --
17 is I guess for a lack of a better way to put it is the
18 notion that the company is somehow requesting an
19 acquisition adjustment in this case.

20 We are requesting recognition of an acquisition
21 adjustment solely for accounting purposes, not for
22 ratemaking purposes. Under the Uniform System of
23 Accounts, the company is required to record on its
24 books, again for tax and accounting purposes, we have
25 to record the difference between the cost of acquiring

1 the Citizens systems and their original cost less
2 depreciation as an acquisition adjustment. The company
3 is proposing -- so that already exists in the company's
4 books.

5 The company is proposing or requesting
6 permission to amortize the acquisition adjustment over
7 40 years using mortgage-style amortization. We're not
8 asking that any acquisition adjustment be included in
9 rate base. And, in fact, by definition, a reproduction
10 cost rate base does not include an acquisition
11 adjustment.

12 So there is some discussion about that, but
13 we're not asking for a return on an acquisition
14 adjustment, nor are we asking that the amortization of
15 the acquisition adjustment be included in rates either.
16 We simply want your permission to begin amortizing it
17 using mortgage-style amortization over 40 years.

18 Capital structure and rate of return.
19 Arizona-American has a very economical capital
20 structure. Our capital structure consists of 60
21 percent debt and 40 percent equity. So we have a
22 relatively high percentage of debt in our capital
23 structure. Moreover, our debt cost is 4.86 percent.
24 Again, that's a very low number. By comparison,
25 Citizens' historic capital structure contained 49

1 percent debt, and the debt cost for Citizens was
2 approximately 7 percent.

3 So the capital structure the company is
4 proposing to use, and which is its actual capital
5 structure as of December 31, 2002, is an economical
6 capital structure. It lowers costs to customers.
7 Obviously, having more debt in the capital structure
8 generates tax deductions that in turn lower income tax
9 expense. So the capital structure does result in
10 benefits to customers.

11 The company is requesting a return on its
12 common equity of 11.5 percent. We have presented and
13 will present testimony from Dr. Thomas Zepp, who is a
14 Ph.D. in economics. Dr. Zepp prepared or performed
15 various estimates of the current cost of equity using
16 publicly traded water utilities and gas utilities. He
17 currently estimates that the range of return on equity
18 for these publicly traded companies is between 10.5
19 percent and 11.7 percent.

20 Moreover, all of the parties in this case, Your
21 Honor, agree that Arizona-American is entitled to a 50
22 basis point adder for its financial risk. Because the
23 company is relatively heavily leveraged -- it has 60
24 percent debt in its capital structure -- it results in
25 additional financial risk.

1 Just to give you an idea by comparison, Value
2 Line, the current edition of Value Line which came out
3 on October 31, 2003, which everybody is using in
4 various ways in making their equity return estimates,
5 for 2003 Value Line projects a return of 10 percent for
6 the publicly traded water utilities that it follows.

7 In 2004, next year, when rates are going to go
8 into effect, Value Line projects a return of 11
9 percent. And for the 2006 to 2008 period, Value Line
10 projects a return of 12 percent. Again, that's without
11 the 50 basis point, the half a -- or half a percent
12 adder that all of the parties have agreed to.

13 So in short, we believe that our recommended
14 capital structure, return on equity, and overall rate
15 of return, which as I said earlier is 7.52 percent, is
16 reasonable.

17 The last issue I want to address briefly is
18 rate design. The company is proposing that there be no
19 changes to rate design. That the increases or
20 decreases, as the case may be, be evenly spread over
21 all customer classes. We keep the same rates and same
22 rate design as the Commission approved for Citizens in
23 prior cases.

24 All of the parties have agreed to that with the
25 exception of Staff. Staff is proposing what I would

1 consider a radical change to the rate design. Staff is
2 recommending a three-tier inverted block rate
3 structure. The problem -- and I guess the goal of this
4 is to encourage water conservation.

5 COM. MUNDELL: Mr. James, to that point, if I
6 could interrupt you.

7 MR. JAMES: Sure.

8 COM. MUNDELL: It's been the historical
9 perspective of this Commission to encourage
10 conversation, and we do that by having the tiered rate
11 system.

12 So you're suggesting that in this case we
13 should deviate from what we have been trying to
14 accomplish here in Arizona, especially with the drought
15 that has occurred, and all of the scientists indicate
16 that we may be in the start of a 30-year drought cycle.
17 And the evidence indicates that since SRP started
18 keeping statistics in the 1880s that we're in one of
19 the worst drought cycles that we've ever had.

20 I mean, that's the purpose of the tiered
21 inverted rate. And you're suggesting that we not even
22 modify -- I mean, you indicated that what is before us
23 is, quote, unquote, radical. But are you not willing
24 to agree that we ought to look at some type of a tiered
25 rating to encourage conservation?

1 MR. JAMES: Not at all. Thank you for asking
2 that question, Commissioner, because this is a critical
3 point. Arizona-American is not opposed to an inverted
4 block rate structure. In fact, I believe one of the
5 systems that we have that's not in front of you is the
6 Paradise Valley System. It used to be Paradise Valley
7 Water Company. That system, I believe, was the first
8 or certainly one of the first systems to have an
9 inverted block rate structure, and the company proposed
10 it.

11 The problem, Commissioner Mundell, and, again,
12 it's a very good question, the change -- the problem is
13 that the way the inverted tier rate structure is
14 proposed in this case doesn't work. The problem is
15 that what the Staff is proposing is that the first
16 4,000 gallons to all customers, regardless of customer
17 class, be sold at a discount. Essentially a lifeline
18 type rate.

19 Well, when you start discounting water, you're
20 not encouraging conversation. You're encouraging
21 greater water use. The upper tier doesn't kick in
22 until 100,000 gallons of water used during a month. So
23 the vast majority of customers, Commissioner Mundell,
24 they're going to actually get a discounted or a reduced
25 monthly charge as a consequence of this. Whereas, only

1 a small number of customers, virtually all of whom are,
2 of course, commercial customers, are actually going to
3 end up in the upper tier.

4 Let me give you by comparison the Paradise
5 Valley district. In Paradise Valley, Arizona-American
6 has a declining block three-tier structure where it
7 gets higher the more you use that applies to
8 residential customers. The rate blocks are
9 substantially lower so that residential customers who
10 use large amounts of water, say 60,000 gallons in a
11 month, actually get up into the upper tier and are
12 paying for water at a higher price. In other words,
13 they're receiving a price signal telling them if you
14 keep using more water, you're going to pay more.

15 On the other side, on the commercial side, they
16 have a two-tier inverted block rate with a completely
17 different rate point. It's much higher. Because the
18 commercial customers use more water, but they have
19 completely different conservation potentials and
20 structures.

21 So the point is not that we're opposed to an
22 inverted block rate structure. But to have, if you
23 will, a generic structure where the first 4,000 gallons
24 for every customer is sold at a discount and then the
25 next break is at 100,000 gallons, that means

1 residential customers can use 50-, 60-, 70,000 gallons
2 in a month and there's no price signal.

3 COM. MUNDELL: Well, Mr. James, then if the
4 tiered structure that the Staff has recommended you
5 don't think is appropriate, have you come forth with a
6 tiered rating structure that would, in fact, encourage
7 conservation?

8 I mean, ever since I've been on this
9 Commission, we've been encouraging conservation by our
10 rate structure. And so I thought I heard you say that
11 you're suggesting no tiered rating structure at all in
12 this case. Now, if I misunderstood you, please correct
13 me.

14 MR. JAMES: No. You're right about that. We
15 did not propose one. And the reason we didn't, Your
16 Honor, was simply because of the size and complexity of
17 this case. We've got -- there are seven water
18 districts. And to design a proper tiered rate
19 structure, you have to look at the individual
20 characteristics of each of those districts.

21 For example, Paradise Valley's first rate
22 block, I think, is about 40,000 gallons in a month.
23 That wouldn't work in Sun City, because the water use
24 pattern in Paradise Valley is much different than Sun
25 City.

1 COM. MUNDELL: Well, you could have a different
2 tiered rating structure for each one of the systems. I
3 mean, that's what we're dealing with with the different
4 rate increases. I mean, you've certainly analyzed
5 that. So I'm having a hard time understanding your
6 argument. Certainly it's a gigantic system. We've got
7 a number of different areas that are going to be
8 impacted. And so I just want to make sure I understand
9 your position.

10 MR. JAMES: Well, and I appreciate that.
11 Again, our position is that the company isn't opposed
12 to inverted tier rates. Again, because of the size and
13 complexity of this case, we didn't want to propose any
14 changes to the rate design. We weren't proposing no
15 changes because we didn't want to implement a different
16 rate design. It's just because of the sheer size and
17 complexity of this case as it is.

18 It does not mean, Commissioner Mundell, that we
19 certainly wouldn't consider one, or if you ordered us
20 to develop an inverted tier rate design for each of the
21 water districts that we would certainly do that. Our
22 problem is with what Staff is proposing, we don't think
23 works.

24 COM. MUNDELL: Well, then, I suggest that you
25 propose one that does work that encourages conservation

1 and meets the goals that this Commission has
2 established over the last four years. Again, since you
3 know, we've established the policy of trying to
4 encourage conservation.

5 MR. JAMES: Okay. Well --

6 COM. MUNDELL: That --

7 MR. JAMES: Okay. Well, thank you.

8 ALJ WOLFE: I would point out, Commissioner
9 Mundell, that that's an issue that the Commission will
10 be grappling with in the upcoming Arizona Water rate
11 order.

12 COM. MUNDELL: Thank you, Judge.

13 MR. JAMES: And I've been corrected, too. I
14 apologize. But apparently we do have two-step inverted
15 blocks in place now in Sun City, Sun City West, and
16 Agua Fria. So there is some. And I apologize for
17 that. There is a conservation-oriented rate structure
18 there now. It's simply not as extreme as what Staff is
19 proposing. It's got a two-step, two blocks.

20 CHMN. SPITZER: Mr. James, I think what
21 Commissioner Mundell is suggesting is Commission orders
22 generally are going to provide for conservation and are
23 going to provide for the price signals that you allude
24 to.

25 And we're obviously not going to tell you how

1 to do your case, but if that is the way the Commission
2 order is going to end up ultimately, he would suggest
3 your participation in finding the solution rather than
4 simple opposition to what has been proposed by the
5 Staff.

6 MR. JAMES: I understand. The company
7 understands.

8 Just the last point, assuming that the rate
9 structure proposed by Staff or any inverted tier rate
10 structure is intended to achieve conservation, what
11 that does do, obviously, is lower the company's
12 revenues. Staff has not proposed any adjustment to the
13 company's revenues to make up for the fact that if
14 people do actually conserve, water use goes down and
15 the company's revenues go down.

16 So with that, Your Honor, and Commissioners, I
17 will conclude by just asking you to approve the
18 company's applications and the requested rate relief.
19 We think they're fair. We think they're reasonable.
20 Again, some of the increases seem high. But when you
21 put them in context over all of the rates being charged
22 by Arizona-American, particularly relative to other
23 systems in Arizona, we think are reasonable.

24 Thank you.

25 ALJ WOLFE: Thank you, Mr. James.

1 Mr. Meek for the Arizona Utility Investors
2 Association.

3 MR. MEEK: Thank you, Your Honor. For the
4 record, I'm Bill Meek, President of the Arizona Utility
5 Investors Association.

6 AUIA doesn't always intervene in rate cases.
7 We really only do so when we see that there is a
8 specific or some specific issues that are really of
9 direct interest and of compelling interest to
10 investors.

11 And in this case there are two of those, which
12 Mr. James has already discussed to some degree. And
13 that is the cost of capital issues and the issue of a
14 structure of the rate base.

15 Turning to cost of capital first, I will
16 confess that I and AUIA is a believer in the comparable
17 earnings standard, because to us it's the only standard
18 that really makes sense to an investor.

19 If I am somehow led to utility stocks as an
20 investor, either because of security or because of
21 consistent dividends or whatever the reason may be, and
22 if I'm then confronted with companies that have varying
23 performances, I am certainly going to pick the
24 companies in that class or in that group that have
25 higher earnings than ones that have lower earnings. So

1 comparable earnings to us simply makes sense.

2 Now, Staff dismisses comparable earnings as a
3 measure. They also dismiss any consideration of unique
4 risks that are incurred by companies that are in the
5 marketplace. And they dismiss analysts' projections
6 either as to earnings, or as to rates of return, or as
7 to interest rates.

8 As a result of this, Staff relies almost
9 entirely on models for their cost of equity
10 recommendations. And in this case their recommendation
11 essentially is at 8.5 percent. Even after you put onto
12 it the adder that Mr. James talked about, the Staff's
13 recommendations end up being anywhere from 100 to 160
14 basis points below actual earnings of companies that
15 are in their own sample for water and gas utilities in
16 the marketplace.

17 Now, they're making these recommendations in an
18 environment in which the economy is heating up rapidly.
19 Interest rates, which are near rock bottom now, have no
20 place to go but up. And we're already hearing, as a
21 matter of fact, that the Fed may be considering
22 increasing rates at their next meeting.

23 The company's rates are going to be in effect
24 for three to five years in an environment where
25 investors are going to require higher returns, not

1 lower returns.

2 COM. MUNDELL: Mr. Meek, let me just clarify
3 what you just said. You said the rates will be in
4 effect for three to five years?

5 MR. MEEK: That's an assumption of mine.

6 COM. MUNDELL: For this company?

7 MR. MEEK: I'm assuming that.

8 COM. MUNDELL: Well, I was going to ask
9 Mr. James earlier. I know the companies like to have
10 us look at these things in a vacuum.

11 And correct me if I'm wrong, when we approved
12 the purchase of Citizens, we had put in a provision. I
13 can't remember if it was Chairman Spitzer's amendment
14 or mine or Commissioner Gleason. We put in a provision
15 -- I thought it was mine, but I don't want to take
16 credit for it if it's not appropriate -- that there
17 would be no rate increases for this company other than
18 the one that is filed in this, or there would be no
19 rate applications in front of the Commission for a
20 number of years.

21 Now, as I recall, the company has sued us on
22 that. So I'm not understanding what you're saying how
23 you reach that conclusion that there won't be -- these
24 rates will be in effect for three to five years,
25 because they sued us to delete that provision from the

1 order when we granted the purchase by them.

2 So I just want to make sure the record is
3 clear. I don't know how you came to that conclusion.

4 Let me ask Mr. James. Mr. James, am I correct
5 in my recollection that in the order approving the
6 purchase by Arizona-American of Citizens that the
7 Commission put in a provision saying that there be no
8 other rate increases for a number of years? I don't
9 remember the term right now.

10 You sued us now in court and that matter is
11 pending to, (a) say we don't even have jurisdiction.
12 Much broader than originally what I thought was going
13 to be your position.

14 So (a) you've sued us saying we don't have any
15 jurisdiction to make a decision; and (b) that the
16 condition in the purchase is unconstitutional.

17 Am I correct in that regard?

18 MR. JAMES: Partially.

19 COM. MUNDELL: Okay.

20 MR. JAMES: It was not the Citizens acquisition
21 order. There was a three-year moratorium on rate
22 increases that was imposed. And I believe you had
23 originally proposed five years, and I think Chairman
24 Spitzer had an amendment that reduced it to three
25 years. I can't remember, but it was a combined effort.

1 COM. MUNDELL: I didn't want to take total
2 credit for it, but I knew that I had an amendment and
3 mine was five. We reached some moratorium compromise,
4 but you have sued us on that.

5 MR. JAMES: But, again, the transaction is
6 different. That was a transaction that was the
7 acquisition of American Water Works stock by Thames
8 Water. And the issue there is different.

9 And the issue is whether the Corporation
10 Commission's Affiliated Interest Rules permit the
11 Commission to regulate stock sales involving foreign
12 corporations that don't do business in Arizona.

13 COM. MUNDELL: Well, I mean, I'm trying to be a
14 little more non-legal and say, you're saying we don't
15 have the authority to impose the conditions that we
16 imposed.

17 MR. JAMES: Well, in that context. But you
18 certainly have authority to approve the Citizens
19 transfer, and you did.

20 And the moratorium, to get to Mr. Meek's point,
21 the moratorium began in January 2003, which was when
22 the stock transaction closed. So at the present time,
23 we cannot file any more applications for rate
24 increases, absent an emergency, until January 2006,
25 which would mean we would get rate relief roughly a

1 year after that.

2 So it would be about three -- when Mr. Meek
3 says three to five years, he has it about right.

4 COM. MUNDELL: Let me make sure I understand
5 what you're saying. What happens if you're successful
6 in your lawsuit against the Commission? Are you still
7 saying you cannot apply for a new rate increase prior
8 to the three to five-year period?

9 MR. JAMES: No.

10 COM. MUNDELL: Okay.

11 MR. JAMES: If we are successful, then we would
12 be able to file.

13 COM. MUNDELL: Right. Immediately. After this
14 matter was concluded.

15 MR. JAMES: If we could support it.

16 COM. MUNDELL: Well, I understand. I'm saying
17 whether you're successful or not, you would be able to
18 turn around and file another rate increase application
19 immediately after the conclusion of this case.

20 MR. JAMES: Yes.

21 COM. MUNDELL: That's a yes?

22 MR. JAMES: That's correct.

23 COM. MUNDELL: Thank you.

24 MR. MEEK: And, Your Honor, Commissioner
25 Mundell, I also recall that episode. And my assumption

1 was based on the assumption that you're not caving in
2 on the lawsuit. My assumption was based on --

3 COM. MUNDELL: We're not caving in. But if
4 we're unsuccessful, I just want to make sure the record
5 is clear they're going to turn around and file another
6 -- they could turn around and file another rate
7 application increase immediately.

8 MR. MEEK: That may be possible. But my
9 assumption is based on the current situation, and that
10 situation is in an environment in which these rates
11 will be in effect for some period of time when the
12 economy is heating up, when interest rates are probably
13 going up.

14 And you all know that an allowed rate of return
15 assures the company nothing. They may earn it, they
16 may not. But a restricted rate of return is definitely
17 restrictive from an investor's point of view.

18 Let me move on to rate base. The issue here,
19 as Mr. James basically described it, is between a
20 reconstruction cost new rate base and an original cost
21 rate base. AUIA believes that the proper regulatory
22 requirement in a review of this kind is to get as close
23 as possible to the actual value of the Company's plant
24 in service at the time of the inquiry. And the thing
25 that gets us there is an RCND rate base.

1 The net result of all of the Staff's
2 recommendations from my point of view simply is this.
3 The Staff is attempting to really stack everything
4 against the company by using an original cost rate
5 base, a historic test year, the regulatory lag that is
6 built into the proceedings in this Commission, by
7 recommending a rate of return that is below what is
8 going on in the marketplace, by dismissing analysts'
9 projections for future performance in the market.

10 What we end up with is a review in which the
11 rate review is mired in the past and not reflective of
12 what's happening in the market. And we hope that the
13 evidence in this case is going to demonstrate to Your
14 Honor and to the Commission that there should be a more
15 enlightened approach taken. Thank you.

16 ALJ WOLFE: Thank you, Mr. Meek.

17 One more time. Carlton Young? Is Carlton
18 Young present?

19 (No response.)

20 ALJ WOLFE: Or Fiesta RV park?

21 (No response.)

22 ALJ WOLFE: Just making sure.

23 Mr. Taylor for -- oh, excuse me. I'm very
24 sorry, Mr. Taylor.

25 Mr. Dare for Sun City Taxpayers Association.

1 Do you have an opening statement?

2 MR. DARE: No, I don't.

3 ALJ WOLFE: Okay. Then Mr. Taylor for Sun
4 Health Corporation. Thank you.

5 MR. TAYLOR: Thank you, Your Honor,
6 Commissioners. I'm going to reorder a little bit what
7 I was going to say this morning in my opening. It's a
8 brief opening.

9 You've already touched upon what is the primary
10 issue for Sun Health in this case, and that's the
11 design of the rate structure.

12 And I would like to say just from the outset
13 that the question of Commissioner Mundell, we are very
14 supportive of conservation at Sun Health. And, in
15 fact, in Sun Health's testimony it describes a number
16 of measures that they currently take to encourage water
17 conservation.

18 Our concern, though, is that this proposal from
19 Staff doesn't get us there in terms of actually
20 encouraging -- actually setting up a rate design that
21 would encourage the public to conserve water. So we
22 understand what you're saying, and we would like to
23 work with all of the other parties to try and develop a
24 rate design that would do that. In fact, that's sort
25 of our only purpose for being in this case as a matter

1 of fact.

2 COM. MUNDELL: Well, counsel, I appreciate your
3 comments and your inclination to be participating in a
4 positive manner so that we can encourage conservation.

5 And was I accurate? I mean, one of your other
6 clients is SRP. And was I correct in my statement that
7 we're in one of the worst droughts since SRP started
8 gathering records?

9 MR. TAYLOR: My other client, which I'm not
10 here representing today.

11 COM. MUNDELL: I understand. But you still
12 have that information in your head.

13 MR. TAYLOR: There right now. It sprang to
14 life this morning. Let me tell you.

15 It is a situation which we are in a drought.
16 And I think Sun Health's position is consistent with
17 Salt River Project in that they do take a number of
18 steps to encourage water conservation. And, in fact,
19 have invested in a number of facilities and plant and
20 the design of their facilities to bring that about.

21 COM. MUNDELL: Thank you, counsel.

22 MR. TAYLOR: With that, if I could just briefly
23 describe who Sun Health is and what its facilities are
24 so that it's on the record and clear to everyone.

25 Sun Health is a nonprofit, tax-exempt

1 corporation that owns and operates a community
2 healthcare network that offers a full range of health
3 and wellness services. And primarily serves northwest
4 Maricopa County, which includes Sun City, Sun City
5 West, Youngtown, El Mirage and Surprise.

6 It operates a number of facilities, including
7 two hospitals. The Boswell Memorial Hospital which has
8 about 343 beds, and the Del Webb Memorial Hospital with
9 over 260 beds. In addition to those facilities, it has
10 a pretty long list here of skilled nursing facilities,
11 an Alzheimer's facility, two hospice residences, a home
12 health agency, a residence for developmentally disabled
13 adults, four physician clinics, a research institute,
14 and a nursing school program.

15 As you can tell from that list of facilities,
16 it provides service to a large number of people in the
17 community. In 2002, Sun Health treated more than
18 30,000 new patients. It responded to 62,000 emergency
19 visits, emergency room visits, and it provided over
20 190,000 outpatient procedures.

21 As a result of that, they do consume a lot of
22 water. And that's why we would like to try to, as I
23 said earlier, develop a rate design structure that
24 would be appropriate for a large user like that but
25 would still encourage conservation.

1 We appreciate your allowing us to participate
2 in this case. We did intervene a little bit late. And
3 we look forward to presenting our case and working with
4 the other parties to help develop that rate design.

5 COM. GLEASON: Judge Wolfe.

6 ALJ WOLFE: Yes. Commissioner Gleason.

7 COM. GLEASON: Yeah. Does Sun Health ever run
8 an audit of their water use to see what they could do
9 to reduce their water use?

10 MR. TAYLOR: To my knowledge, they have not run
11 an audit of their water use. In our testimony we
12 describe some of the things they do, and I do have a
13 brief list here of that. They use water minimizing
14 plumbing. They have a blow-down system on their
15 boilers which minimizes water usage. They have a
16 closed loop water cooling system. And they also
17 maintain control of the water treatment systems to
18 minimize any backwash usage of water.

19 They do perform -- I wouldn't call it an audit,
20 but they do monitor all of the water activities,
21 especially those used for landscaping, to make sure
22 that they're not overwatering, they don't have any
23 spillage. They use a drip system, things of that
24 nature.

25 COM. GLEASON: Well, that's funny. Because

1 every time I drove down Granite Valley this summer, you
2 were running irrigation water out into the street.

3 MR. TAYLOR: Well, I'm not aware of that.

4 COM. GLEASON: Well, I am. Also, I see great
5 expanses of green lawn out there that you're running
6 irrigation water on. That is -- the Sun Cities could
7 use desert landscaping. I think there is ways that you
8 can conserve water out there if you would look at it.

9 MR. TAYLOR: Again, we do take great steps to
10 do it now. Obviously, we'll try to do better in the
11 future.

12 COM. GLEASON: Thank you.

13 MR. TAYLOR: One thing that might be helpful in
14 this case would be if the Administrative Law
15 Judge could direct the parties to try to meet and
16 resolve -- at least work specifically on this issue.
17 That might help us get this resolved quickly and move
18 forward on the case.

19 CHMN. SPITZER: Take away Mr. Gleason's
20 amendments. I smell some amendments percolating.

21 ALJ WOLFE: In every proceeding before the
22 Commission, the parties are always encouraged to work
23 together to find a resolution that all of the parties
24 can live with and that is in the public interest. That
25 applies here as well.

1 MR. TAYLOR: Thank you, Your Honor.

2 ALJ WOLFE: Thank you, Mr. Taylor.

3 Mr. Grimmelmann.

4 MR. GRIMMELMANN: Does this microphone work or
5 do I need to --

6 ALJ WOLFE: You may either sit or stand. I
7 believe the microphone does work.

8 MR. GRIMMELMANN: Thank you.

9 First of all, I would like to say that I
10 appreciate the opportunity as a resident in a democracy
11 to be able to address the Commission and to address you
12 with regard to our views on a very complex rate case.

13 And I say our views because I am a part of our
14 community and, therefore, reflect the community in my
15 comments even though I testify as an individual.

16 Having personally received the company's
17 rejoinder testimony, we were pleased to see that the
18 company on the water rate increase concluded that its
19 original request should be reduced to a level that is
20 almost breakeven from the 7.46 percent position.

21 However, I note that the company selectively
22 tends to combine or separate when it's to their
23 advantage. In their opening comments, they essentially
24 combined in other units saying that was the only
25 appropriate way to be able to consider the entire

1 impact. Yet in the case of Anthem, while the water
2 rates are proposed to remain at a neutral state, the
3 company has not addressed the fact that the sewer rates
4 are, in fact, still being requested to have an
5 increase.

6 The wastewater increase of 16.88 percent
7 proposed is a step in the right direction compared to
8 the original proposal. However, I would note that this
9 still exceeds a rate of inflation in our present
10 environment.

11 Recognizing that our base is higher due to
12 newer codes that we are subjected to, due to the newer
13 construction and cost of construction, and also the
14 fact that we have a state-of-the-art system which
15 addresses many of the problems we see emerging in the
16 state with regard to arsenic and other areas, we
17 nonetheless believe that having the highest base in the
18 area, and three times that of Sun City, still supports
19 the reason that the Commission originally required the
20 company to come back within a two-year period to
21 substantiate its rates based on actual operational
22 performance, not estimates made at the time of
23 inception of Citizens' original rate.

24 With regard to the base, we continue to believe
25 that the RCN and an inclusion of rate of return as

1 requested by the company practically, pragmatically,
2 and actually double dips or allows the recapture of
3 inflation twice.

4 We also believe that recovery of any
5 acquisition premium as originally requested would
6 totally be inappropriate. We believe that RUCO and
7 Staff have proposed adjustments that are necessary to
8 establish an appropriate base for Anthem and,
9 essentially, if adopted, should result in a decrease in
10 our combined rates.

11 With regard to the rate of return, we believe
12 conceptually the rate suggested by Staff based on
13 established Capital Asset Pricing Market theory, or
14 CAPM, are an appropriate and correct foundation for the
15 setting of rates, and that the rates of Staff and RUCO
16 more correctly, as they suggest them, reflect in a low
17 inflationary environment an appropriate rate of return
18 for the company that should result in the company
19 still being able to attract the capital it needs, and
20 allow the company to give an appropriate return which
21 is due to investors.

22 In terms of the use of comparable rates, I
23 would argue that if we always used comparable rates,
24 there would never be any decrease, or for that matter
25 increase, in the rate of return granted to a company.

1 We would simply continue to use whatever that rate is
2 as determined by the market in a stable environment.

3 In reality, what this would do would be to
4 provide an inappropriate rate of return to a company
5 that is inefficient and would reward incompetent
6 management.

7 In stating that, I would reflect upon the
8 meeting in Anthem where the quality of service, where
9 the quality of water, where the quality of billing was
10 very vociferously voiced by over 1,200 residents who on
11 a weekday night were willing to come up, and another 80
12 cars being turned away.

13 In short, we do not see the quality. We do not
14 see the ability to administratively treat a customer
15 from a service-oriented perspective, and we are being
16 asked to absorb higher rates.

17 In summary, Anthem is a diverse and growing
18 community. We consist of those starting out to those
19 on a fixed income. I think that the appearance of
20 affluence can sometimes be very, very deceptive.

21 I would note that we have been very pleased
22 that the developer, in the transfer payments mentioned
23 by the company, has met its responsibilities and has
24 underwritten both the original cost that it committed
25 to, as well as the cost that came about as a result in

1 the reduction of the number of units in our community.
2 Were it not for that subsidy, our rates and the
3 requested rates would be astronomical.

4 We realize that the Commission is bound by
5 established methodologies in setting water rates to
6 allow a fair return. We are willing to pay our fair
7 share, but it would be a travesty to grant windfall not
8 supported by established methodologies.

9 To simply say that the rates today we're
10 willing to accept, does not address the point as to
11 whether the basis upon which those rates have been
12 promulgated are, in fact, supportable by the actual
13 operating history of the company, as opposed to
14 projections that were made in a state of a startup
15 years ago by Citizens.

16 We further remain appalled at the application's
17 quality and the resulting cost to ratepayers for Staff
18 to unravel the mess.

19 When I look at the legal fees proposed and the
20 fact that we had three or four counsels at our public
21 comments session, I certainly can't, since I don't
22 manage those counsels, comment on the appropriateness
23 of the company requesting or having them there. But I
24 do comment on the cost that results to we as payers of
25 the water rates have to pick up in order to get a fair

1 hearing and a fair conclusion.

2 In our testimony we will urge the Commission to
3 consider and support Staff recommendations in rendering
4 its final decision on our community's rates. We ask
5 you to give this careful consideration as you
6 deliberate, and to in your final judgment support what
7 is right based on the evidence and based on fact.

8 Thank you.

9 ALJ WOLFE: Thank you, Mr. Grimmelmann.
10 Mr. Michaud for the Town of Youngtown.

11 MR. MICHAUD: Thank you, Your Honor. Good
12 morning, Your Honor. Good morning, Commissioners.

13 From Youngtown's perspective, this is not your
14 typical rate case where a regulated utility is striving
15 to adequately serve its customers, has made
16 considerable investment in its plant and operations,
17 and now seeks higher rates to recover its costs and
18 earn a fair return on investment.

19 Instead, the Town of Youngtown believes that
20 this is a rate case where a utility paid a high price
21 for another utility's system, and now seeks to have its
22 ratepayers bear the brunt of the additional costs.

23 In this proceeding, Youngtown will present
24 substantial evidence on the record that the 72 percent
25 rate increase in the Sun City water district, of which

1 the Town of Youngtown belongs to, as requested by
2 Arizona-American is not just and reasonable. The
3 evidence will show that the Arizona-American paid
4 \$276,500,000 to purchase Citizens' utility assets.

5 By the company's own admission, this purchase
6 price included a \$71 million acquisition premium. In
7 other words, the company willingly paid \$71 million
8 over the book value of Citizens' water utility assets.

9 The evidence will show that the company's
10 request that the Commission award it a rate increase
11 based upon RCND as fair value rate base, implicitly
12 includes a substantial portion of this \$71 million
13 acquisition premium in rate base.

14 The evidence will show that the company's
15 attempt to implicitly include a substantial portion of
16 the acquisition premium in rate base is a clear
17 violation of the Commission order approving the sale of
18 Citizens' assets to Arizona-American in the first
19 place.

20 This order, however, would allow an acquisition
21 adjustment for the company if the company showed a
22 public benefit, which the company in its testimony has
23 admitted that it has chosen not to do in this rate case
24 but it may do at a later date.

25 The evidence will show that Youngtown's,

1 RUCO's, and Staff's recommended rate base treatment
2 produce results consistent with the Commission's past
3 ratemaking treatment in conformance with the Arizona
4 Constitution and the Arizona law.

5 Rejecting the company's requested rate base
6 treatment and adopting Youngtown's recommended
7 ratemaking approach, rate base approach, results in a
8 rate increase that is less than half of the rate
9 increase requested by the company for the Sun City
10 water districts.

11 Another important issue to the Town of
12 Youngtown in this rate case is a service issue. And
13 the issue is whether the Commission should determine
14 that the company should present a long-range plan to
15 repair certain substandard mainlines and standpipes
16 providing water service to Youngtown's fire hydrants in
17 the company's Sun City water district.

18 The evidence will show that certain areas of
19 Arizona-American's water system in the Youngtown area
20 are now approaching 40 years old, and the fire hydrants
21 in these areas cannot be used by the Sun City Fire
22 Department. Instead, the fire department has a chart
23 on its wall, and in the areas where there is
24 substandard service it actually calls out a -- has to
25 call out a water tanker truck because it knows it can't

1 use those fire hydrants.

2 Surprising to the town, the company continues
3 to refuse Youngtown's reasonable service request that
4 the company honor its obligation to provide and
5 maintain sufficient service under its CC&N and
6 implement a long-range plan to upgrade the substandard
7 portions of the Sun City water system.

8 Youngtown disagrees with the company's position
9 that it does not have to implement or upgrade its water
10 system because there is no specific rule requiring it
11 to do so. Now, we all remember the recent break in the
12 Kinder Morgan pipeline in Tucson. And that's a gas
13 pipeline, but I think it's a good example.

14 Here that company did not provide any upgrades
15 to the pipeline. And at least according to the
16 newspaper things I read, they said it wasn't done
17 because there were no state or federal rules requiring
18 the company to do so. So it simply was never done, and
19 we all know what happened as a result of that.

20 However, unlike the mere inconvenience caused
21 to all of us by the Kinder Morgan pipeline break, if a
22 fire truck attending a structure fire in Youngtown
23 cannot use a fire hydrant because of insufficient water
24 service from the company, and the hydrant simply can't
25 work or the truck cannot use that hydrant, which is

1 happening now, this could result in the loss of lives
2 and property.

3 The evidence will show that Youngtown presents
4 a workable proposal to the company that would allow the
5 company to develop a plan on its own, with the help of
6 Youngtown and the Sun City Fire Department who both
7 have said they would be willing to work with the
8 company to work through the plan, that would allow the
9 company reasonable time to upgrade the substandard
10 mainlines and standpipes in the Sun City area,
11 specifically the Youngtown area.

12 Youngtown does not expect an instant solution
13 to this problem. This is sort of an emerging problem,
14 because this system was built in the 1960s. And we're
15 now reaching that point where these things are really
16 showing their age and showing that they can't --
17 they're not keeping up with emerging technology. You
18 know, the new fire trucks just can't use it.

19 But we do -- the Town does demand that at a
20 minimum a long-range plan be developed so that there
21 will be a steady and sure upgrade of the system. And
22 that way, at least in the long run, we know the system
23 will be safe for everybody.

24 That concludes my opening statement.

25 ALJ WOLFE: Commissioner Gleason.

1 COM. GLEASON: Yeah. Youngtown was built
2 before Sun City; correct?

3 MR. MICHAUD: Yes.

4 COM. GLEASON: And you have your own water
5 system; right?

6 MR. MICHAUD: The Town of Youngtown did
7 originally construct the water system.

8 COM. GLEASON: And you sold it to Citizens?

9 MR. MICHAUD: That's correct

10 COM. GLEASON: When?

11 MR. MICHAUD: I think it was in 1995 or 1996.

12 COM. GLEASON: And I may have to go back to
13 Mr. Dare, but Sun City had some of the same problems
14 and rectified their problem, I believe.

15 MR. MICHAUD: Commissioner, I can't speak to
16 Sun City. I'm only aware of Youngtown.

17 COM. GLEASON: Okay. How much is this project
18 going to cost?

19 MR. MICHAUD: We don't know. And that was one
20 of the reasons why the Town was proposing -- they're
21 proposing the development of a plan and --

22 COM. GLEASON: Okay. But what you're asking
23 now is -- what I'm pointing out is you as a city, you
24 sold your system to Citizens. Now you're asking all of
25 the citizens of the Sun City area to pick up the

1 expenses; is that correct?

2 MR. MICHAUD: Well, I think the correct answer
3 to your question, Commissioner Gleason, is that one of
4 the primary reasons why Youngtown did sell the system
5 to Citizens in the first place was because it didn't
6 have the resources to upgrade the aging system. And
7 that it thought that Citizens as a regulated utility
8 and part of a bigger, larger utility, that was one of
9 the benefits of allowing the system to be sold to
10 Citizens in the first place.

11 COM. GLEASON: May I paraphrase you? You sold
12 it so you could get someone else to help you correct
13 your system.

14 MR. MICHAUD: The Town sold the system so that
15 a larger entity, a larger utility with better
16 resources --

17 COM. GLEASON: Well, who is going to pay for
18 it? There's no free lunch. You're in the utility
19 business. You know, somebody picks up the expenses.

20 MR. MICHAUD: I absolutely agree with you,
21 Commissioner Gleason. And the Town absolutely expects
22 that whatever investment the company does make in its
23 system that it does absolutely have the right to
24 request recovery in a rate case.

25 COM. GLEASON: From all of the people in the

1 Sun City division.

2 MR. MICHAUD: We ask that the company request
3 recovery with the mechanisms that it has in place.
4 Right now I believe Youngtown is part of the Sun City
5 -- the greater Sun City water district. And that is
6 the way --

7 COM. GLEASON: Well, I enjoy your dance, but
8 the whole thing is you're asking Sun City areas to pick
9 up improvement in your system. Thank you.

10 COM. MUNDELL: Isn't that true?

11 Just a little levity.

12 (Laughter.)

13 CHMN. SPITZER: It sounds like Commissioner
14 Gleason has never sold anybody a used car.

15 MR. MICHAUD: I think I --

16 CHMN. SPITZER: There's sometimes a reason why
17 people sell you a used car as is.

18 COM. GLEASON: And water systems.

19 MR. MICHAUD: Commissioner Gleason, I think
20 it's worth noting that -- and I think the evidence is
21 in the record that the --

22 COM. MUNDELL: It called for a yes or no.

23 MR. MICHAUD: The utility has made major
24 upgrades to the Sun City area that Youngtown is now
25 sharing in this rate increase. So it goes both ways.

1 ALJ WOLFE: Thank you, Mr. Michaud.

2 Mr. Pozefsky for RUCO.

3 MR. POZEFSKY: Thank you, Your Honor. Good
4 morning, Commissioners.

5 As you have heard, there are many issues in
6 this case. But I'm going to confine my opening
7 statement to two issues which really explain the large
8 discrepancy between what RUCO and what the company have
9 recommended.

10 First, and undoubtedly the primary cause for
11 the company's rather large revenue requirement, is how
12 the company actually came up with its rate requests.

13 ALJ WOLFE: And we would really like to hear
14 that, and everyone on the Listen Line, too. Thank you.

15 MR. POZEFSKY: The company --

16 ALJ WOLFE: Thank you for picking the mic up.

17 MR. POZEFSKY: The company proposes that the
18 Commission adopt its use of the reconstruction cost new
19 depreciation method, aka the RCND, to calculate its
20 rate base.

21 In other words, the company is requesting that
22 you consider the cost to reconstruct the plant less
23 depreciation, as opposed to the normal valuation of the
24 original cost less depreciation as suggested by RUCO.

25 Now, we all know that the cost of replacing

1 plant is greater than its original cost, which is
2 exactly what the company wants to maximum its rate
3 base. But that alone, which obviously is not in the
4 ratepayers' best interests, is not the only reason why
5 the Commission should reject the RCND proposal.

6 Perhaps equally compelling is the fact that
7 when establishing a rate of return for rate base, the
8 RCND approach, as proposed by the company, double
9 counts inflation, which is unfair.

10 Of course, you will hear from the company that
11 in this case that is not true. The RCND is actually
12 cheaper than the original cost rate base. Well, that
13 is true when, as the company has done, you add into the
14 original cost rate base the acquisition premium of
15 \$71 million that the company paid in its prior purchase
16 from Citizens.

17 The company has included the premium in the
18 rate base despite the Commission's decision in the
19 acquisition docket, Decision No. 63584. In that
20 decision, the Commission approved the settlement
21 between the company and Staff, wherein the company
22 agreed to Staff's recommendations if approved by the
23 Commission.

24 One of those recommendations approved by the
25 Commission provided that there would be no recovery of

1 the acquisition premium in a future rate case unless
2 the company could substantiate the net benefits. In
3 this case the company is requesting that the Commission
4 consider the acquisition premium in the original cost
5 rate base but defer the company's obligation to
6 substantiate the benefits, contrary to what the company
7 agreed to in the purchase docket. The company should
8 not be able to have its cake and to eat it too.

9 Considering original cost rate base without the
10 inclusion of the acquisition premium, as RUCO has done
11 as well as Staff, results in a significant different
12 rate recommendation, which is exactly how RUCO and
13 Staff arrived at their recommended decreases.

14 The second issue concerns the company's
15 recommended rate case expense. The company is
16 requesting 706,000 approximately. RUCO's
17 recommendation of 418,000 is more than reasonable for
18 this unremarkable rate case.

19 In the past, this Commission has decreased the
20 company's requested rate case expense when it has
21 determined that it is unreasonable. Such was the case
22 in the Paradise Valley Water Company case, which was a
23 rate application decided in May 1995 in Decision No.
24 59070.

25 Thank you.

1 ALJ WOLFE: Thank you, Mr. Pozefsky.

2 And for Staff. Mr. Sabo.

3 MR. SABO: Thank you, Your Honor. In terms of
4 revenue and number of customers, this is one of the
5 biggest rate cases to come before this Commission in
6 several years. Further, the company is seeking hefty
7 rate increases, including a 71 percent requested
8 revenue increase for its Sun City water district and
9 its Tubac water district.

10 It is therefore imperative that Arizona-
11 American's application be subjected to a rigorous and
12 searching review by this Commission. Staff, therefore,
13 devoted substantial time and effort to determining its
14 recommendations in this case. The evidence will show
15 that Staff's recommendations are consistent with sound
16 and time-honored ratemaking principles.

17 In Staff's view there are eight major issues in
18 this case, and I'll briefly touch on each of them.
19 These issues are the calculation of the fair value rate
20 base, the application of the weighted cost of capital
21 to the rate base, the return on equity, the level of
22 overheads and service company charges, salaries and
23 wages, recovery of payments for the Tolleson wastewater
24 plant, rate design, and accumulated depreciation.

25 Starting with the fair value rate base, Staff

1 recommends that the fair value rate base be determined
2 by averaging the original cost rate base and the
3 reconstruction cost new less depreciation rate base.
4 The Commission has used this traditional method for
5 decades when an RCND figure is presented, and there's
6 no reason to deviate from that practice in this case.

7 Staff recommends that the weighted cost of
8 capital be applied to the original cost rate base to
9 calculate the revenue requirement. Again, this is a
10 method used by the Commission for decades. The
11 company's proposal to apply the weighted cost of
12 capital to the fair value rate base is based on a
13 misinterpretation of Arizona law and violates sound
14 ratemaking principles.

15 The Commission should interpret the Arizona
16 Constitution in light of Arizona history and precedent
17 rather than adopting the interpretation offered by the
18 Oregon economist hired by Arizona-American.

19 Staff calculated the cost of equity by
20 objectively applying the most widely-accepted models,
21 the discounted cash flow model and the capital asset
22 pricing model, to produce a cost of equity of 9
23 percent. The company uses a distorted calculation of
24 the DCF in a discredited and subjective risk premium
25 model to recommend an inflated cost of equity of 10.3

1 to 11.4 percent.

2 The company selected a 2001 test year, yet it
3 attempts to disregard the effects of choosing a test
4 year by disregarding Citizens' 2001 corporate
5 overheads, and instead it replaces them with American
6 Water Works 2002 overheads and service company charges.

7 Staff recommends that this deviation from the
8 test year be rejected because the adjustment is not
9 known and measurable, because it creates a mismatch
10 between revenues, expenses, and rate base, and because
11 the 2002 figures reveal an unjustified and imprudent
12 level of expense as compared to the test year.

13 Moreover, ratepayers simply should not be
14 responsible if the new owner has higher costs. They
15 should be held harmless by the effects of the
16 acquisition. The company's proposal to use 2002 wages
17 and salaries should be rejected for similar reasons.

18 Turning to the Tolleson issue, Staff recommends
19 that the method and timing of recovery from ratepayers
20 of future payments by the company to Tolleson for
21 enhancements to the Tolleson wastewater treatment plant
22 be deferred until more information is known.

23 Once the enhancements are actually installed,
24 the plant could be inspected and the level of prudently
25 incurred costs can be determined. At that time, an

1 appropriate recovery mechanism can be designed.
2 Further, Arizona-American's request that these costs be
3 recovered now through the use of an adjustor violates
4 ratemaking principles.

5 Staff recommends a three-tiered inverted block
6 rate design. This rate design balances many
7 considerations, including fairness, gradualism,
8 affordability and conservation. The first tier
9 recognizes that water is an essential resource for life
10 and sanitation. The subsequent tiers recognize the
11 need for conservation of a finite and precious
12 resource.

13 Arizona-American objects that Staff's rate
14 design is not cost based. But cost is only one of the
15 many factors to consider in rate design, as the
16 Commission itself recognized in the last rate case for
17 many of the systems in this case.

18 Further, Arizona-American already has inverted
19 block rates in many of its systems, including three-
20 tiered rates in its Paradise Valley system as Mr. James
21 alluded to earlier.

22 Lastly, Staff's calculation of accumulated
23 depreciation recognizes only depreciation already
24 accrued on plant found not used and useful and
25 unidentified plant. Arizona-American acknowledges that

1 it should not have included this plant in rate base,
2 but its accounting treatment seeks to hold it harmless
3 for this error.

4 Further, plant found not used and useful may be
5 returned to service, and it is therefore not
6 appropriate to fully depreciate it.

7 Thank you.

8 ALJ WOLFE: Thank you, Mr. Sabo.

9 If I'm correct, that concludes the opening
10 statements of the parties.

11 I did say earlier that if there were any
12 procedural issues that I needed to address that I would
13 address them at this point.

14 Are there procedural issues?

15 MR. SHAPIRO: Yes, Your Honor. You had
16 indicated the other day that you would check today as
17 to whether any of the parties that did not appear at
18 the prehearing conference Monday wanted to call
19 Mr. Akine or needed to question Mr. Stout, who we would
20 have available on Friday by phone.

21 So I wanted to check on that so we can update
22 our potential witnesses.

23 ALJ WOLFE: So for that I would need to talk to
24 Sun City Taxpayers Association and Frank Grimmelmann.

25 Do either of you have questions, cross-

1 Examination questions for Mr. Akine?

2 MR. GRIMMELMANN: I don't, Your Honor.

3 ALJ WOLFE: Mr. Dare?

4 MR. DARE: No, I don't.

5 ALJ WOLFE: Let the record reflect that
6 Mr. Dare said no.

7 So is there anyone who has cross-examination
8 for Mr. Akine?

9 MR. SABO: Your Honor, I don't believe so, but
10 there is an outside chance that some of the questions
11 that we ask about the Tolleson matter may be deemed to
12 be engineering questions.

13 So I anticipate asking them of Mr. Bourassa or
14 Mr. Stephenson, but it's possible they could say, hey,
15 that's really an engineering issue, you should talk to
16 Mr. Akine. In that circumstance, at least, we may have
17 a few questions for him.

18 MR. SHAPIRO: Your Honor, if I may.
19 Mr. Schneider is the company's witness who has
20 addressed from an engineering perspective the Tolleson
21 wastewater treatment plant.

22 So if that's okay with Mr. Sabo, Mr. Schneider
23 will be here and will be testifying after Mr. Bourassa
24 either Friday or Monday. And we will assure Mr. Sabo
25 that Mr. Bourassa won't direct any questions to

1 Mr. Akine.

2 ALJ WOLFE: Then I suppose it would be
3 reasonable to allow Mr. Akine to attend to his normal
4 duties tomorrow.

5 MR. SHAPIRO: Thank you.

6 ALJ WOLFE: Okay. I know that Mr. Grimmelmann,
7 you and Mr. Dare were not present at the procedural
8 conference. And I wanted to just go over the briefing
9 schedule with you so that you know what to expect for
10 that.

11 Closing briefs are required. What I mean by
12 that is if there is not an issue covered in closing
13 brief by a party, I will consider that issue waived.
14 And I won't address your position on an issue that's
15 not briefed in the proposed order that I'll be
16 preparing in this case.

17 So the briefs don't need to be extensive, but
18 they need to address all of the issues in the case that
19 you feel need to be addressed.

20 What you would need to do is identify the issue
21 in your brief, state your position on the issue, and
22 then why you take that position on the issue.

23 I'm not looking for a really long 10 pages on
24 each issue. Just basically I want it touched on and
25 know your position and the support for that position.

1 I'm anticipating having the initial closing
2 briefs due on about February 4th. It really depends on
3 when we finish up. That's assuming that we don't
4 finish up until the 23rd of December. And if that's
5 the case, then the reply briefs would be due February
6 17. Just for planning purposes.

7 Are there any other procedural matters?

8 Mr. Taylor.

9 MR. TAYLOR: Yes. At the last hearing we had
10 tentatively scheduled our witness for Tuesday or
11 Wednesday. We've been in touch with him, and we would
12 prefer if we can have him testify Wednesday morning.
13 He's available between 9:00 and 1:00.

14 ALJ WOLFE: Well, I can't promise a time slot.

15 MR. TAYLOR: I understand.

16 ALJ WOLFE: Is there any objection to any of
17 the parties to having Mr. Sellner testify for Sun
18 Health on Wednesday?

19 MR. SHAPIRO: No, Your Honor.

20 MR. POZEFSKY: No, Your Honor.

21 ALJ WOLFE: And we'll try to do it in the
22 morning on Wednesday.

23 MR. TAYLOR: Thank you, Your Honor.

24 MR. SHAPIRO: I'm sorry, Judge Wolfe. I did
25 want to also make sure that Mr. Grimmelmann and others

1 who weren't here also don't have questions for
2 Mr. Stout.

3 ALJ WOLFE: Oh.

4 MR. SHAPIRO: I apologize.

5 ALJ WOLFE: No. That's fine. Do you have
6 questions for Mr. Stout, Mr. Grimmelmann?

7 MR. GRIMMELMANN: I don't presently contemplate
8 any.

9 ALJ WOLFE: And Mr. Dare?
10 Let the record reflect that he shook his head
11 no.

12 MR. SHAPIRO: Thank you, Judge Wolfe.

13 ALJ WOLFE: Anything else then?

14 MR. SHAPIRO: Not from the company.

15 ALJ WOLFE: Then we will commence tomorrow
16 morning at 9:00 a.m. putting on the company's first
17 witness Mr. Bourassa. Thank you.

18 (The Hearing adjourned at 11:30 a.m.)

19

20

21

22

23

24

25

