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FORE THE ARIZONA CORPORATION COMMISSION

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IN THE MATTER OF:)
RICHARD N. CORROW,) DOCKET NO.
) W-01445A-04-0622
Complainant,)
)
vs.)
)
ARIZONA WATER COMPANY,) <u>HEARING</u>
)
Respondent.)
)

10

11 At: Phoenix, Arizona

12 Date: November 16, 2004

13 Filed: **DEC -2 2004**

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

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ORIGINAL



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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, in Hearing Room 1 of said
4 Commission, 1200 West Washington Street, Phoenix,
5 Arizona, commencing at 9:42 a.m., on the 16th day of
6 November, 2004.

7

8 BEFORE: MARC E. STERN, Administrative Law Judge

9 APPEARANCES:

10 For Complainant Richard N. Corrow:

11 Mr. Richard N. Corrow and Mrs. Donna Corrow,
12 In Propria Persona
13 303 South Prospectors Road
14 Apache Junction, Arizona 85219

15 For Respondent Arizona Water Company:

16 Mr. Robert W. Geake, Vice-President and General
17 Counsel
18 Post Office Box 29006
19 Phoenix, Arizona 85038-9006

20 For the Commission Staff:

21 Mr. David Ronald
22 Staff Attorney, Legal Division
23 1200 West Washington
24 Phoenix, Arizona 85007

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ALSO PRESENT:

Mr. Brad Morton, Consumer Affairs Section,
Arizona Corporation Commission

Ms. Connie Walczak, Consumer Services Manager, Utilities
Division, Arizona Corporation Commission

Mr. Mike Loggins, Mr. Bill Staples, Mr. Judd Williams,
and Mr. James Wilson, Arizona Water Company

1 ALJ STERN: This hearing is now open in the
2 matter of the complaint of Richard N. Corrow against
3 Arizona Water Company, docket number W-01445-A-04-0622.
4 My name is Marc Stern, I'll preside over this matter
5 today and render a recommended opinion forward to the
6 Commission for disposition.

7 And at this time I would ask the complainants
8 to, I guess it's Mr. and Mrs. Corrow who are here, to
9 please state your names for the record and your address,
10 et cetera.

11 MS. CORROW: My name is Donna Corrow, my address
12 is 303 South Prospectors Road, Apache Junction, Arizona
13 85219.

14 MR. CORROW: I'm Richard Corrow.

15 ALJ STERN: You can tilt that down just so you
16 don't have to lean up.

17 MR. CORROW: C-o-r-r-o-w, 303 South Prospectors
18 Road, Apache Junction 85219.

19 ALJ STERN: And present for Arizona Water today.

20 MR. GEAKE: For Arizona Water Company, Robert W.
21 Geake, vice president and general counsel.

22 ALJ STERN: And for the Commission's Utilities
23 Commission.

24 MR. RONALD: David Ronald, Your Honor.

25 ALJ STERN: Okay. Before we went on the record,

1 Mrs. Corrow, you indicated you wanted to make some form
2 of an opening statement. Do you have an opening
3 statement?

4 MS. CORROW: Yes, sir, I do.

5 ALJ STERN: Go ahead.

6 MS. CORROW: We're here today to present our
7 case to the Arizona Corporation Commission.

8 ALJ STERN: Just a minute.

9 Mr. Geake, you've got to get the microphone a
10 little bit closer to you. And is your button on? Is
11 there a green light?

12 MR. GEAKE: Yes, it is on.

13 ALJ STERN: Well, get it a little over in your
14 direction, because apparently people are complaining they
15 can't hear your voice. Thank you. You can maybe tilt it
16 down a little, it'll pick up better. Thanks.

17 Go ahead, ma'am.

18 MS. CORROW: Thank you. We're here today to
19 present our case to the Arizona Corporation Commission in
20 order to question Arizona Water Company's insistence that
21 we be forced to extend a six-inch water main to our two
22 lots rather than to serve these lots with remote meter
23 locations which would be a more sensible and obvious way
24 to serve this property.

25 The cost of a six-inch water main would be more

1 than \$16,000 to us. Additionally, we would have to tear
2 up a neighbor's landscape work, we've got some photos to
3 demonstrate that, and we'd like to submit them as an
4 exhibit. And we do have to return that to its original
5 condition at our expense. The cost of remote meters to
6 this line to nowhere that Arizona Water Company wants us
7 to install would be considerably less and would not cause
8 us to have to tear up our neighborhood's palo verde
9 trees, rock wall, and flower beds.

10 The only other land which could potentially be
11 served by extension of this main are the 15 acres to the
12 north that are numbered 3 and 4C on the map which was
13 submitted with our filing. It's currently owned by one
14 individual who lives on lot 4C and he has water. As you
15 can see on the map we provided, lot 4C already has an
16 existing easement for a water main extension, which is
17 marked in orange along Junction Road. That extension
18 would also serve lot 3.

19 There is no easement through our property, lots
20 5C and 5D, nor through 4G, 4J, and 5A and B, which would
21 be required in order to extend the main to lots 3 and 4C.
22 Each of the three owners of these properties has told us
23 that they would not grant an easement to the Arizona
24 Water Company, they should not be required to --

25 MR. GEAKE: Your Honor, I hate to interrupt.

1 I'm going to object to that.

2 ALJ STERN: Sir, this is an opening statement
3 and she can say pretty much anything she wants to in
4 opening; she'll have to prove it when she's sworn in as a
5 witness if she testifies.

6 MR. GEAKE: You're including in that material
7 that others supposedly have told her?

8 ALJ STERN: Mr. Geake, it's an opening
9 statement, sir; really not much objecting to it. It's
10 really not part of the evidence per se until she's sworn
11 in as a witness. She's painting a picture as to what she
12 hopes her evidence is going to show; maybe she'll be able
13 to prove it, maybe she won't.

14 MR. GEAKE: Okay.

15 ALJ STERN: So we'll wait until that time.

16 MR. GEAKE: Please note my objection.

17 ALJ STERN: Okay.

18 MS. CORROW: As I said, these three property
19 owners have told us that they will not grant an easement
20 to Arizona Water Company and they should not be required
21 to, because I reiterate that the property that could
22 possibly be served at some future date already has an
23 easement along Junction Road for a water main to serve
24 those lots.

25 Since writing a letter to Arizona Water Company

1 dated August 19, 2004, which was also included with our
2 information packet filed with the Commission, we have met
3 with Joyce Dickson, who owns lot 21 to the north of and
4 adjacent to lot C. Arizona Water Company is trying to
5 force her to also install a six-inch water main at great
6 expense from Roosevelt Road.

7 ALJ STERN: Excuse me, ma'am -- oh, lot 21.

8 Okay, I see. That's over to the northwest of you?

9 MR. CORROW: Due north.

10 MS. CORROW: Due north.

11 ALJ STERN: Lot 21?

12 MS. CORROW: Well, it's northwest of our
13 property.

14 ALJ STERN: It's next to 4C, isn't it --

15 MS. CORROW: It's just above 4C.

16 ALJ STERN: -- on the map that you included with
17 your original filing?

18 MS. CORROW: Yes.

19 ALJ STERN: Okay.

20 MS. CORROW: After talking with Joyce, we soon
21 discovered that Arizona Water Company's true agenda is to
22 run a water main directly from north to south from
23 Joyce's property to ours at our expense and with very
24 little hope of ever recovering any rebate in our
25 lifetimes for the cost of this infrastructure. Their

1 attempt to use property owners to serve their desire for
2 system looping is usurious. Arizona Water Company's
3 desire for looping can easily be accomplished through the
4 existing easement along Junction Road and continue their
5 main to the east and accomplish the same thing at less
6 distance and disturbance of the neighborhood, as well as
7 serving the future needs of undeveloped parcels 3 and 4C.
8 We'll be calling Ms. Dickson to testify to the details of
9 her situation.

10 We believe that the philosophy of laws should
11 serve corporations and the people, and we find ourselves
12 caught in the middle of the lack of legislation on the
13 one hand in Pinal County, where there is no requirement
14 to install water mains when lots are split, while on the
15 other hand, regulations allowing Arizona Water Company to
16 require individuals to shell out unreasonable and
17 exorbitant sums of money to build their infrastructure,
18 rather than allowing common sense to prevail when other
19 practical solutions exist.

20 Ms. Sandy Smith from the board of supervisors of
21 Pinal County has also come here today to testify with
22 regard to her attempts to deal with this type of
23 situation which she has encountered when other
24 constituents of hers have sought her assistance. I guess
25 she's seen situations in which that in the past Arizona

1 Water Company has had a policy of allowing remote meters
2 and this has led to the existence of flag lots and now
3 they're wanting to change their policy, evidently, and
4 that does not coordinate and function well with current
5 land split policy in Pinal County.

6 My husband, Richard Corrow, will also present
7 more detailed information and answer any specific
8 questions and help with the questioning of witnesses and
9 answer questions that you may have with regard to the
10 specifics of our case. Thank you.

11 ALJ STERN: Okay. Mr. Geake.

12 MS. VASSAR: Excuse me, sir, we're lot G.

13 ALJ STERN: Ma'am, you're not a party to the
14 action here.

15 MS. VASSAR: Well, they want part of our
16 easement.

17 ALJ STERN: Well, if they want to put you on as
18 a witness or they're going to have you testify to
19 something, that may come up, but in the meantime, you're
20 not a participant. Okay.

21 MS. VASSAR: At all, no chance of speaking?

22 ALJ STERN: No, ma'am. This isn't for public
23 comment, this is a complaint brought by the Corrows
24 against Arizona Water Company. Now, if you're going to
25 be a witness on their behalf --

1 MS. VASSAR: We understood, though, that what
2 they're presenting to you are half-truths; even Sandy
3 Smith just said they said a half-truth.

4 ALJ STERN: Ma'am, I'll tell you what. Rather
5 than speak from the audience, just come up to the
6 microphone and state your name so at least the court
7 reporter can have it in the record. Okay.

8 MS. VASSAR: Sure.

9 ALJ STERN: This microphone at the podium right
10 there in front of you.

11 MS. VASSAR: My name is Anita Vassar,
12 V-a-s-s-a-r, and we live at 350 South Prospectors Road
13 and we live directly across from their land. And there's
14 an easement between our land and their land --

15 ALJ STERN: Look, here's the situation. Okay.
16 I'm going to interrupt you. I'm sorry.

17 MS. VASSAR: That's fine.

18 ALJ STERN: You're not a witness in this
19 proceeding, and I'm beginning to get the feeling that our
20 staff might have to conduct an investigation into this
21 whole area down there. I don't know what staff is going
22 to present here today, but there's an awful lot of people
23 here.

24 This isn't a rate case. It's not a case where
25 the Commission is taking public comment. The purpose of

1 this proceeding is a complaint by Mr. and Mrs. Corrow
2 against this company about something that they disagree
3 with that the company's asking them to do. It's under
4 law they have a right to file a complaint, it's
5 A.R.S. 4246, they filed a complaint against the utility,
6 the company filed an answer, they present their evidence,
7 the company presents its evidence, I've asked our staff
8 to present its evidence.

9 So it's not what you would normally think of as
10 a lot of Commission proceedings where the Commissioners
11 even go out in the field into different parts of the
12 state and they take public comment on issues; this isn't
13 that type of a proceeding. I don't want to cut you off,
14 I don't want to seem rude.

15 MS. VASSAR: No, that's all right.

16 ALJ STERN: But this isn't your complaint, this
17 is their complaint.

18 MS. VASSAR: Can I ask one question?

19 ALJ STERN: Yes.

20 MS. VASSAR: What do my husband and I need to do
21 so that we can approach you and tell you how we feel?

22 ALJ STERN: Well, like I say, I'm beginning to
23 get the feeling that there's a lot of problems out in
24 this area. And there are some people here, there's a
25 staff attorney here and there are two people from our

1 consumer affairs division here that you may want to speak
2 to. There's going to be a recess taken shortly in this
3 proceeding. I don't know, there's four gentlemen sitting
4 in the back there, whether they're here about this same
5 matter or they're just passing time, I don't know why
6 they're here. There's a few other people in the front
7 row with you and I hear there's a county commissioner
8 here.

9 MS. VASSAR: Yes.

10 ALJ STERN: So this isn't the normal type of a
11 proceeding where we take public comment. Now,
12 Mrs. Corrow referred to the county commissioner -- or
13 supervisor possibly having some testimony that she's
14 going to call her to present; that's fine, and Mr. Geake
15 will have an opportunity to cross-examine them. But for
16 purposes of this proceeding, unless Mrs. Corrow or
17 Mr. Corrow, however the Corrows want to present their
18 case, are using you as a witness where the adversary
19 here, Arizona Water, has a right to cross-examine you, I
20 can't just let you come up here and talk.

21 MS. VASSAR: I understand.

22 ALJ STERN: Okay?

23 MS. VASSAR: Yes.

24 ALJ STERN: Okay.

25 MS. VASSAR: Do you need my address or anything?

1 ALJ STERN: I'm going to ask you to wait a
2 minute, and when there's a recess perhaps you want to
3 talk to Ms. Walczak over there and see if, you know,
4 there's some group complaint that staff might want to
5 represent a bunch of people. I don't know what's going
6 on there.

7 MS. VASSAR: Yeah. I know a lot of neighbors
8 feel the same way as we do, so we'll speak at recess.
9 Thank you, and I'm sorry.

10 ALJ STERN: That's okay.

11 MS. VASSAR: I just don't know how all this is
12 done, so I'm sorry.

13 ALJ STERN: That's okay, not a problem. Like I
14 say, I think there may be a greater problem in that area.
15 And Arizona Water is here today and I don't know whether
16 they're going to answer it or they're going to be, you
17 know, exploding the balloon, so to speak, that there's a
18 bigger problem that the Commission wasn't aware of in
19 that area.

20 And maybe at this time, Mr. Ronald, does staff
21 want to take a few minutes to talk to some of these
22 people?

23 MR. RONALD: Staff is ready to proceed now and
24 staff will be available throughout the day.

25 ALJ STERN: All right. You can talk to these

1 people at a recess, and we'll take one shortly.

2 MS. VASSAR: Thank you.

3 ALJ STERN: Mr. Geake, are you ready with your
4 opening statement?

5 MR. GEAKE: Yes, I am.

6 ALJ STERN: Okay.

7 MR. GEAKE: Your Honor, it's Arizona Water
8 Company's position and the evidence will show that in
9 dealing with Mr. Corrow and Mrs. Corrow, in providing
10 them information, what would be necessary to extend water
11 service to their property, the company filed its tariffs,
12 the company's tariffs are virtually identical to the
13 Commission's rules. In fact, Your Honor knows since he
14 was present on October 14th, 2004 prehearing conference
15 that the Commission's assistant utilities director told
16 those present there which included Mr. Corrow, Your
17 Honor, myself, that in this case the company has followed
18 its rules, so this is simply a situation where an
19 individual wants the rules not to apply to him.

20 We think that is bad policy and we think that
21 the company's evidence will show that the Commission
22 should follow the company's tariffs and the Commission's
23 rules.

24 ALJ STERN: Is that it?

25 MR. GEAKE: Yes, sir.

1 ALJ STERN: Staff have any comments?

2 MR. RONALD: Your Honor, staff does agree with
3 Arizona Water that the tariffs lay out the
4 responsibilities of the company in this case and staff
5 will offer some additional comments with staff's witness,
6 Connie Walczak.

7 ALJ STERN: Okay. Who's going to be the first
8 complainant witness here?

9 MS. CORROW: We'd like to call Ms. Joyce
10 Dickson.

11 ALJ STERN: And Joyce Dickson is the lady behind
12 you. Okay.

13 Come on up here, ma'am, and the court reporter
14 will swear you in.

15

16 JOYCE DICKSON,
17 called as a witness herein, having been first duly sworn
18 by the Certified Court Reporter to speak the truth and
19 nothing but the truth, was examined and testified as
20 follows:

21

22 ALJ STERN: Okay. Go ahead, ma'am, if you'd
23 like to ask her some questions.

24

25

1 DIRECT EXAMINATION

2

3 Q. BY MS. CORROW: Well, Joyce, I'd like you to
4 please --

5 ALJ STERN: Let's do it this way: Ask her her
6 name, address, and what her relationship is to the
7 property and your complaint, if you could, just to give
8 us some background information.

9 Q. BY MS. CORROW: Can you please state your name
10 and address, please.

11 A. Joyce Dickson, I live at 31 South Geronimo Road,
12 Apache Junction, and Dickson is D-i-c-k-s-o-n.

13 Q. And can you please identify which lot you own in
14 relation to lots 4C and 3?

15 A. I own lot 21, which is directly above 4C on the
16 east end of his ten acres.

17 ALJ STERN: Let's do something here. For the
18 record, I want to identify a filing that was made with
19 the original complaint. It's a map of the area, I guess,
20 where the two lots owned by the Corrows are depicted.
21 They own lots 5C and 5D in about the middle of this
22 diagram.

23 Is that correct?

24 MS. CORROW: That's correct.

25 ALJ STERN: And this diagram is -- do you have a

1 spare one, by chance? I can't give the court reporter
2 mine because I won't have anything to refer to and it's
3 too big for me to --

4 MS. VASSAR: Sir, we have a map that you could
5 copy.

6 ALJ STERN: Can I see it?

7 We'll go off the record for a minute.

8 (An off-the-record discussion ensued, and
9 Exhibit No. C-1 was marked for identification.)

10 ALJ STERN: We're returning to the record after
11 a brief recess. We're going to mark as Exhibit C-1 a
12 copy of -- it's a map, a plat map or something, it's
13 captioned Apache Junction at its bottom and it's a
14 photocopy of a map that was filed by the Corrows with
15 their complaint, and I'm going to mark it Exhibit C-1 so
16 everybody's on the same page.

17 And so since we have people representing
18 themselves who aren't attorneys, I want to just get this
19 matter out of the way.

20 Mr. Geake, do you have any objections to this
21 map in particular or do you want to have foundation on it
22 or what's the story? Looks like the map of the area.
23 Nobody's raised any objections to it before, but it was
24 filed with the complaint.

25 MR. GEAKE: The company doesn't have any

1 objections to it.

2 ALJ STERN: Does staff?

3 MR. RONALD: No objections, Your Honor.

4 ALJ STERN: Exhibit C-1 will be admitted.

5 Go ahead, Mrs. Corrow.

6 MS. CORROW: Okay. We've established Joyce
7 Dickson's identity and she's the owner of lot 21. And
8 I'd like to ask Joyce to please describe the information
9 she's got and with regard to her situation and workings
10 and dealings with the Arizona Water Company.

11 ALJ STERN: Wait. I understand you just want
12 her to do a narrative, but let me ask a couple questions.

13

14

EXAMINATION

15

16 Q. BY ALJ STERN: Mrs. Dickson, you own lot 21 that
17 is over in the northwest portion of map; is that correct?

18 A. Yes.

19 Q. Next to what's marked lot 4C. Your lot
20 appears -- do you live there?

21 A. No, we're building a house there.

22 Q. And you have like a long driveway up to that
23 lot, since it appears to be not on any particular street;
24 is that what the situation --

25 A. Correct.

1 Q. How long is that driveway?

2 A. The driveway is 330 feet. It is a 50-foot
3 easement on the west side of lot 32.

4 Q. The west side of lot 32?

5 A. Uh-huh, which is above.

6 Q. Where is lot 32, is that above?

7 A. Above.

8 Q. Well, there's two lots alongside of that
9 driveway. You say it's a 400-foot driveway?

10 A. No, it's 330 feet from Roosevelt Road down to
11 the corner of our property.

12 Q. Wait a minute. That looks like Geronimo to me.

13 A. I can show you this. This is lot 32, this is
14 the easement, this is Roosevelt, their lot is down here.

15 Q. Wait a minute. She's referring to a different
16 map, so I don't know. I'm just asking her to clarify
17 something.

18 Isn't this your lot 21?

19 A. This is our lot here.

20 Q. What's this? This is 21.

21 A. Well, that's a different --

22 Q. That's a different 21?

23 A. Yes. This is where I reside right now, this is
24 lot 21. There is a 50-foot easement.

25 Q. Isn't there a road?

1 A. There is a Pinal County highway easement there
2 and also the Arizona Water Company's easement that goes
3 from Geronimo.

4 Q. We're going to have to put you over in your seat
5 again.

6 (Witness complies.)

7 ALJ STERN: Okay. We've had a little sidebar
8 conference with me and Ms. Dickson because I didn't
9 understand this map. I thought Ms. Dickson's lot was the
10 lot that's marked 21 to the west of lot 4C. Her lot, as
11 she advises me, is directly to the north of lot 4C and
12 lies -- well, not directly to the north.

13 Q. BY ALJ STERN: Is this the one, ma'am, right
14 here? Is that 21?

15 A. This is 21. This would be easier for you to
16 see.

17 Q. Now we're referring to another map.

18 A. That's an enlargement of that area.

19 Q. Okay. So you're the lot that's north of lot 3?

20 A. Yes.

21 Q. Which is north of the Corrows' properties?

22 A. Yes.

23 MS. CORROW: It's north of lot 4C.

24 ALJ STERN: No, she's north of lot 3 and 4C.

25 MS. CORROW: That's correct.

1 ALJ STERN: We'll state for the record that was
2 Mrs. Corrow.

3 Mrs. Corrow, don't interrupt, please.

4 So now I have where your lot is located,
5 Ms. Dickson, and I don't understand, we don't have a
6 chart -- well, you could --

7 THE WITNESS: Do you want me to do a basic
8 outline?

9 ALJ STERN: There it is. We're going to have
10 Ms. Dickson draw a little bit on the white board here in
11 the hearing room so we can get an understanding of what
12 her problem is in relationship to the Corrows, I guess.

13 THE WITNESS: Okay. This is north --

14 ALJ STERN: Wait a minute, ma'am. Come on over
15 to your microphone here and you're going to have to sit
16 in your chair and point at the map.

17 THE WITNESS: Okay.

18 ALJ STERN: Go ahead.

19 THE WITNESS: Roosevelt is at the top -- well, I
20 put both of them; 32, 33 is the --

21 Q. BY ALJ STERN: Roosevelt is to the north of your
22 property?

23 A. North, yes. And lot 32 -- I'm sorry. Lot 32
24 has a 50-foot easement on the west side going down the
25 330 feet to our property, which is lot 21.

1 Q. Wait. That number above your -- oh, so 32, you
2 say?

3 A. Uh-huh.

4 Q. But that's to the northeast of your property?

5 A. Yes.

6 Q. Okay. On this map it's showing up directly
7 north of your property. I don't know why -- oh, here it
8 is. Okay. I think on this map, correct me if I'm wrong,
9 I want to write on my map this is your property that's
10 21?

11 A. Yes.

12 Q. This isn't you?

13 A. Right.

14 Q. Okay. Go ahead, ma'am.

15 A. I met with Arizona Water Company back in July of
16 this year, met with Dana at the Apache Junction office,
17 inquired as to what the cost would be to put a water line
18 to our lot.

19 Q. There's a main up on Roosevelt, isn't there?

20 A. Right. There's a water main on Roosevelt and
21 there's an easement, water easement and road easement, on
22 Junction from Geronimo to Prospectors.

23 Q. So Prospectors being that midline between 4C and
24 lot 3?

25 A. Yes.

1 Q. Okay. That orange thing is the existing
2 easement?

3 A. Easement, yes.

4 Q. For a water main or for a street?

5 A. For a water main and for a road.

6 Q. Okay.

7 A. I was given a ballpark figure of somewhere
8 around, judging from Dana --

9 Q. Who's Dana?

10 A. Dana Kopp is the gentleman in charge of the
11 Arizona Water Company's office in Apache Junction.

12 Q. C-o-b-b?

13 A. K-o-p-p.

14 Q. Okay. And what did he tell you?

15 A. He couldn't give me a direct quote for anything,
16 he was just guessing. He thought maybe it would be
17 somewhere around 16,000, something like that.

18 Q. To run a water line from Roosevelt to your
19 property or -- to run a water line from Roosevelt down
20 that easement to your property or to run a line from
21 Geronimo down Junction to your property?

22 A. From Roosevelt down that easement to my
23 property; that's some 330 feet.

24 Q. Well, were they going to run a service line or
25 were you going to run a service line or were you going to

1 have to put in a six-inch main?

2 A. I wanted to put in a service line and have a
3 remote up on Roosevelt. There are other remotes in that
4 subdivision. I was told by Dana that they only put in
5 six-inch lines, nothing less. I asked if I could put in
6 something smaller, he said that I could have my own
7 contractor do it if they met the specifications or I
8 could have the water company do it, but it had to be a
9 six-inch line if the water company did it.

10 Q. To serve your property alone?

11 A. To serve my property alone.

12 Q. Did you file a complaint with the Corporation
13 Commission?

14 A. Yes.

15 Q. When?

16 A. I filed the complaint, I talked with John --

17 Q. LaPorta?

18 A. LaPorta.

19 Q. Well, did you file a formal complaint or an
20 informal complaint?

21 A. I guess it would -- I think it's open, it's an
22 open complaint.

23 Q. It hasn't been resolved yet?

24 A. It hasn't been resolved.

25 Q. Anything else you want to tell us today?

1 A. I called Mike Loggins, the engineer at the
2 Phoenix water company office and talked with him and he
3 quoted me somewhere -- the last job that they had done
4 was about \$45.71 per foot and it would be somewhere
5 around \$16,000. But, you know, costs had gone up, so we
6 were expecting a little bit more.

7 Q. When you bought this property, did you
8 understand you're essentially landlocked, there aren't
9 roads and there aren't things like water lines in this
10 area?

11 A. We knew where the water lines were. There was a
12 contractor working in the area at the time we bought the
13 land that was doing water lines. Took us a year to close
14 this property because we had to find that easement going
15 down to our property.

16 Q. Well, before you decided to close on this
17 property, didn't that give you reason to wonder if this
18 property was going to be able to have water running to it
19 because of the way the lot splits were done in Pinal
20 County?

21 A. We saw no problem with that, because we live on
22 a section where there are flag lots in Pinal County and
23 just adjacent to our property across the street a
24 five-acre parcel was subdivided and they have water meter
25 markings set up for flag lots.

1 Q. You mean that's across Geronimo from where you
2 live right now?

3 A. Yeah.

4 Q. And you live right at the corner of Junction and
5 Geronimo right now?

6 A. Correct, in that little corner lot.

7 Q. I understand.

8 A. Yeah, you have it right.

9 Q. Okay. So you essentially are having a similar
10 problem?

11 A. Yes.

12 ALJ STERN: Is there anything else you want to
13 ask your witness here?

14 MR. CORROW: Thank you.

15

16 REDIRECT EXAMINATION

17

18 Q. BY MR. CORROW: Ms. Dickson, in regards to this,
19 when you first contacted the Corrows you found out about
20 our plight, then together we realized that the easterly
21 portion of your property is directly in line with the
22 westerly portion of our property, and jointly we
23 discovered that by putting and extending that water line
24 to the northeast corner --

25 MR. GEAKE: Excuse me, Your Honor. Is there a

1 question here?

2 ALJ STERN: Yeah.

3 MR. CORROW: I'm leading up to the question.

4 ALJ STERN: If you could try not to testify so
5 much, just ask her the question. Go ahead.

6 Q. BY MR. CORROW: From our conversations and the
7 evidence you presented, do you feel like you're being
8 forced to put in a water line at your expense to meet
9 Arizona Water Company's desire to extend the water main
10 to the south to connect it to the other end of this line?

11 A. Yes, I do. I can see no reason to have a
12 six-inch line running down to our property to serve our
13 property alone.

14 And I brought this up to the water company and
15 they said well, there's other people in the area that are
16 going to want to have water. Well, they've got easement
17 on Junction. We see no reason for them to force myself
18 and yourself to put in water mains at such an expense.
19 They quoted me over \$24,000 to run this six-inch pipeline
20 360 feet. I'll never get that back.

21 ALJ STERN: You mean that's on Junction?

22 THE WITNESS: No, that's just the little jog
23 there from Roosevelt down to my property line.

24 ALJ STERN: Over 24,000?

25 THE WITNESS: Over 24,000.

1 MR. CORROW: That's the current rates, because
2 of the quotes you recently got because of the increases
3 in pipe and so on.

4 Q. BY MR. CORROW: The next question: Have you had
5 conversations with the owners of lots 4C and 3?

6 A. Yes, I have. That's Jim Hawks, and he has a
7 well on his ten acres and he has a well on his five
8 acres.

9 Q. And has he ever indicated to you any desire to
10 split his property in the --

11 A. No.

12 MR. GEAKE: I'm going to object here, Your
13 Honor. I don't think having the witness testify as to
14 what someone else told her is --

15 MR. CORROW: But her conversation --

16 ALJ STERN: Wait. Wait, Mr. Corrow.

17 What's your objection again?

18 MR. GEAKE: Well, it's hearsay. The person
19 she's talking to, I don't have any chance to verify if
20 she talked to them; if so, what they said.

21 ALJ STERN: This is an administrative hearing,
22 I'll let it in for whatever it's worth.

23 Go ahead.

24 MS. VASSAR: We've talked to them also --

25 ALJ STERN: Ma'am, she's a witness, she's under

1 oath. It's a little different, and I appreciate it if
2 you wouldn't speak up again unless you're testifying as a
3 witness.

4 MS. VASSAR: Sorry.

5 MR. CORROW: I have no further questions.

6 Thank you, Ms. Dickson.

7 THE WITNESS: Thank you.

8 ALJ STERN: We really never did clarify that,
9 but apparently the question had something to do with the
10 owner of lot 4C and 3 that lies between your new property
11 where you're building on and the Corrows' property. Now,
12 what's the situation? Does he have two wells? One well?

13 THE WITNESS: He has two wells and he has no
14 intention at this time or in the near future or long
15 range to develop that property, he wants to keep it
16 desert.

17 ALJ STERN: Okay. But so he has a well on lot 3
18 and a lot -- or a lot on 4C?

19 THE WITNESS: Yes.

20 ALJ STERN: And where does he live, on lot 4C?

21 THE WITNESS: Yes.

22 MR. CORROW: Excuse me.

23 ALJ STERN: Excuse me, sir.

24 MR. CORROW: Sorry.

25 ALJ STERN: Thanks.

1 Any other questions for your witness?

2 MR. CORROW: Yes. I'm sorry. Thank you, Your
3 Honor.

4 Q. BY MR. CORROW: Ms. Dickson, you've obviously
5 through this had adequate time to review your deeds and
6 so on. On the easterly portion of your property have you
7 discovered any county dedications for road easement,
8 utility easement, or the such on the easterly side of
9 your property?

10 A. There's no road easement. There was not a
11 utility easement until the water company told me that in
12 order for them to start proceedings on giving me quotes
13 as to how much it was going to cost to run a line, that
14 six-inch line down, they told me that I had to give them
15 a 20-foot easement in order to proceed with the quotes.

16 Q. So let's get straight now. If you extend the
17 six-inch main from Roosevelt down to your northeast
18 corner and put a meter box there, they were going to
19 require just to put the meter box at that northeast
20 corner to run all the way down the easterly portion of
21 your lot to 4C; is that correct?

22 A. Correct.

23 Q. And they forced, they were actually forcing you
24 to do that in order to give you that water?

25 A. Yeah. I think it was misrepresentation.

1 Q. In order to even get quotes you had to do that;
2 in other words, you had to give up that easement even to
3 continue the process?

4 A. Yes.

5 Q. Now, when you get down to 4C -- and so to the
6 best of your knowledge, please notice that that westerly
7 line continuing on 4C -- I'm sorry, your easterly line
8 continuing on the separation line between 4C and lot 3
9 then goes and continues south to where ultimately it
10 comes back?

11 MR. GEAKE: Again, Your Honor, is there a
12 question here somewhere?

13 MR. CORROW: Yes, I'm leading to a question.

14 ALJ STERN: Okay.

15 Q. BY MR. CORROW: So that's in a separate shot
16 going down there. But to your knowledge, in reviewing
17 your deed there is no access -- again, I want to
18 question, you found in your deeds there is no legal
19 access for a road or utilities easement on the east side
20 of your property?

21 A. Correct, there is none.

22 MR. CORROW: Thank you. That's all the
23 questions I have.

24 ALJ STERN: Okay. I've got another question for
25 you. Did Arizona Water write you a letter before they'd

1 give you the estimate that they wanted you to grant them
2 a 20-foot easement on the eastern side of your property?

3 THE WITNESS: Yes. Here's a copy for records.

4 ALJ STERN: Do you have a copy of the document
5 where the easement is, by chance?

6 I'm going to take a minute. We're going to
7 recess and make some more copies.

8 THE WITNESS: You can keep those.

9 ALJ STERN: But I've got to give Mr. Geake one
10 and I have to give the Corrows one and I have to give
11 staff one, they need this.

12 (The proceedings were at recess from 10:25 a.m.
13 to 10:30 a.m., and Exhibits Nos. C-2, C-3, and C-4 were
14 marked for identification.)

15 ALJ STERN: We're back on the record, I believe,
16 and we have some more documents relating to, apparently,
17 Ms. Dickson's problems with getting water service to her
18 lot, somewhat similar to the complainant's. And she's
19 given me three exhibits, which I guess we'll start out
20 with the letter from Arizona Water dated August 12th,
21 2004, we'll mark that Exhibit C-2.

22 Then we have, and I don't know, it's another
23 page, it has two lots on it, apparently 32 and 33, and it
24 reflects the 50-foot easement she talked about running
25 from Roosevelt on the map down to the apparent northeast

1 corner of her property which is represented by an X, and
2 I'm going to mark that C-3.

3 Then we've got another map courtesy of Arizona
4 Water which reflects the 20-foot easement, I think, that
5 Ms. Dickson referred to as the 20-foot easement that
6 Arizona Water requested from she and her husband if they
7 got water service, if they would be required to give a
8 20-foot easement over the -- I guess it's the eastern
9 edge of their property, which doesn't seem to indicate --
10 well, I guess I don't know what it indicates, but that's
11 it, that's C-2 -- that would be C-4, I'm sorry, I got my
12 numbers wrong, the Arizona Water map is C-4.

13 So at this point, Mr. Corrow, I assume you want
14 to have this to show something with the problem
15 Ms. Dickson's having. Correct?

16 MR. CORROW: Yes. Thank you, Your Honor.

17 Ms. Dickson, I think that the --

18 ALJ STERN: Wait a minute.

19 Mr. Geake, do you have any problems with any of
20 these documents?

21 MR. GEAKE: None with C-2 or C-4. I do object
22 to C-3.

23 ALJ STERN: What's your specific objection?

24 MR. GEAKE: Well, lack of foundation, it's
25 certainly not an Arizona Water Company --

1 ALJ STERN: Yeah, it's not from Arizona Water.

2 MR. GEAKE: I don't know who provided it, I
3 don't know who drew it, I don't know if the
4 representations are accurate, and therefore, without any
5 further foundation, I guess without any foundation other
6 than just being here on a piece of paper, the company
7 objects to it.

8 ALJ STERN: Okay. Ms. Dickson, I'll just ask
9 you a couple quick questions. What's this Exhibit C-3,
10 that's the big two squares, lots 32, 33?

11 THE WITNESS: That is a reduced copy of the
12 survey showing the easements and everything done by
13 William J. Norman, civil engineer and surveyor.

14 ALJ STERN: And did he do this at your request?

15 THE WITNESS: No, this was done for the Smith
16 property, but this was provided to us to show us the
17 easement to our property.

18 ALJ STERN: The 50-foot easement?

19 THE WITNESS: Yes.

20 ALJ STERN: Which you testified you want Arizona
21 Water to use to run the water service down to your
22 property which would be in the vicinity of that X to, I
23 guess south of lot 32. Is that correct?

24 THE WITNESS: Correct.

25 ALJ STERN: Okay. I hope that answers your

1 question, Mr. Geake; at least it does partially.

2 Mr. Ronald, any questions or objections?

3 MR. RONALD: No, Your Honor.

4 MR. GEAKE: Well, just to make it clear, I'm not
5 withdrawing my objection.

6 ALJ STERN: Okay. I'm overruling it.

7 Exhibit C-2, C-3, and C-4 will be admitted. That takes
8 care of that.

9 Do you have any more questions for this witness,
10 Mr. Corrow?

11 Q. BY MR. CORROW: Ms. Dickson, with regards to the
12 C-4 showing this 20-foot easement, had you made any
13 overtures to the Arizona Water Company about if you were
14 allowed to put a remote meter at the northeast corner of
15 lot 148 -- actually, I guess it would be the northwest
16 corner of lot 32, if you were allowed to put a remote
17 meter there, did you offer Arizona Water Company an
18 easement for a future date if they desired to put through
19 a six-inch main at their expense?

20 A. No, I did not. I had written a letter to Mike
21 Whitehead, vice president of engineering, complaining
22 about the cost and reiterating that we would like to have
23 a remote meter in the utility easement along Roosevelt
24 Road and us run our own line from that meter down to your
25 property.

1 When I first met with Dana Kopp in Apache
2 Junction he had said that we could either go with the
3 water company or have our own contractor with the proper
4 license do it, and at that time it looked as though it
5 was going to be about the same amount of cost; that's why
6 I gave them a deposit to start.

7 Q. But as far as offering this easement, did you
8 ever freely offer that easement on the east side of your
9 property as an inducement to the water company to allow
10 you to put a remote meter?

11 A. No.

12 Q. And you felt that you were being forced into
13 this -- I'm trying to choose my words carefully here --
14 by Arizona Water Company that in order to have water you
15 were not allowed to have any choice in this matter on
16 this easement; is that correct?

17 A. Correct.

18 MR. CORROW: I don't think I have any other
19 questions. Thank you.

20 ALJ STERN: Thanks.

21 Mr. Geake, do you have any questions for the
22 witness?

23 MR. GEAKE: Yes, I do.

24

25

1

CROSS-EXAMINATION

2

3 Q. BY MR. GEAKE: Good morning, Ms. Dickson.

4 A. Good morning.

5 Q. What is your background, ma'am?

6 A. What's my background?

7 Q. Yes, in terms of, say, education and experience?

8 A. What does that have to do with this?

9 Q. Well, have you ever designed a water system, for
10 instance?

11 A. No, I haven't. I'm not an engineer.

12 Q. What is your motivation to request that Arizona
13 Water Company install, as you say, a remote meter to
14 serve your property?

15 A. I feel it would be a lot less costly. We paid
16 for the connection to the water meter up there on
17 Roosevelt and the utility easement and we could run a
18 three-inch line by our own contractors from your property
19 up to that.

20 ALJ STERN: A three-inch line, you said?

21 THE WITNESS: We could run a three-inch line. A
22 six-inch line isn't really needed for one house.

23 ALJ STERN: Are you going to have horses on that
24 property?

25 THE WITNESS: No.

1 ALJ STERN: A three-inch line is pretty big too.

2 THE WITNESS: Yeah.

3 ALJ STERN: Go ahead, Mr. Geake.

4 Q. BY MR. GEAKE: When you spoke to Mr. Kopp, it
5 was Dana Kopp at the Apache Junction office you spoke to?

6 A. Uh-huh.

7 Q. First of all, I know it was unintentional, but I
8 think you may not have been aware; are you aware that
9 Mr. Kopp is not the Apache Junction division manager?

10 A. I'm trying to see here what his -- he's the
11 operations superintendent.

12 Q. Are you aware that Mr. Kopp does report to the
13 division manager in Apache Junction division?

14 A. I think that Mike Loggins was his boss in the
15 Phoenix division, but I don't know. I've not heard from
16 anybody else in the Apache Junction office with the
17 exception of Mr. Kopp.

18 Q. But Mr. Kopp was checking what he was telling
19 you with other individuals; is that correct?

20 A. Uh-huh.

21 Q. Do you know whether or not at any time during
22 your conversations with Mr. Kopp, your discussions with
23 him concerning extending water service to your property
24 did he provide you with any written information
25 concerning what would be required of you to have water

1 extended to your property?

2 A. No. He said that if we had someone do it they
3 would have to meet Arizona Water Company's
4 specifications, have certain licenses and all that, but
5 he didn't give me any paperwork other than receipt for
6 signing to install approximately 400 feet of six-inch DIP
7 pipe south of Roosevelt in an easement to serve lot 21.

8 Q. You don't recall whether or not he gave you a
9 letter that had certain information on it that would be
10 required of you to begin the process of having a main
11 extended to your property?

12 A. I don't believe so.

13 Q. You don't recall one way or the other?

14 A. I don't recall. What type of a letter would
15 that be?

16 Q. Did you give Mr. Kopp at some point and Arizona
17 Water Company, Mr. Kopp representing Arizona Water
18 Company, a deposit to begin the process of getting water
19 extended to your property?

20 A. Yes, I did that on July 30th.

21 Q. And did you get a receipt for that?

22 A. Yes, I did.

23 Q. Did the receipt contain information concerning
24 not only acknowledging your deposit, but did it also
25 contain information concerning what would be required to

1 extend water to your property?

2 A. "Requires the applicant to make a deposit equal
3 to the estimated cost of preparation of the detailed
4 plans, specifications, and/or cost estimates were
5 requested within 45 days of receipt of the deposit. The
6 company will make available their requested plans,
7 specifications, and/or cost estimates for the proposed
8 main extension."

9 Is that the one?

10 Q. Yes, thank you. So that was provided to you,
11 apparently?

12 A. That was, yeah. You know, I still don't have
13 any detailed plans, specifications. I have a cost
14 estimate; that's all I have.

15 ALJ STERN: If I might ask, ma'am, how much was
16 your deposit?

17 THE WITNESS: \$450.

18 ALJ STERN: Okay.

19 Have you got some more questions, Mr. Geake?

20 MR. GEAKE: I don't.

21 Thank you, Ms. Dickson.

22 ALJ STERN: Okay.

23 Mr. Ronald.

24 MR. RONALD: No questions, Your Honor. Thank
25 you.

1 ALJ STERN: Have you ever asked for the detailed
2 plans from the company, ma'am?

3 THE WITNESS: No, but I would have thought that
4 I would have gotten them with the estimate; they sent me
5 a contract to sign.

6 ALJ STERN: And that's for what amount of money?

7 THE WITNESS: 24,313.

8 ALJ STERN: And that's to run the line from a
9 six-inch main --

10 THE WITNESS: Uh-huh.

11 ALJ STERN: Excuse me. From where to where?

12 THE WITNESS: From Roosevelt down to the upper
13 corner of -- upper east corner of my lot.

14 ALJ STERN: And then you also had to give them
15 an easement of 20 feet; correct?

16 THE WITNESS: Yeah, but I was asked to give that
17 easement before I got that. It was after I made the
18 deposit, but it was -- looking back at my notes, I had
19 called Dana for status of paperwork on the 16th, 17th.
20 He said -- on August 17th he said that he was going to be
21 sending out to four people on contractor list, et cetera,
22 et cetera.

23 On August 12th is when I received the letter
24 from the Arizona Water Company that we had to sign the
25 easement; that was before he sent out the --

1 ALJ STERN: I am not certain, but I think
2 there's a provision in the Commission's rules that it is
3 proper to get easements and I'm sure it's here, I just
4 can't find it on a quick read through, in the event the
5 company is going to put in a main. I don't know how far
6 that easement has to run, whether it runs through your
7 property where the main doesn't actually run, though.

8 Any redirect of this witness?

9 MR. CORROW: No, Your Honor.

10 ALJ STERN: Thank you, ma'am.

11 THE WITNESS: You're welcome.

12 MR. GEAKE: Your Honor, may I follow up on your
13 last question?

14 ALJ STERN: Okay. Go ahead.

15 Q. BY MR. GEAKE: Ms. Dickson, the information you
16 referred to that you received from Mr. Kopp, was that
17 with a letter dated October 27, 2004?

18 A. Let me see here.

19 Q. I realize I have a lot of correspondence flying
20 around --

21 A. There was a -- from 10/27/27 I received a cost
22 estimate from him of \$24,763.

23 ALJ STERN: It was 24,763?

24 THE WITNESS: Yeah. It's different than the
25 other one.

1 Q. BY MR. GEAKE: Did that also include, did his
2 letter also include an agreement for extension of water
3 facilities?

4 A. No, that -- say that again.

5 Q. Did the letter you received from Mr. Kopp that
6 contained the cost estimate, did it also include an
7 agreement for extension of water facilities to extend the
8 line to your property at that cost, the \$24,763 cost that
9 you just testified about?

10 A. I don't find one here for that. The one that I
11 find for agreement for extension of water facilities was
12 dated -- oh, the cost estimate was dated October 27th,
13 2004.

14 Q. Did you not receive an agreement with that?

15 A. This is the agreement?

16 Q. Yes, what you have in your hand.

17 A. Yeah.

18 Q. Now, the cost estimate, do you have that in
19 front of you, ma'am?

20 A. Yes.

21 Q. Does it refer to an Attachment A at the upper
22 right-hand corner?

23 A. No, says contract number and --

24 Q. No, the cost estimate, ma'am.

25 ALJ STERN: The cost estimate.

1 THE WITNESS: The Attachment A, yeah.

2 Q. BY MR. GEAKE: Was that included with the
3 information you received?

4 A. What would be an Attachment A?

5 Q. I believe that would be the plans you've been
6 referring to?

7 A. No, there was no plans.

8 Q. Well, that may have been overlooked, but it does
9 say on your cost estimate Attachment A; correct?

10 A. Yes.

11 MR. GEAKE: Thank you, Ms. Dickson.

12 Thank you, Your Honor.

13 ALJ STERN: So if I understand things correctly,
14 your cost estimate was provided to you, allegedly there
15 was an Attachment A which would have been the plans, but
16 you didn't get the plans?

17 THE WITNESS: Correct.

18 ALJ STERN: Okay. So they may have been
19 overlooked; is that correct?

20 THE WITNESS: Must be.

21 ALJ STERN: Did you ever call the company and
22 say where are my plans?

23 THE WITNESS: No, because I figured I would get
24 them later. You know what assume means.

25 ALJ STERN: All right. I don't have any other

1 questions. You can step down, ma'am. Thank you.

2 Mr. Corrow or Mrs. Corrow, who's your next
3 witness?

4 MS. CORROW: We'd like to call Darrell Ness.

5 ALJ STERN: Darrell who?

6 MS. CORROW: Ness.

7 ALJ STERN: I'll tell you what, let's take a
8 little break before Mr. Ness takes the stand. We'll come
9 back about three minutes to 11:00.

10 (The proceedings were was at recess from
11 10:49 a.m. to 11:01 a.m.)

12 ALJ STERN: Okay. Mrs. Corrow, are you ready to
13 go again? We're back on the record. You want to call
14 Mr. Ness?

15 MR. CORROW: Mr. Darrell Ness.

16 ALJ STERN: Okay.

17

18 DARRELL NESS,
19 called as a witness herein, having been first duly sworn
20 by the certified court reporter, was examined and
21 testified as follows:

22

23 DIRECT EXAMINATION

24

25 Q. BY MR. CORROW: Good morning, Mr. Ness. Would

1 you please give the State your full name and spelling and
2 an address and occupation.

3 A. Good morning. Darrell, D-a-r-r-e-l-l, Ness,
4 N-e-s-s. I live at 377 South Prospectors Road, Apache
5 Junction 85219, and my occupation is airline pilot.

6 Q. Mr. Ness, the Corrows have previously given the
7 Commission a map, which I believe you may have looked at
8 this earlier, and according to this map, lot 5E, are you
9 the owner of lot 5E on this map?

10 A. I am.

11 Q. Mr. Ness, did you have water to your property?

12 A. No, I had to have it put in last year when I
13 built.

14 Q. And it was put in by Arizona Water Company; is
15 that correct?

16 A. One of their contractors, yes.

17 Q. And did you have -- how were you able to bring
18 water in? Is it through a remote meter or did you have
19 to --

20 A. I had to -- I'm sorry.

21 Q. Did you have to bring a remote or do you have a
22 main?

23 A. I have a main.

24 Q. And you had to extend that main how far?

25 A. Approximately 130 feet, as I recall, give or

1 take.

2 Q. And you observed near your property remote
3 meters. Did you make a request to Arizona Water Company
4 to put in a remote meter to supply your property?

5 A. A verbal request, as I recall, not a written.
6 My contractor and I talked about it, and about 40 feet
7 across the street there is probably six meters which I
8 assume were on a main. I was hoping I could possibly go
9 across and tie in, but that was denied.

10 Q. And ultimately, then, so you were required in
11 order to get water to put in the six-inch main?

12 A. Yes, sir.

13 Q. And what was your total cost to put in that
14 main?

15 A. Within a few hundred, a couple hundred dollars,
16 probably around \$7,700, 78; it was just shy of \$8,000.

17 MR. CORROW: If I may, Mr. Stern, I would like
18 to submit these photographs, if I could, please, I have
19 one of each panel --

20 ALJ STERN: Let me just ask you, are these the
21 pictures you submitted with your original complaint?

22 MR. CORROW: No, these are new.

23 ALJ STERN: Okay. Why don't you give a set of
24 the copies to Mr. Geake, give one to Mr. Ronald, give
25 three to the court reporter or however many there are in

1 each group, and then give me my number.

2 MR. CORROW: Okay.

3 ALJ STERN: I've been handed some exhibits.
4 We're up to, actually, I think number-wise C-4, so what
5 has the number one on it is C-5; the court reporter
6 already took the words out of my mouth. And what has
7 number two is going to be C-6 and number three is going
8 to be C-7. These are the only photos you're going to
9 refer to today; is that correct?

10 MR. CORROW: That's correct.

11 (Exhibits Nos. C-5 through C-7 were marked for
12 identification.)

13 ALJ STERN: Did you take these pictures,
14 Mr. Corrow?

15 MR. CORROW: Yes, I did.

16 ALJ STERN: Do you recall when you took them,
17 approximately?

18 MR. CORROW: Yes.

19 ALJ STERN: I guess there's some dates.

20 MR. CORROW: Yes, they were taken yesterday.

21 ALJ STERN: Any objections to using these
22 photos? I assume these are in the vicinity of your
23 property and/or Mr. Ness's property, who's here today.
24 Is that correct?

25 MR. CORROW: That's correct, Your Honor.

1 MR. GEAKE: Well, I guess I will -- I don't
2 think they're properly used through Mr. Ness, who didn't
3 take the photograph, I don't know if he can vouch
4 anything for them; perhaps Mr. Corrow can. But I think
5 at the very least, Mr. Ness is not the correct witness to
6 vouch for these photographs.

7 ALJ STERN: Mr. Corrow, go ahead, what's your
8 response?

9 MR. CORROW: Well, if I may proceed, my first
10 question is to Mr. Ness is --

11 Q. BY MR. CORROW: Mr. Ness, do you recognize these
12 photographs?

13 A. Well, they appear to be of my driveway.

14 Q. And referring to question one --

15 MR. GEAKE: Your Honor, I'm going to object to
16 questions about them.

17 ALJ STERN: Okay. You took the pictures?

18 MR. CORROW: I took the pictures.

19 ALJ STERN: These are down at the end of your
20 street, whatever that easement or whatever it is gets to
21 lots 5C and D; right?

22 MR. CORROW: The private road you are referring
23 to.

24 ALJ STERN: Private road. Okay.

25 MR. CORROW: On the east side of lot 5C.

1 ALJ STERN: That's shown on Exhibit C-1?

2 MR. CORROW: That's correct.

3 ALJ STERN: So these pictures are all in the
4 vicinities of lot 5E, 4G, and represent -- well, whatever
5 you and Mr. Ness are going to testify to.

6 MR. CORROW: That's correct. If we may refer
7 also, go back to your original exhibit -- I'm sorry.

8 ALJ STERN: Your original filing with your
9 complaint?

10 MR. CORROW: Original filing, there were three
11 photographs.

12 ALJ STERN: Right.

13 MR. CORROW: Please note that the picture in the
14 upper right-hand corner closely coincides with the
15 picture number one of Exhibit C-5.

16 ALJ STERN: Do you have any objections to these
17 documents, Mr. Ronald?

18 MR. RONALD: No, Your Honor.

19 ALJ STERN: These photos?

20 Mr. Geake, just to get the matter moving, I'm
21 going to overrule your objection. I think there's
22 sufficient evidence that -- I don't know what it's going
23 to establish, but it's sufficient to show that these are
24 pictures of the subject area, it's represented on
25 Exhibit C-1 and there were photos previously filed with

1 the complaint, so I'll overrule your objection, we'll see
2 what this is.

3 MR. GEAKE: Very well. Please note my
4 objection.

5 ALJ STERN: Go ahead.

6 Q. BY MR. CORROW: Referring to photo number one in
7 the upper right-hand corner, there's a stanch in there
8 with the number 377; would you tell me what that probably
9 is?

10 A. It appears to be my mailbox and the address.

11 Q. And then to the left you'll notice that there's
12 like a double driveway and a little island surrounded by
13 rocks there. Do you have any idea how that relates to
14 your property line, your southwest property corner?

15 A. Well, basically, that is on my property, within
16 my property line, and comes out to a point toward the
17 driveway and our common drive there, our common road.

18 Q. You'll notice roughly in the center of the
19 picture there's a -- the photograph has a driveway going
20 all the way back?

21 A. Uh-huh.

22 Q. And then there's like a divider with an arrow
23 with a Magic Marker pointed to an arrow on there. Is
24 that part of your landscaping on your property?

25 A. Yes, it is.

1 Q. And then if I go to picture two on the next
2 page, is that an accurate photograph of the inside of
3 that island?

4 A. That appears to be. That's looking from the
5 opposite direction looking south.

6 Q. Do you have knowledge as to what that object is
7 in the lower part of the photograph, the large,
8 rectangular object?

9 A. My understanding is when they ran the main line
10 up to where my meter appears in one of these pictures,
11 that then they extended it out here with what I believe
12 they call a blow-off portion of it to this point right
13 here; that's where the cover is.

14 Q. And staying on photograph number two, there's a
15 vehicle in the photograph that appears to be parked on
16 the pavement, so at some point back there is where you
17 started to pay for your water line?

18 A. The main ended, as far as I knew, was on the
19 opposite side of my -- the person next to me's lot, so it
20 was probably from where my meter was to my mailbox was
21 roughly 130 feet is where I had to tie into that main and
22 run it.

23 Q. But it would be in the same direction as shown
24 in photo two?

25 A. That's correct.

1 Q. Going back --

2 A. That's correct.

3 Q. So that would have been on someone else's
4 property?

5 A. That's right.

6 Q. So you had to extend that main on someone else's
7 property to get to your property?

8 Now, if we could, please, I'd like to go back to
9 photo one in the front. Notice there's an arrow pointing
10 to what appears to be a meter box and then with a Magic
11 Marker drawn in, 377; do you have knowledge to that to be
12 your water meter?

13 A. My understanding is the far one closest to the
14 mailbox is the meter for my home.

15 Q. And do you have any knowledge as to what the
16 other meter box is, the arrows pointing to 5A, B?

17 A. I believe that's the meter for Mike and
18 Sharon -- I can't recall their last name now -- that are
19 on the north side, north of your properties there.

20 Q. And is it your understanding that that's what
21 you would call a remote meter; is that correct?

22 A. My understanding was that he was grandfathered
23 in to that, based on that's where the water, they -- a
24 small -- it's a piece of pipe that virtually was just
25 buried barely under the road that had to be replaced

1 ultimately after these properties were purchased, mine
2 and yours. But that's where his meter is run from, so it
3 would be remote, obviously.

4 Q. Thank you. Now, referring, if you would,
5 please, to photo three in this exhibit in the last photo,
6 this is a shot of looking back from west to east at the
7 two meter boxes that we questioned. If you'll notice,
8 please, on the ground there's blue paint. This, I guess
9 I have to testify to that, you probably don't have
10 knowledge as to what those pipes are. But again, you
11 think that these are an accurate photograph of the
12 existing meter boxes that are located on your property
13 and one -- is the 5A and B on your property or is that
14 located just to the south of your property?

15 A. I believe that's on my property.

16 Q. Now, Mr. Ness, in your dealings with Arizona
17 Water Company, did you have any comments that you'd like
18 to submit to this hearing that might be pertinent?

19 A. Just the fact that when I decided to build the
20 property I inquired about what it would cost to run the
21 water and I tried to get it -- I don't know if you'd call
22 it flagged, but I tried to go across the street. They
23 said they didn't do that anymore, I believe was the
24 response, and that I would have to run the extension.

25 I got -- paperwork was required also to increase

1 the easement by 15 or 20 feet; I'm not quite sure why,
2 but I had to do that prior to getting water. And
3 basically, I went under the assumption, along with my
4 builder, that for me to get water it was common practice
5 and that's pretty much a standard for everyone that I
6 would extend that main, and that's what I did.

7 Q. And now, going back to photo one of that arrow
8 that we referred to earlier that has this blow-off valve
9 that's shown on the back side in two --

10 A. Uh-huh.

11 Q. -- if a main -- is it your understanding that if
12 that main should be continued to the north that all of
13 that landscaping to the north of you along your property
14 for another 100 feet or so to the next property to the
15 north, that would all be disrupted and lost; is that
16 correct?

17 A. A portion of it. We planted this in picture one
18 looking to the north here on --

19 ALJ STERN: Let's just clarify, because the
20 record is going to be a little bit messed up. I guess if
21 you look at these photos you'd know, but when you say
22 picture one, that's C-5; right?

23 MR. CORROW: Picture one is C-5.

24 ALJ STERN: Go ahead.

25 THE WITNESS: You can see the landscaping we've

1 added in, put in trees and shrubberies. The jojoba
2 bushes that are bordering the road there are native
3 plants, but we do have some plumbing. The only thing I
4 can say having looked at it and eyeballing it
5 extension-wise, probably the only thing of mine if it
6 were done in a straight line, we would probably lose
7 those bushes or they'd have to be removed. I don't know
8 if they'd be replaceable or not, but it would have to be
9 pretty much a straight line paralleling the road, unless
10 they brought it out some, a couple 90s. I don't know
11 what they would do.

12 ALJ STERN: Did you have to give an easement up
13 alongside of your property to Arizona Water? Did you say
14 something about an easement?

15 THE WITNESS: The normal easement, I'm not sure,
16 they could tell you, is probably 20 feet; I'm throwing
17 out a number. I can't recall. And I had to add 10 or 15
18 more further to the east there.

19 ALJ STERN: So you gave them an easement
20 extending northwards alongside of your property there; is
21 that correct?

22 THE WITNESS: Well, extending north, we're
23 looking north in this.

24 ALJ STERN: Right, so it runs right along that
25 private --

1 THE WITNESS: It runs right along there and
2 also, I had to extend it to the east, to the right
3 looking that way.

4 ALJ STERN: So it would be going towards your
5 mailbox, let's say?

6 THE WITNESS: Correct.

7 ALJ STERN: Okay. So if that property is
8 disturbed, whose responsibility is it to fix it?

9 THE WITNESS: Well, when I ran the line the
10 contractor that ran the line was responsible through --
11 my understanding is the water company policy is that they
12 have to restore it, which I assume with very little
13 restoration as possible, because there wasn't much out
14 there, but I paid for whatever it took to bring that
15 back.

16 ALJ STERN: Now, you said that you extended the
17 line 130 feet. You mean did you run it north across your
18 driveway area to that point where the rocks are and that
19 blow-off valve?

20 THE WITNESS: Actually, no. The water company
21 did that, they ran it to my meter and then angled off. I
22 happened to be there, because I was living in the east
23 when all this is going on so I was kind of transient so I
24 couldn't keep track of all this. But they ran it across
25 to provide for extension of the main to the north.

1 ALJ STERN: I see. So you ran the main --
2 Excuse me. The main ended somewhere south of your lot on
3 the other side of what is that little, Peralta, whatever
4 they call it, Peralta Corners; what is it?

5 MS. DICKSON: Peralta Estates.

6 ALJ STERN: Peralta Way?

7 MS. DICKSON: Peralta Estates.

8 ALJ STERN: Peralta Estates. So you had to
9 bring the line north --

10 THE WITNESS: Correct.

11 ALJ STERN: -- across Peralta Estates to your
12 property by your mailbox where your meter is?

13 THE WITNESS: Correct.

14 ALJ STERN: And the company extended it across
15 the private roadway, whatever it is?

16 THE WITNESS: I don't know if I paid for that or
17 not. I couldn't tell you.

18 MR. CORROW: Pardon me, Your Honor. May I shed
19 some light on this? I'd like to enter three exhibits,
20 please.

21 ALJ STERN: What are those?

22 MR. CORROW: This is an Arizona Water Company
23 easement map showing the 30-foot easement that they
24 required, and I believe my witness can testify that on
25 lot 5E it'll show that 30-foot easement.

1 Then I would like to show a recorded parcel map,
2 the original parcel map, showing the original easement of
3 23 feet on the easterly portion of his property showing
4 the increase demanded by Arizona Water Company.

5 And thirdly, I'd like to show a grant of
6 easement purported here to show the west 30 feet of the
7 above described parcel.

8 ALJ STERN: Well, essentially, we've established
9 there is an easement. He's testified he's given the
10 easement; I don't necessarily need additional maps at
11 this point to see how wide it is or anything like that.

12 MR. CORROW: That's fine.

13 ALJ STERN: I mean, there's an easement there,
14 he's admitted that on the stand. I don't think anybody
15 questions that.

16 Do we have any objections or do we need those
17 maps, Mr. Geake? I think the easement is there.

18 MR. GEAKE: My understanding, and Mr. Ness,
19 correct me if I'm wrong, is that he granted Arizona Water
20 Company an easement as Your Honor has said, the easement
21 exists and no one is disputing that, so I would agree
22 with Your Honor, I don't see what these additional
23 documents are going to add.

24 ALJ STERN: I don't think we need them.

25 MR. CORROW: That's fine.

1 Q. BY MR. CORROW: In regards to that, I would like
2 to ask Mr. Ness, did it ever occur to you that that
3 easement was excessive, knowing that there was originally
4 a 23-foot easement there?

5 A. Well, it did. I was wondering -- and again, I
6 got this paperwork, I was traveling 2,000 miles, trying
7 to do things when I had time. I thought -- I was
8 wondering why they needed it, but in the heat of trying
9 to get everything done I thought well, you know, it was
10 another seven, ten feet, maybe, by your paperwork and I
11 just thought well, the heck with it, whatever they have
12 to do to put in this water line we'll get done and I
13 don't have to worry about it being excavated again.

14 Q. What would your expectations be if that water
15 line were to continue north from the -- from where it
16 currently ends to your property? What are your
17 expectations of whoever puts that water line in having to
18 do with your property?

19 A. My concern is right now that if that water line
20 is not extended now, sometime in the future someone north
21 of us is going to want to, and my concern is having any
22 property torn up twice when my -- all my shrubbery and
23 everything else is much more mature and with the easement
24 I have it could go anywhere, so -- I mean, theoretically.
25 That's my concern; I want it done once and I want it done

1 once only.

2 Q. But would you have any objections to a remote
3 meter located between as shown in figure one or better
4 yet, if we could refer to photo three on Exhibit C-5,
5 would you have any objection to two meters located
6 between those that are existing?

7 A. Well, I have mixed emotions about it, because I
8 have almost an \$8,000 investment in that that, you know,
9 is going to be kind of a windfall for someone. And I
10 guess it came down to if there's no recourse for a
11 refund, you know, I could live with it, because I brought
12 infrastructure in there. If I hadn't built first and
13 brought that up, it would be another 130 feet south.

14 ALJ STERN: Let me interrupt for just a minute.
15 How far or how long is your western boundary from Peralta
16 Estates to the northern edge of your property where it
17 abuts up against Mr. Corrow's southernmost lot? I guess
18 how deep is your property? If you recall.

19 THE WITNESS: Well, it's an acre lot. The
20 footage, I couldn't give you that right off the top of my
21 head, but the standard acre; possibly you could get that
22 from others here that have the figures.

23 ALJ STERN: Okay. Any other questions for your
24 witness?

25 MR. CORROW: No, I have no further questions,

1 unless Mr. Ness wishes to make any comment that's
2 relevant to that.

3 ALJ STERN: Anything else, Mr. Ness?

4 THE WITNESS: Just the fact that -- you know, my
5 concern is at having the property come back and take it
6 up again with -- you know, people to the north of
7 property have wells on them. I never say never; even
8 though they say they don't want to develop now, that
9 could change in a year or two, conditions can change and
10 they would want to subdivide and people are going to want
11 water, simple as that.

12 ALJ STERN: Did you understand when you bought
13 your lot you were possibly going to have to put in a main
14 of some sort to get water service to your property?

15 THE WITNESS: Yes, I did.

16 ALJ STERN: So you knew ahead of time?

17 THE WITNESS: Well, I went and checked the water
18 company when I decided I was going to build on that lot.

19 ALJ STERN: Did you understand the state of
20 affairs with water service in the split lot areas?

21 THE WITNESS: Well, as best my inquiry could get
22 in dealing with the water company, I went in there and
23 asked questions, got answers, and felt it was a
24 good-faith effort. I knew going in that I was going to
25 have to extend the line; being out of town and building I

1 didn't have time to really come and see if there's a way
2 I could get out of it.

3 ALJ STERN: You understood you weren't in a
4 planned subdivision as that area to the south of you
5 appears to be?

6 THE WITNESS: Yeah, just looking around you can
7 tell it's semi-rural.

8 ALJ STERN: I don't have any -- well, excuse me.
9 I'm sorry.

10 Mr. Geake, questions?

11 MR. GEAKE: Thank you, Your Honor.

12

13 CROSS-EXAMINATION

14

15 Q. BY MR. GEAKE: Morning, Mr. Ness.

16 A. Morning.

17 Q. Mr. Ness, did I understand you to say you were
18 either traveling or living back east when the water line
19 Arizona Water Company had constructed to extend water
20 service to your property was put in?

21 A. That's correct.

22 Q. Was your property damaged in any way?

23 A. No.

24 Q. Now, the concern you're expressing on a water
25 line going north from your property, have you spoken to

1 Arizona Water Company about that?

2 A. Well, no, I -- I didn't have a need to speak to
3 them until this issue came up, because -- how it might
4 affect my property where that blow-off line extends,
5 because it is on my property and running through the
6 easement which, you know, I just want to make sure where
7 it's going, what's going to be done with it and when, so
8 that I could anticipate. If it's not going to be
9 extended now, is that going to be the end of it or am I
10 going to expect a big dig two or three years down the
11 line.

12 Q. Would it be a fair statement to say that based
13 on your experience with Arizona Water Company to date,
14 anyway, there hasn't been any damage to your property,
15 hasn't been any reason based on that that you would
16 expect any damage to your property if the water line is
17 extended north of your property?

18 A. I haven't had any experience of damage.

19 Q. Based on your experience today, you have no
20 reason to expect that, do you, just based on what you
21 experienced so far?

22 A. No, not right now. No.

23 Q. You made an interesting statement that
24 Mr. Whitehead and I noted in answer to a question to
25 Mr. Corrow, and that is if you look at the map, I don't

1 know if you have it in front of you?

2 A. I don't have it.

3 ALJ STERN: Which one, C-1?

4 MR. GEAKE: Yes. Thank you, Your Honor.

5 Q. BY MR. GEAKE: Introduced into the record in
6 this matter as C-1, I believe your testimony was, and I
7 just want to clarify this, make sure that I'm not
8 misspeaking, the larger parcels to the north of you,
9 there could be further development, those parcels could
10 be split into smaller parcels; is that what your
11 testimony was?

12 A. Well, basically, from what I know of the
13 property, unless there's some restrictions on it, anybody
14 that owns that much acreage at some point, maybe. I
15 don't know that maybe 100 years from now, but it could be
16 next year, it could be divided and sold off.

17 Q. If that does happen, do you believe that
18 would -- would that increase the demand for water service
19 in that area?

20 A. Yeah, I think it would be pretty obvious that
21 anybody buying an acre or two acres is going to -- not
22 going to want to drill a well, probably.

23 Q. What's your understanding of what Mr. Corrow is
24 asking the Commission to do for him if he's successful in
25 prosecuting his complaint as compared to what you were

1 required to do to have water service extended to your
2 property?

3 A. Basically, what I tried to get done in the first
4 place was just go tie in across the street, make it short
5 sweet and inexpensive.

6 Q. What's your understanding of if Mr. Corrow is
7 successful, would he not receive quite different
8 treatment than you received?

9 A. Well, yes.

10 Q. And that treatment being he would not be
11 required to extend the main as you were?

12 A. Correct.

13 Q. At least that's what he's asking the Commission
14 to do; is that correct?

15 A. If I understand it, that's correct.

16 Q. Just to clarify, the figure you mentioned for
17 your payment to Arizona Water Company for extending the
18 main to your property, Mr. Ness, would you accept subject
19 to check, I have in front of me a copy of your main
20 extension agreement and it indicates a balance of or cost
21 as \$7,370; will you accept that, subject to check?

22 A. Subject to check. I thought it was a little
23 higher, about 76- to 7,700, but I could be off that much.
24 I know it was in that range.

25 MR. GEAKE: If I could have just a moment,

1 Mr. Stern.

2 ALJ STERN: Sure.

3 MR. GEAKE: I have no further questions,

4 Mr. Stern.

5 Thank you, Mr. Ness.

6 ALJ STERN: Mr. Ronald.

7 MR. RONALD: No questions, Your Honor.

8 ALJ STERN: One or two just to refresh my
9 memory. You said your main extension is approximately
10 130 feet and it ran northwards from the property to the
11 south, it ran north from whatever that street, what is
12 that street you're on? I don't have my map.

13 THE WITNESS: I'm on Prospectors.

14 ALJ STERN: You're on Prospectors, and it had to
15 run northward on -- wait a minute. You're on
16 Prospectors, what is it? Way? Avenue?

17 THE WITNESS: Road, Prospectors Road.

18 ALJ STERN: Prospectors Road. So you had to run
19 your main extension 130 feet where it crossed and it
20 actually had to cross what's referred to as Peralta
21 Estates Road or whatever?

22 THE WITNESS: That's correct. I believe the
23 homes just to the south of us are called Peralta Estates
24 and it ran along that east side of Prospectors there in
25 front of their properties into mine.

1 ALJ STERN: Okay. And that was 130 feet?

2 THE WITNESS: I'm guesstimating.

3 ALJ STERN: Approximately. I don't think I have
4 any other questions for you. Thank you.

5 Do you have any redirect for your witness?

6 MR. CORROW: No.

7 ALJ STERN: Okay. Thanks.

8 MR. CORROW: My next witness, I'd like to call
9 supervisor of Pinal County, Sandy Smith, please.

10 ALJ STERN: Ms. Smith, you want to come forward
11 and be sworn in as a witness.

12

13

SANDY SMITH,

14 called as a witness herein, having been first duly sworn
15 by the certified court reporter, was examined and
16 testified as follows:

17

18

DIRECT EXAMINATION

19

20 Q. BY MR. CORROW: Good morning, Ms. Smith.

21 A. Good morning.

22 Q. Would you please state your name for the record,
23 your address, and your occupation, please.

24 A. My name is Sandy Smith, I'm Pinal County
25 Supervisor for District 2. My address is 575 North Idaho

1 in Apache Junction for my business and 4415 South
2 Primrose Drive in Gold Canyon for my residence.

3 Q. Thank you. Ms. Smith, we're here today in
4 regards to a main of water extension that I've been
5 required put in on my property. I made a request to
6 Arizona Water Company to withdraw their demand for a
7 six-inch main and allow me to put in a remote meter. I
8 believe you used the term flag lot for this type of
9 installation.

10 I have numerous questions in regards to this,
11 but I understand you have quite a bit of input and
12 background, much more than I in this matter, and I was
13 wondering if you would relate to this hearing, please,
14 your background in this matter of main extensions and
15 flag meters and flag lots and that sort of thing?

16 A. Certainly. With the Court's permission, I have
17 come -- been about ten years in working in what flag lots
18 bring and I want to make it perfectly clear I'm not in
19 favor of flag lots; that's what I'm not here to testify
20 in favor of, additional flag lots.

21 Where I run into citizen concern in my job is
22 not to interfere in the Corporation Commission's job, nor
23 in Arizona Water's job. My job is to convey citizen
24 concerns when I see them come up over and over again.
25 One of the problems that happens in land splits, of which

1 the State has control over, allowing four splits creating
2 five lots is the inability of the County to control
3 utilities or to control roads and rights-of-ways.

4 What I have requested of Arizona Water and we
5 have worked through the Corporation Commission and their
6 attorneys for about eight or ten years ago and we were
7 working towards a solution and really couldn't come to
8 one is that should you require a six-inch main, that
9 there would be allowed to hook into that six-inch main a
10 fee so that folks would get their money back. If you
11 have four to five lots and they're required to put
12 \$16,000 in, then could they get their money back.

13 Right now if they're required to put that in,
14 then the folks can hook into that lot or into that line
15 at a very small cost. And so I have always thought, and
16 maybe I can receive some light on this at some point that
17 I understand it better, that if that hookup charge were
18 there, then that way there would not be such objections
19 to putting in the mains, that everybody would go
20 together.

21 I see it over and over again when folks are
22 trying to put in water to the areas of which we call land
23 splits, when you have a subdivision, all of that goes in
24 in an orderly manner and you don't have the problems that
25 we have with land splits and so --

1 ALJ STERN: Do you see the problem developing,
2 though, when the land splits don't all occur at the same
3 time, such as --

4 THE WITNESS: Definitely. And when we were
5 addressing this issue with Arizona Water, and I will tell
6 you that they were very cooperative in trying to reach a
7 solution, one of the problems that they had with it is
8 that should you have four lots and each one is going to
9 put in -- would have a hookup of \$4,000, say, after the
10 first one at the very end put that in and each one
11 hooking up, then you get to maybe somebody splits the lot
12 and you have \$4,000 too much money going back to the
13 original owner. And I would think there would be a
14 rebate program, but sometimes I think in simple terms,
15 which I know regulatory agencies, you can't think in just
16 sometimes simple terms.

17 ALJ STERN: Well, sort of a frontage fee where
18 the street is and where the main is, it might work.

19 THE WITNESS: Right.

20 ALJ STERN: If each individual lot owner paid
21 their lot frontage for that portion of the main?

22 THE WITNESS: Right.

23 And in talking with Arizona Water, one of the
24 problems was that how do you notify folks before they buy
25 land that they're going to have that hookup fee? And I

1 believe that in most city utilities it's understood that
2 you have a hookup fee and people go check and see how
3 much it is. I know there's a problem with that.

4 But I testify in front of the state legislature
5 many times on the effects of land splits and what they
6 cause to the counties and the cities that eventually
7 annex them and fact is, I'm the chairman of the
8 medium-sized county caucus for the county supervisors'
9 association, and that is one of our main focuses is for
10 one year, and we're going to try to bring legislation
11 forward to let us have better organized control over some
12 of these splits and how they happen.

13 The folks that get hurt on these lands splits
14 are the very folks that are sitting here in the audience
15 today. All of them, the ones that want to have their
16 water on and the ones that are having the lines go across
17 their property, and I call them the unawares. When they
18 buy their land they're unaware of some of the
19 consequences of land splits; I'd just like to have it all
20 out on the table so that when they do buy, everybody is
21 aware of that, what the consequences are.

22 ALJ STERN: Do you recall when Arizona Water
23 stopped putting in flag lot meters in Pinal County or in
24 Apache Junction?

25 THE WITNESS: No, I don't. We're not in

1 utilities and we don't have utilities right-of-ways.
2 Even if we abandon a right-of-way that is ours we can't
3 abandon that utility. There might be some way that we
4 can become a little bit more aware, but at my level as
5 the county supervisor, those policies I don't know about.

6 ALJ STERN: And how long have you been involved
7 in the flag lot problem?

8 THE WITNESS: Well, probably all 12 years I've
9 been here, at least 10 that I've been really aware of the
10 problem when we have talked locally about the effects of
11 what flag lots do. And then is when I started coming to
12 the Corporation Commission and talking to them -- I mean,
13 it was so long ago that Renz Jennings was on the
14 Corporation Commission, so that tells you how long ago it
15 was.

16 And the Arizona Water set at the table with us
17 and we brought our county attorney with us and we set
18 down and talked about how could we organize this better.
19 And I know that in today's judgment that's going to be
20 between Arizona Water and the complainant and the
21 Corporation Commission, but when the Corrows came to me
22 it was one of those things that I see come over and over
23 again, and I thought my testimony just to say that we
24 have problems also with what happens on these flag lots
25 as well as on the mandatory putting in a six-inch line

1 and not getting your money back.

2 ALJ STERN: Okay. Any other questions for your
3 witness?

4 MR. CORROW: No --

5 Q. BY MR. CORROW: Well, referring, if you would,
6 please, to my original complaint to the Commissioners and
7 the cover letter which I submitted, I included a
8 paragraph in here, two paragraphs in the principal meat
9 of this letter, if you will, about being reimbursed for
10 part of my cost, and it appears that you are supporting
11 the position that I've asked for some way to be recovered
12 some of these costs that I would put in or, for example,
13 Joyce would put in and so on.

14 I can only say that I appreciate you supporting
15 that position and I think that the Commission, if I'm not
16 mistaken, it's up to the Commissioners to change the laws
17 other than this -- pardon me, this silly ten percent of
18 the water used rebate and find some formula as the lots
19 that are built out here and around the Valley; small
20 folks put in these mains, there must be some vehicle
21 which the Commission can find that companies like Arizona
22 Water --

23 MR. GEAKE: Is there a question somewhere here,
24 Your Honor?

25 MR. CORROW: No, I'm grandstanding. Thank you.

1 ALJ STERN: Yeah, okay. Sorry about that.

2 MR. CORROW: That's all I have. Thank you,
3 Ms. Smith.

4 ALJ STERN: Mr. Geake, any questions?

5 MR. GEAKE: Just a few, Your Honor.

6

7

CROSS-EXAMINATION

8

9 Q. BY MR. GEAKE: Good morning, Supervisor Smith.

10 A. Morning.

11 Q. First of all, let me point out I think it's
12 admirable that you've come here presumably on your own
13 time, presumably not being paid by anyone to appear here
14 today --

15 A. No, I'm not being paid by anyone. I couldn't
16 take money to appear.

17 Q. -- to give the Commission your viewpoints on
18 what you believe is a continuing problem.

19 A. Yes.

20 Q. Would you agree with me that notwithstanding
21 that it's a problem today, although you may not be
22 extremely familiar with them, you're aware, I believe,
23 that the Commission has adopted regulations that have the
24 force of law that water companies must follow when they
25 extend water service to new customers. Would you agree

1 with that?

2 A. Yes, sir, I do.

3 Q. Would you agree with me that some companies like
4 Arizona Water Company have their own tariffs that largely
5 mimic the Commission's rules that also concern the
6 extension of water service to new customers?

7 A. Yes, sir. That was the reason with meeting with
8 everybody to see if we could change those laws so that we
9 could accommodate a problem that we all have.

10 Q. Would you agree that until that happens, that
11 water utilities like Arizona Water Company aren't free to
12 ignore either the Commission's rules or its tariffs?

13 A. That's correct.

14 Q. And we have to follow those until they're
15 changed; is that not correct?

16 A. That's correct. And my job is to tell everyone
17 what sometimes those laws create, what the concerns are,
18 yeah.

19 Q. Also to clarify and perhaps to put you on the
20 spot a little bit, but nevertheless --

21 A. That is all right.

22 Q. Based on the conversation we just had a moment
23 ago, are you here supporting Mr. Corrow's complaint to,
24 in effect, go around those rules and tariffs?

25 A. As I told Mr. Corrow when he came into the

1 office and as I will tell you, I do not interfere in or
2 support flag lots and I don't interfere in the
3 Corporation Commission's nor Arizona Water's job in order
4 to get their work done.

5 My job here is to tell everyone sometimes what
6 the laws entail and the hardships that they put on
7 people, but it is not here to support a flag lot, no,
8 sir.

9 Q. Do you in your duties as a supervisor, county
10 supervisor for Pinal County, do you have opportunity to
11 deal with other water companies other than Arizona Water
12 Company?

13 A. Yes, sir, I do. I have probably five or six in
14 my district and I can name them, if you'd like, I just
15 didn't count them as I was going through in my mind.

16 Q. In fact, would you agree with me that the
17 Commission has, I believe I could be wrong, but in excess
18 of 400 private water companies that it regulates?

19 A. I have to narrow it down to it's all about me
20 and what I have to deal with. I don't know what they do,
21 but I do know that they have a lot, yes. Even in Pinal
22 County I know the water companies in my district.

23 Q. And would you finally agree that if a change
24 such as you were describing to Judge Stern occurred such
25 as perhaps some sort of a hookup fee, a frontage fee,

1 whatever you might call it, if the Commission were to
2 adopt such a change it would almost certainly affect not
3 just Arizona Water Company, but all the water companies
4 that the Commission regulates?

5 A. I don't know that I agree with that statement.
6 When we were working with the Corporation Commission
7 attorneys, as well as ours, as well as Arizona Water
8 Company, that was never mentioned. What was mentioned
9 was that when Arizona Water came for a rate increase
10 anything that had to do with modifying their tariff, then
11 we could address that issue.

12 And jokingly, the Arizona Water Company
13 attorneys called it the Sandy Smith Water Hookup Fee, but
14 it was never said that they had to change all of the
15 rules, it was only mentioned that they would have to get
16 their tariff changed, and that's the way I remember us
17 leaving it.

18 Q. Well, the kind of change that you described in
19 answering questions from Judge Stern, are you
20 recommending that for only Arizona Water Company and not
21 the other water companies that you deal with?

22 A. No, I would think that it would be something
23 that would be across the board. The problem that comes
24 forward to me again and again is through Arizona Water
25 Company, and I can tell you exactly where the lines are

1 going in that I receive the concern from. However,
2 that's not to say it's not occurring, it's just that no
3 one has come before me.

4 When you had citizens extend the water into
5 Kings Ranch, that was when this concern started coming.
6 Before that they came when a water line was being
7 extended down to the dam over on Highway 88 down. And
8 then also, again, when the water was going up Broadway
9 all the way up past where these folks are to the
10 Highlands subdivision up there and that surfaced there
11 too, so those times it's coming in again.

12 With Johnson Utilities, with H2O, with
13 Diversified, those complaints haven't come forward to my
14 office and we normally when they do, we try to keep
15 referring them back to the organizations and the
16 companies that are involved. However, with this one it
17 surfaced a few times, Arizona Water Company.

18 MR. GEAKE: Thank you very much for your time
19 this morning. No further questions.

20 THE WITNESS: Thank you.

21 And thank you, Judge, for the opportunity --

22 ALJ STERN: Wait.

23 Mr. Ronald, any questions?

24 MR. RONALD: Just briefly, Your Honor.

25

1

CROSS-EXAMINATION

2

3 Q. BY MR. RONALD: Good morning, Ms. Smith.

4 A. Good morning again.

5 Q. Other than being the Pinal County Supervisor,
6 are you also still a member of the line siting committee?

7 A. Yes, sir, I am.

8 Q. So it would be fair to say that you are familiar
9 with land issues?

10 A. Very much so. I serve at the Commission's
11 pleasure on the line and power -- the power plant and
12 line siting commission for the Corporation Commission.

13 Q. And would it be fair to say that today you're
14 only here to represent interests of Pinal County as the
15 supervisor?

16 A. Yes. And mostly, like I said once before, is
17 that one of my jobs as a commissioner is to bring citizen
18 concerns into government and government concerns back out
19 to the citizens. I'm the conduit, and so that's the
20 greatest capacity that I'm here today. I do not
21 represent today the line siting commission, if that's
22 where we were going with this.

23 MR. RONALD: Thank you, Ms. Smith. That's all
24 the questions I have.

25 ALJ STERN: Ms. Smith, I guess my major -- the

1 only question I have is you understand that the
2 Commission doesn't have any jurisdiction in the area of
3 real estate development per se and lot splitting
4 particularly; that's, I think, the Real Estate
5 Department. Correct?

6 THE WITNESS: I gotcha. Actually, state law
7 allows land splits. They some years ago, they said that
8 instead of two splits creating three parcels there could
9 be four splits creating five parcels in unincorporated
10 areas, so we actually lot split twice as fast as a city
11 does. So my job has been to testify at the state level
12 with the state legislature on the effects of lot splits.

13 ALJ STERN: There's a lot of this in Pinal
14 County?

15 THE WITNESS: There's a lot of this in every
16 county. I have the six counties that I do represent as
17 chairman, the magnificent six we call ourselves, the six
18 medium-sized counties, and the horror stories that come
19 out of that for the citizens that buy a lot and then all
20 of a sudden somebody blocks it so they can't get
21 right-of-way through schools, there's no reservation for
22 school sites, and the list goes on and on.

23 ALJ STERN: Okay. I don't have any other
24 questions.

25 Any other questions for your witness,

1 Mr. Corrow?

2 MR. CORROW: No.

3 Thank you, Ms. Smith.

4 ALJ STERN: Thank you.

5 THE WITNESS: Thank you. And thank you for
6 allowing me to be a part of the proceedings.

7 ALJ STERN: Mr. Corrow, next witness.

8 MR. CORROW: Thank you. I would like to take
9 the witness stand myself --

10 ALJ STERN: That would be fine.

11 MR. CORROW: -- and be some length of time.

12 Would you want to break for lunch before or we can get
13 started?

14 ALJ STERN: It's sort of -- I think it would be
15 appropriate for you to take the stand now. I don't know
16 how much testimony you have to give. Your witnesses have
17 certainly sort of fleshed out your case and I know you
18 have some additional things. Is your wife going to
19 testify also or just you, primarily? I imagine you can
20 do it, I don't know why you need two.

21 MS. CORROW: Mostly him.

22 MR. CORROW: Thank you.

23 ALJ STERN: Come forward and be sworn in as a
24 witness and hopefully, we'll finish you and take a break
25 and Mr. Geake can come back with his witness and staff.

1 We'll see what time it is.

2 How much direct do you think you'll have,

3 Mr. Geake?

4 MR. GEAKE: I'm sorry. My direct, Your Honor?

5 ALJ STERN: Yes.

6 MR. GEAKE: It's probably expanded a little bit
7 because of some of the testimony we've heard from this
8 morning, but I don't anticipate we will be very long; as
9 I would describe it, not more than, say, half an hour at
10 most.

11 ALJ STERN: We'll see.

12 Mr. Corrow, you're on third, which is sort of
13 surprising. Usually the complainant comes on first, but
14 we're ready for you now, and would you please be sworn in
15 by the court reporter.

16

17 RICHARD CORROW,

18 called as a witness herein, having been first duly sworn
19 by the certified court reporter, was examined and
20 testified as follows:

21

22 EXAMINATION

23

24 Q. BY ALJ STERN: Mr. Corrow, why don't you state
25 your name and address for the record.

1 A. My name is Richard Corrow, C-o-r-r-o-w,
2 303 South Prospectors Road, Apache Junction 85219.

3 Q. And, Mr. Corrow, you and your wife own the lots
4 that are marked 5C and 5D on Exhibit C-1; isn't that
5 correct?

6 A. That is correct.

7 Q. And let me ask you this, Mr. Corrow: This is a
8 question that comes to mind for me. How many feet are
9 involved in the main extension that you were negotiating
10 with Arizona Water for this six-inch main that you're
11 complaining about?

12 A. I would be required to put in 260 linear feet.

13 Q. So twice as much as Mr. Ness; I guess that's the
14 difference pretty much in the cost of your --

15 A. No, actually, the costs have gone up
16 considerably since then. As an example, Ms. Dickson
17 testified that her cost went from an estimate of 14,000
18 to a bid of 24,000 in just a few months.

19 Q. So --

20 A. Our estimates, we have a bid on at the current
21 time for 16 -- 15,729 plus the 450 deposit, which would
22 be for a total cost of \$16,179.

23 Q. All right. Now, that 260 linear feet, that
24 would include 130 feet more or less, I guess, along the
25 western boundary of Mr. Ness's property at 130 feet

1 across lot 5D to get the line up to lot 5C; is that
2 correct?

3 A. That's correct.

4 Q. And when did you buy these two properties?

5 A. We purchased these properties, we closed escrow
6 in December of '03.

7 Q. At the time, where were you living at the time
8 you bought these properties?

9 A. Santa Fe, New Mexico.

10 Q. And were you aware of the fact you were buying
11 property in somewhat of a rural area?

12 A. Yes, I was.

13 Q. Did you understand that there were going to be
14 attendant costs to get utilities to your property, not
15 just water, I assume telephone, electricity, things like
16 that?

17 A. Yes, I did.

18 Q. Did you inquire what the costs would be before
19 you bought the properties?

20 A. We made inquires as well as assumptions. Lot 5A
21 and 5B on our map were previously served by a remote
22 meter at the end of the road.

23 Next issue was that we after diligent research
24 realized that the property line at the Nesses at Peralta
25 Estates all the way north as far as we could find had

1 absolutely no county or utility easement or claim
2 whatsoever, and --

3 Q. Did you find that out before or after you
4 purchased --

5 A. After -- before.

6 Q. Before you bought your lot?

7 A. That's correct.

8 Q. And you were still willing to buy lots even
9 without any easements to your property?

10 A. No, we had easements to our property for egress
11 and entrance and for utilities. What I'm suggesting is
12 that we bought the properties as being a private road
13 with no county claim for easement or access all the way
14 from Peralta Estates to at least Junction Road going
15 north and south and beyond.

16 So with that in mind, we made a certain tactical
17 move that we would probably be able to get a remote meter
18 there, because we found it incomprehensible that the
19 water company would make any demand of putting in a
20 six-inch main that was going nowhere.

21 Q. How much does it cost you to run your electrical
22 to your properties?

23 A. The electrical, there is a light pole that could
24 be seen -- if we went to Exhibit 5-C on photo number one,
25 you can see a power pole located in that photograph and

1 that photograph, it has a transformer on it that was just
2 put on there yesterday, Monday. And the cost to bring
3 power from that pole to the two lots, putting all of my
4 undergrounds in for telephone, cable, my electricity, the
5 conduit, my share for the transformer and so on, the
6 complete cost of that to me was \$3,500.

7 Q. What about for telephone?

8 A. The cost of the cable, it cost me nothing, I got
9 the cable from the telephone company for no charge. Most
10 utilities -- most utilities except the water company
11 include part of the infrastructure in their installation.
12 As a good example, the cable company came out and
13 supplied the conduit to put in the cable, the telephone
14 company supplied the wire. And SRP, at my expense I put
15 in the three-inch plastic conduit, but SRP supplies all
16 of the wiring and the transformer and junction box.

17 Q. How about your sewer out there, what type of
18 sewage?

19 A. We have septic system.

20 Q. Now, you're going to live on lot 5C; is that
21 correct?

22 A. That's correct.

23 Q. That's where you're building a residence?

24 A. That's correct.

25 Q. Have you already built it and live in it?

1 A. We are under construction.

2 Q. What's going to be on lot 5D?

3 A. We're going to build a residence there and sell
4 that.

5 Q. So you're going to build a spec home on 5D?

6 A. That is correct.

7 Q. Before you purchased these lots, did you contact
8 Arizona Water and say what's involved in getting water to
9 these two lots?

10 A. No, I didn't. I didn't feel that that
11 information was pertinent at the time, and it was -- no,
12 I did not.

13 Q. So you were relying on the assumption that there
14 were remote meters in the area that you figured that
15 you'd be able to do that too?

16 A. Yes -- well, actually, a lot more than that.
17 That's part of the answer, and if I may expound on that,
18 we have remote meters in the area and in this entire map
19 of all of these parcels, I think it was 86 parcels, there
20 is only six that are undeveloped.

21 Q. You're referring to C-1, the map that you filed
22 earlier?

23 A. That's correct.

24 Now, keeping that in mind, 4C and 3 potentially
25 could be 15 parcels in there, but within reason one would

1 note that Arizona Water Company -- this map, by the way,
2 I'd like to point out is a compilation of Arizona Water
3 Company's own map showing their own mains and an overlay
4 with the parcels maps of the area showing all of the
5 existing parcels.

6 Q. So you say how many lots are in there, 80 --

7 A. 86, I think it was, something like that.

8 Q. And you said how many have developed?

9 A. Well, there's a question on a couple, but I'll
10 extend it to six; to my knowledge, there were six
11 undeveloped lots.

12 Q. But you said that 4C and 3 could have 15 lots
13 total?

14 A. That's right. They are undeveloped at this
15 time, but --

16 Q. That's just based on the -- I mean, you're
17 including those two as two of the six?

18 A. That is correct.

19 Now, with that in mind, if we could get back to
20 your original question, I made a judgment myself and I
21 take it upon myself, here that I made the judgment that
22 any rightful, thinking person using a little bit of
23 common sense says no one is going to force a six-inch
24 main that runs along that property line there to go up to
25 the north to serve any other parcels except parcel 4C and

1 3.

2 Now, I am not a water engineer, don't profess to
3 be, but I am very versed in mechanical engineering, which
4 I feel that I'm somewhat gifted in using common sense in
5 applications such as this. And I am somewhat supportive
6 of Arizona Water Company's intent here, which is a
7 contradiction, but in reality what I would like to
8 discuss is their position is that they need adequate
9 service and looping; there is two issues here. The
10 adequate services, their services, they're looking at the
11 potential development of lot 4C and 3.

12 For reference, if we were to take these
13 photographs and this map and we should hold this map up
14 to this distance from along Junction on the existing
15 right-of-way that they have, but then to take this map
16 this lengthwise and put it here where they want to jam
17 this water line down Ms. Dickson's and our throats, from
18 point A to point B is shorter. Now, if they develop this
19 property here they can simply say to this fellow you want
20 to develop this, you're probably going to want to split
21 it this way here five lots, so you loop down here, come
22 across here, back up to here; that's your circulation
23 loop for this development.

24 But further, you have to give this easement to
25 this point in lot 3; that leaves a continuation junction

1 where it's an open thoroughfare and you have a loop here
2 and now you've closed this loop, you've allowed water
3 circulation through here, and have excellent circulation
4 all the way through this thing. Now, it doesn't take a
5 genius water engineer to figure that out. They're going
6 to come up here and say this shot here is the straight
7 shot. These guys here they can sucker in to buy this lot
8 here --

9 Q. Wait a minute. They're not selling real estate,
10 they only sell water.

11 A. Yeah, but they're doing a damn good job at it.
12 So what I'm trying to suggest is that I'm asking -- the
13 Commission has brought up earlier about the tariff and
14 they said according to the tariff, that you have to --
15 that they are following the lines of the tariff, but --
16 and I agree with that, they're following the lines of the
17 tariff, but the subterfuge is amazing.

18 If you look at this, and I certainly hope the
19 water company brings an educated hydrologist up here that
20 will rebut my statement here, that he can come up with a
21 better plan than what I'm suggesting here, I'd really
22 like to hear it. So what I tried to do is base my common
23 sense, look at this at how would best develop 4C and 3
24 and why would they want to force this future development
25 of this lot onto ours here when they already have an

1 existing right-of-way and not rebate me any of the
2 expense, which is the biggest issue that I have about
3 this.

4 And I would ask that the Corporation Commission,
5 someone on that board started to make an understanding
6 that could have a little guy put in a strong piece of
7 infrastructure that someone else can tie onto at some
8 further point down the line and not be refunded for that
9 is just wrong. I get not one single penny out of this.

10 In support of that I will show that according to
11 Arizona Water Company's terms and conditions for the
12 provision of water service, it says here on D.1., "The
13 company shall make no refunds from any revenue received
14 from any lines other than customer services lines leading
15 up to or taking off from the particular main extension
16 covered by the agreement."

17 If I put in 260 linear feet along this line,
18 they can't get onto it, they've got water, they've got
19 water, they've got water, I get nothing.

20 Q. Well, I don't know what to tell you; that's the
21 way the rule reads.

22 A. That's the way the rule reads. I'm suggesting,
23 sir, that if we make enough noise here, someone that's
24 just been re-elected on the Corporation Commission will
25 start to pay attention that there's a discrepancy here

1 that the little property owners have got to have some
2 recourse, if they are putting out this kind of money to
3 be able to develop someone else's property.

4 Q. I saw a case almost exactly like this, sir, not
5 too long ago, about six months ago. Actually, in that
6 case the company had him put in a main extension and
7 there had been a main across the street from his
8 property. In that case he had originally complained and
9 thought he was entitled to customers hooking up further
10 down the main he wasn't initially connected to. He
11 learned he wasn't, but he shouldn't have been required to
12 put in a main extension since there was a main across the
13 street, so there was a refund ordered in that case.

14 In your case the way the Commission's rules
15 presently are, you bought the property and you know the
16 rule reads pretty clearly that if lot 5A and 5B aren't
17 going to hook onto your main, you would be entitled to
18 some revenues. I guess lot 5D when you sold it wouldn't
19 get you much money and you get a refund for your own
20 meter, but that's the way the Commission's rules are at
21 present.

22 A. Are you suggesting that's correct?

23 Q. I'm telling you that's what the rules say.

24 A. I'm not asking you that, I'm asking you if
25 you're suggesting that's correct? You're asking the

1 questions here, but I want to get -- we have a
2 Commission --

3 Q. Let me say --

4 A. -- that's elected by our populous. And what I'm
5 trying to suggest is that I'm a voter too, and at some
6 point we've got to get to the Commission and say we've
7 got to make this an equitable situation for property
8 owners that put in this kind of infrastructure.

9 Q. Here's the situation presently, Mr. Corrow: Do
10 you know for a fact that there's going to be development
11 of lot 4C or lots 4C and lot 3 in the foreseeable future?

12 A. I'm glad you asked, because if I tried to put in
13 that information secondhand I'm sure it would be
14 challenged.

15 Q. It's going to be objectable. I would say common
16 sense would probably tell you at some point in time
17 whoever owns --

18 A. Common sense would I'm sure tell you that.

19 Q. How many years --

20 A. But the owners --

21 Q. Mr. Corrow, let me finish my question, please.

22 A. Yes.

23 Q. How many years are we supposed to speculate on?

24 A. I'm going to throw a guess out there. I've
25 talked to the owner and other people in this room have

1 talked to the owner and I'm going to guess ten years is
2 probably a pretty good shot.

3 Q. Well, I'd say if, in fact, those people were
4 directly connected under the Commission's present rules
5 to your main extension, then you would be entitled to a
6 percentage of the revenues of those customers.

7 A. No, sir.

8 Q. If, in fact, they were connected to your main
9 extension.

10 A. No, sir.

11 Q. No. No. If those people somehow, some way and
12 you own lots 5B and 5A and extended upward and then they
13 connected onto you, you'd get revenues from 5A and 5B.
14 And then if you ran that main extension further up you'd
15 get revenues; that's the way the rule presently reads.

16 A. Are you suggesting I open a water company and
17 ask that money for a long-term rebate?

18 Q. I'm afraid Arizona Water would complain about
19 you opening a water company. They have a certificate --

20 A. So other than --

21 Q. Excuse me, Mr. Corrow. You can't talk when I'm
22 talking, please.

23 They have the certificate of convenience and
24 necessity to provide water in the area where you bought
25 your property. All right? That gives them a license to

1 be the exclusive provider of that service, so you can't
2 be in the water business.

3 A. Then --

4 Q. You can drill your own well and there's no
5 problem providing yourself of water; that's an
6 alternative you have. It may be cheaper to do that than
7 put in a \$16,000 main extension. I don't know whether
8 you can then build a spec house with no water to it,
9 because somebody, somehow, some way is going to have to
10 put in 130 feet of main extension from Peralta Estates up
11 to lot 5D.

12 I can understand your concerns, but there is a
13 problem under the present situation with our rules.
14 There are different ways to do this, but I'm not sure
15 what you're proposing, and that is putting in a remote
16 meter, which is something that I know the companies and
17 the staff at the Commission have tried to avoid for a
18 while and discourage, is not a good, viable solution. I
19 mean, how would lot 5D get water service? You're going
20 to put in a remote meter for that?

21 A. Yes, two remote meters, parallel lines as
22 indicated in photo 3 in Exhibit 3.

23 MS. CORROW: May I ask a question?

24 ALJ STERN: No, ma'am.

25 MS. CORROW: It's me.

1 ALJ STERN: If he leaves something out and you
2 want to testify, you can.

3 Q. BY ALJ STERN: Okay. Do you have anything else
4 you want to add?

5 A. Well, I'd like to go back to the original issue,
6 then. You seem to be in control of this, and I
7 understand that.

8 Q. I'm just telling you what that rule says and the
9 rule says that if someone hooks up directly to you, if
10 you put in a main and lot 4G wanted to connect to it, to
11 your main extension, under the present rule you'd be
12 entitled to a percentage of that revenue derived from lot
13 4G.

14 A. That's a what-if, but they have water.

15 Q. But that's the way the rule is presently, so we
16 understand each other.

17 A. I understand.

18 Now, when we get back to this decision, do you
19 feel that you can make a learned decision on the
20 practicality of what the water company wishes to do on
21 the extension of this main? As I indicated to you, they
22 have better options going across here with less
23 disturbance to the neighborhood, less distance to travel
24 than going this way and without a nuisance bothering the
25 private land owners that don't wish to participate in the

1 development of lot 4C or 3 or looping this water system.

2 You have the authority and the power to make a
3 judgment on that, which would be the more appropriate
4 decision.

5 Q. Mr. Corrow, apparently -- number one, I don't
6 answer your questions in this instance.

7 Number two --

8 A. I just asked if you have the authority.

9 Q. Number two, I don't have the authority to make
10 the decision, it's up to the Commission. All I can do is
11 make a recommendation. I can say Mr. Corrow loses, they
12 can change the decision, say Mr. Corrow wins. They can
13 make it halfway and say Mr. Corrow wins this much and
14 Arizona Water wins this much. The Commissioners make the
15 final decision --

16 A. Uh-huh.

17 Q. -- if you don't understand that. All I do is
18 put out a recommended order. If you're dissatisfied, if
19 Arizona Water is dissatisfied, both of you have the right
20 to file exceptions. The Commission, there's five
21 commissioners, make the final decision, so that's
22 ultimately what will happen.

23 So at this point what else would you like to
24 add?

25 A. Well, looks like we're not doing real good here,

1 so I don't know how much more I can add, but I'd like to
2 hear what the water company thinks that they could put in
3 here that's better allocated than I do; at least I can go
4 home and sleep at night.

5 Q. I mean, I don't know what way the water company
6 is going to put in their lines and I don't like some of
7 the things the water company does either, but I can't
8 speculate. All I know is where your lots are, where
9 their main is, and what you have to do, much the same as
10 Mr. Ness. In order to discourage that process of having
11 flag lots or remote meters the company has gone to the
12 adoption of a tariff which adopts the Commission's rules
13 which say how things happen in this area.

14 And unfortunately, your problem isn't because of
15 the Commission's rules. You're not buying into a
16 subdivision; you wouldn't have this problem. When you
17 buy into these lot split areas, it's precisely as the
18 supervisor said, people don't get exactly the results
19 they want, because the guy who makes out like a bandit is
20 the guy that split those lots, not the people who buy the
21 lots, and that's --

22 A. There's truth in that.

23 ALJ STERN: -- that's pretty much the way it's
24 been. And until they change the law and do something
25 about it, there are going to be some problems.

1 Okay. Your wife had a question or something she
2 wanted to add. Now, she's not --

3 Do you want to ask him a question, ma'am?

4 MS. CORROW: I suppose I can get the point
5 across by asking him the question, yes.

6 ALJ STERN: Ask him a question. You can't
7 testify, you're not under oath.

8 MS. CORROW: All right.

9 How will the water company gain easement from
10 our property's 5D and -- 5C and D to lots 3 and 4C if the
11 property owner to the north of us, 5A and B, does not
12 wish to grant an easement in that he already has water
13 because he is an existing flag lot?

14 ALJ STERN: Wait. I didn't understand your
15 question. Can you repeat that?

16 MS. CORROW: How will the water company run the
17 water main from our water main extension if we're forced
18 to install it through lots 3 and 4C up to Joyce Dickson's
19 lot if they don't have an easement on the property
20 through which they need to pass that main? And how will
21 they get that easement, because those property owners
22 have water and they don't want to grant an easement?

23 MR. GEAKE: I'm going to object to the
24 question -- you're almost anticipating it -- it calls for
25 speculation, calls for adopting the testimony of people

1 that aren't even here, it's improper.

2 ALJ STERN: I'll have to --

3 MS. CORROW: Perhaps we should submit another
4 exhibit. Can we submit another exhibit?

5 THE WITNESS: I have another exhibit here I'd
6 like to submit, please.

7 ALJ STERN: Excuse me. I'll sustain his
8 objection. He wins one for once. I've been beating him
9 up all day long, he doesn't deserve it. At this point
10 he's made a good objection. We don't have any basis on
11 which to make that answer at this point.

12 Now, you want to submit another exhibit; what's
13 the exhibit?

14 THE WITNESS: This is from the property owner to
15 the north, owners of lot 5 and lot 5B. They have signed
16 this stating that they will not under any circumstances
17 allow an easement.

18 And then I would like to call a neighbor, the
19 owner of lot 4G, who will also testify that she will not
20 allow an easement under her property.

21 ALJ STERN: Well, just a minute. What's that
22 going to establish with respect to the issue, which is
23 whether you should put in a six-inch main extension to
24 your property?

25 THE WITNESS: To get back to the common sense

1 issue of a dead-end line that's going nowhere and jamming
2 \$16,000 down my throat.

3 MS. CORROW: And it doesn't solve the looping
4 problem.

5 ALJ STERN: Ma'am, I'd caution you not to
6 interrupt.

7 THE WITNESS: It doesn't solve the looping
8 problem.

9 ALJ STERN: We'll go off the record, I'll make a
10 photocopy so we have enough exhibits of your letter from
11 your neighbor. That's the owner of the property of 5A
12 and 5B?

13 THE WITNESS: That's correct.

14 ALJ STERN: He owns both lots?

15 THE WITNESS: Yes.

16 ALJ STERN: Let's go off the record for a
17 minute.

18 (The proceedings were at recess from 12:18 p.m.
19 to 12:22 p.m., and Exhibit No. C-8 was marked for
20 identification.)

21 ALJ STERN: We're back on.

22 Returning to the record, I guess we're going to
23 mark this C-8, it's captioned Neighborhood Agreement
24 Concerning Arizona Water Company's Demand to Extend Water
25 Main through Private Lands. Who prepared this?

1 THE WITNESS: I did.

2 ALJ STERN: You did. Okay. And this has some
3 signatures on it. It says, "We the below signed property
4 owners described as parcel numbers and addresses listed,
5 have become aware of Arizona Water Company's intent to
6 extend a six-inch water main through our property. We
7 are against such extension and would deny access through
8 our property by refusing to grant an easement.

9 "We understand that the only property that could
10 be served are two undeveloped parcels known as Pinal
11 County Assessors' Parcel Numbers 103-09-4C and 103-09-3."

12 I assume that's 4C and 3 up there?

13 THE WITNESS: That's correct.

14 ALJ STERN: "It is our understanding these
15 parcels could be adequately served by a water main
16 extension in an existing right-of-way previously granted
17 to Arizona Water Company. This easement would bring
18 water to the aforementioned parcels from Geronimo Road
19 along Junction Road."

20 Now, this is Gary and Vivian Ross; who are they?
21 Those are the people who own 4C and 3?

22 THE WITNESS: Yes. They were not able to be
23 here today.

24 ALJ STERN: So they didn't sign it; right?

25 THE WITNESS: They have not signed it as of

1 today, that's correct.

2 ALJ STERN: And then what's this 4G?

3 MS. VASSAR: That would be us.

4 ALJ STERN: Okay. But that's William Vassar and
5 Anita Vassar?

6 MS. VASSAR: Yes.

7 ALJ STERN: And they didn't sign it. And
8 103-09-5A and 5B, those are the people who live north of
9 you; correct?

10 THE WITNESS: That's correct.

11 ALJ STERN: That's Michael Carroll and Sharon
12 Horner. Are they here?

13 THE WITNESS: No.

14 ALJ STERN: They signed it, but they're not
15 here.

16 I don't know if that's the declared intent yet
17 of Arizona Water, but you prepared this and you say
18 that's their intent; correct?

19 THE WITNESS: That's correct.

20 ALJ STERN: Okay.

21 THE WITNESS: I mean, what else could it
22 possibly be? I mean, it must be Arizona Water's intent;
23 why else would they run a main up to dead-end at lot 5C.

24 ALJ STERN: I don't know.

25 All right. Exhibit C-8, Mr. Geake, any

1 objections?

2 MR. GEAKE: Yes, Your Honor. Obviously, it's
3 hearsay, and I would say it's hearsay in one of the
4 lowest natures, prepared by Mr. Corrow, I believe he
5 said. It's not signed by several people that he, I
6 believe, is reporting to us accepts it, none of these
7 people, I believe, with the exception of Mr. Corrow or
8 Mr. and Mrs. Vassar --

9 MS. VASSAR: Yes.

10 MR. GEAKE: -- are here today, can vouch for
11 whether or not they agree with this or don't agree or are
12 even aware of it, for that matter.

13 Last but not least, I think it's extremely
14 inappropriate, to say the least, for Mr. Corrow to
15 represent what Arizona Water Company's intent is for
16 anything. I didn't speculate for that, I have a witness
17 here that can testify to anything is relevant that
18 Mr. Corrow or Your Honor, staff, et cetera wants to ask
19 about our intent. So I don't even think this is
20 necessary, so I object to it on all of those bases.

21 ALJ STERN: Well, I think you made some good
22 objections, but we'll see what staff has to say.

23 MR. RONALD: Your Honor, staff agrees with
24 Mr. Geake's objections for the reasons that he stated.

25 ALJ STERN: Well, there's a lot of hearsay here

1 and I think the counsel for the company and staff are
2 probably correct. This is an administrative proceeding,
3 the law in Arizona under the circumstances of an
4 administrative proceeding allows anything in for whatever
5 it's worth. So noting that in the record, I'll admit
6 Exhibit C-8 for whatever it's worth and at this time
7 we'll go forward. So your objections are noted in the
8 record.

9 So with that, Mr. Corrow, anything else?

10 THE WITNESS: No.

11 ALJ STERN: Mr. Geake, any cross?

12 MR. GEAKE: Just a couple questions, Your Honor.

13

14

CROSS-EXAMINATION

15

16 Q. BY MR. GEAKE: Good morning, Mr. Corrow.

17 A. Morning.

18 Q. By the way, how do you pronounce your name?

19 A. Borrow, tomorrow, Corrow.

20 Q. So if I say Corrow, is that correct?

21 A. That would be correct.

22 Q. Mr. Corrow, when did you say that you acquired
23 your property, that is, parcels 5 --

24 A. December of '03.

25 Q. December of '03?

1 A. That's correct.

2 Q. Were you familiar with Mr. Ness's property, that
3 is, his water service situation when you acquired your
4 property?

5 A. No, I was not.

6 Q. You were not aware that Mr. Ness had already
7 obtained water service from Arizona Water Company at that
8 time?

9 A. No.

10 Q. You didn't make any physical inspection of the
11 area?

12 A. Oh, yes, I made a physical inspection of his
13 area and noted his meter.

14 Q. But you didn't know what Mr. Ness had done
15 concerning water service from Arizona Water Company?

16 A. No, I did not.

17 Q. Did you make any attempt to find out?

18 A. No, I did not.

19 Q. You spoke about, I believe, did you not, I
20 believe it was electric, cable, you said there would be
21 some undergrounding in the area?

22 A. That's correct.

23 Q. Could you give us some details about that?

24 A. Certainly.

25 Q. Is that something that's supposed to occur in

1 the future?

2 A. No, they were completed as of Friday, last
3 Friday. I refer to photo one.

4 Q. That's Exhibit C-5?

5 A. That's correct. In the very center of the
6 photograph there's a power pole with a transformer on it.

7 Q. Yes, I see that.

8 A. That transformer was installed yesterday. That
9 transformer is roughly located near the property line,
10 the north-south property line of 5C, 5D at its westerly
11 boundary. Got it? And yellow would be to this point
12 right here.

13 MR. GEAKE: Just a moment, please.

14 THE WITNESS: Do you have that now? To answer
15 your question, starting at that point --

16 MR. GEAKE: I have no question pending. In
17 fact, I have no further questions. Thank you.

18 THE WITNESS: You asked about utilities.

19 ALJ STERN: Let me get that right.

20

21

RE-EXAMINATION

22

23 Q. BY ALJ STERN: Where that telephone pole is with
24 the transformer --

25 A. Yes.

1 Q. -- that's the one that's opposite 5C and D like
2 sort of in between them?

3 A. That's correct, it's very close. To be
4 specific, it's 32 feet north of that line but on this
5 westerly line, 30 feet north of where the existing
6 request is for an -- existing easement, rather, is shown
7 on here.

8 Q. How do the owners of 5A and 5D -- how does the
9 owner of lot 5A and B get out of his property? Does he
10 use your private driveway?

11 A. Yes. There's an easement that runs the entire
12 length of that five-acre parcel.

13 Q. And it dead-ends into 5A and B; is that what
14 happens?

15 A. Yes.

16 Q. Runs past your property and right into his?

17 A. Yes. He has incorporated 5A and 5B and they are
18 now a single parcel, that's correct.

19 Q. So that's two acres up in there; is that
20 correct?

21 A. Yes.

22 Q. Is that telephone pole further down the private
23 roadway the telephone pole that carries his electricity
24 up to that, the five acres?

25 A. No, he takes his power, I believe -- if you're

1 referring to this photograph again, you'll see another
2 power pole further to the north.

3 Q. Yes.

4 A. I believe he takes his power and utilities from
5 that pole.

6 Q. I see. And the telephone and the electricity
7 come in that same direction?

8 A. Telephone, electricity, and cable television are
9 all supplied at that pole. Then I had to come down that
10 pole, across the driveway, and split and go off to each
11 of the two residences that we're building in 5C and 5D,
12 putting in three-inch conduit.

13 But again, as I indicated, if SRP and Media Com
14 Cable and the telephone company are -- all help supply
15 parts for their infrastructure.

16 ALJ STERN: Mr. Ronald, your questions.

17 MR. RONALD: No further questions, Your Honor.

18 ALJ STERN: Okay. Anything else you want to add
19 while you're up here?

20 THE WITNESS: No. I think that we've made
21 overtures to the water company to at least allow us some
22 kind of compromise, if you will. We've offered to give
23 them the easements if they'd split the cost of that main.
24 We've offered them half of it. They've not responded to
25 anything and hold hard and fast.

1 I'd even come up with another suggestion now, if
2 they want -- if it looks like their position is such that
3 they don't want to cooperate with land owners at all,
4 just slam, bam, thank you, ma'am. Then we could at least
5 ask if they would in cases like this at least supply the
6 materials like other utility companies. I don't think
7 supplying materials is too much to ask.

8 ALJ STERN: Is this a ten-year, ten-percent
9 return on whatever connection?

10 THE WITNESS: No. I indicated again, we will
11 get nothing, according to this. According to -- it's ten
12 year, ten percent, but if you'll note in here, there are
13 other options. It says here, "Equal to ten percent of
14 the total gross annual revenue from water sales plus the
15 applicable sales tax." That's what it says in B.1.

16 But under D.1., it says, "The company shall make
17 no refunds from any revenue received from any lines other
18 than customer service lines leading up to or taking off
19 from the particular main extension covered by this
20 agreement."

21 So we will receive nothing, because the
22 surrounding properties already are supplied with water.

23 ALJ STERN: Except for 5D?

24 THE WITNESS: Yeah, okay. So we can do some
25 quick math on 5D; we might get a buck a year or something

1 like that.

2 ALJ STERN: Maybe they'll put in a car wash on
3 that property. I don't know.

4 THE WITNESS: I'm sure Ms. Smith won't agree
5 with that.

6 MS. SMITH: No.

7 THE WITNESS: Nor will the rest of the
8 neighborhood.

9 ALJ STERN: I was just being optimistic. All
10 right. I appreciate your comments.

11 Ms. Corrow, did you want to take the stand at
12 all?

13 MS. CORROW: I think we'd like to call
14 Ms. Vassar first and then I may choose to speak
15 afterwards.

16 ALJ STERN: We can call Ms. Vassar, then. She
17 has to come forward and be sworn. Let's see if we can
18 get through her. Would she be your next-to-the-last or
19 possibly last witness if you don't take the stand?

20 MS. CORROW: Yes.

21 ALJ STERN: All right. Let's put Ms. Vassar on,
22 because I don't think she will be too long.

23 THE WITNESS: I am so sorry before, I did not
24 understand you're a judge.

25 ALJ STERN: That's okay.

1 THE WITNESS: I wanted to apologize. I didn't
2 see robes, so I'm sorry, I don't know a lot about this.

3 ALJ STERN: If I wore a robe you might have to
4 say something like Your Robeship or something. That's
5 okay. You just don't even worry about it.

6 THE WITNESS: Okay. I just feel --

7 ALJ STERN: I guess you can call me Your Sport
8 Jacketness or something.

9 THE WITNESS: I just wanted to apologize. I
10 didn't mean to show you any dishonor.

11 ALJ STERN: That's okay.

12 Did you want to swear the witness in.

13

14

ANITA VASSAR,

15 called as a witness herein, having been first duly sworn
16 by the certified court reporter, was examined and
17 testified as follows:

18

19

EXAMINATION

20

21 Q. BY ALJ STERN: Okay. Why don't you state your
22 name and address and what parcel you own in relationship
23 to, I guess, the parcels that are being complained about
24 here, 5C and 5D.

25 A. There -- I --

1 Q. Name and address, please.

2 A. I am Anita Vassar, V-a-s-s-a-r, just like the
3 university, and we own 4G, the two and a quarter acres
4 there and we live next door to 4J, who couldn't show up
5 today because he has terminal cancer, he's in chemo;
6 they're the ones that did sign. The land at 5 -- the
7 Corrows at 5 --

8 Q. C and D?

9 A. -- C and D that are having these problems, what
10 did you ask me to say about that?

11 Q. Well, I just essentially want to know where your
12 property was?

13 A. We are exactly across the road from them. Their
14 property is -- exactly across the road from them. We
15 live on Prospectors, and then when they put in --

16 Q. Who's your water supplier?

17 A. We have SRP.

18 Q. No, that's electric.

19 A. I'm sorry.

20 Q. How about Arizona Water?

21 A. Arizona Water Commission, yes.

22 Q. How did you get your water?

23 A. We live exactly across the road from them. We
24 have six of those water things in front of our yard in
25 our easement where there's water and electricity and

1 phone lines.

2 Q. You have six?

3 A. We have six of those big cement water mains in
4 our front yard.

5 Q. Six of those squares?

6 A. Well, they're rectangular, yeah; huge.

7 Q. Whatever. But they are what they call not
8 flags, but remote meters?

9 A. Well, the man that was here earlier testifying,
10 I don't know his name, the gentleman you had, what's his
11 name?

12 Q. Mr. Ness?

13 A. Mr. Ness, I guess he ran -- I guess he's a flag
14 lot, that he has a remote from that.

15 Q. He has a remote from lot 5A or 5B, whatever it
16 is up there to the north of you.

17 A. Oh, okay.

18 Q. But you have six remotes on your easement, you
19 said?

20 A. We have six of those big cement water things.

21 Q. How many of them are related to your property?

22 A. One that I know of, just one.

23 Q. And five go to other lots?

24 A. And we had to pay \$9,000 for ours when we moved.

25 Q. Did you put in a main extension?

1 A. I'm sorry?

2 Q. Did you put in a main extension?

3 A. A main extension -- well, we had to run the
4 water from that to our house, we had to run the piping
5 to --

6 Q. That's what cost you \$9,000? If you recall.

7 A. I'm not really sure what all they charge you for
8 the \$9,000, which you get water that runs from your
9 pipes. I mean, really, that's all I really know.

10 Q. I don't know what you're going to testify to. I
11 guess you're primarily here to testify about the fact
12 that you won't let Arizona Water have an easement across
13 your property; is that what you're saying?

14 A. Across my property where?

15 Q. I guess it would be across the eastern boundary
16 of lot 4G; that's the lot you say you own. Your name is
17 on this exhibit.

18 A. Correct. I don't want them to tear up my land,
19 if that's what you're asking. I mean, they've already
20 destroyed a lot of vegetation, because they have that
21 three-foot easement that they already have electric and
22 phone through, and they're always pulling their trucks
23 literally into our front yard and doing a lot of damage
24 just to get to the telephone poles and the electric
25 poles. That's a lot of damage.

1 Q. You're part of the private driveway? If I show
2 you this picture here, you see this is Exhibit C-5, photo
3 number one; I guess you're on this other side of the
4 driveway, aren't you?

5 A. This is what Mr. Ness put in, and this --

6 Q. No, this is what Mr. Ness put in over here.

7 A. And this.

8 Q. Oh, yeah, that. Okay.

9 A. And in between there is this easement and we at
10 this end own just a tiny portion, but as it gets longer
11 and goes towards the next lot, 4J, our part of that
12 easement gets wider and wider until where it gets to --
13 when the easement gets to 4J, the man who's going through
14 chemotherapy.

15 Q. Right.

16 A. Then it becomes quite wide, it's about this wide
17 (indicating), which is about half of it, or even a little
18 less.

19 Q. Whatever. I understand --

20 A. But that's where we're at.

21 Q. But is 4G, this is where your six little remote
22 meters are?

23 A. They are right here.

24 Q. They're right at the corner of Prospectors and
25 Peralta; isn't that correct?

1 A. Right here. Our road is Prospectors and we own
2 the road in front of our house, they gave us the choice
3 to buy it.

4 Q. I understand.

5 A. And all the mail stops getting delivered right
6 here. This is where all the mailboxes are.

7 Q. Right.

8 A. Because this is where the land pavement ends.
9 Sandy Smith will tell you that, the land pavement ends,
10 this is where it becomes a dirt road.

11 ALJ STERN: Mr. Geake, the pictures that were
12 filed with the original complaint are a little bit better
13 to refer to. Do you know which ones I mean?

14 MR. GEAKE: Yes, I do.

15 THE WITNESS: Yeah. See, this one shows my
16 home, it's rather --

17 ALJ STERN: He has that.

18 THE WITNESS: But see, this is our road, this is
19 our saguaro, this is ours, and then our land is all
20 natural desert.

21 Q. BY ALJ STERN: Well, all I wanted to know, are
22 there two driveways?

23 A. This road right here was only put in less than a
24 year ago and that was to give access to this land. There
25 is an old woman there and her kids took it away from her

1 and put her in a nursing home, and then --

2 Q. You've got to talk loud enough for the court
3 reporter.

4 A. Oh. There was an old woman who lived back here
5 in this house --

6 Q. That's okay, we don't --

7 A. What I'm saying is that the land that Mr. Corrow
8 bought is part of all that acreage that her children
9 divided up.

10 Q. I understand perfectly now where you're at.

11 A. So this road was just built less than a year
12 ago.

13 Q. Okay.

14 A. And the road in front of us and the road on the
15 ranch behind us we each own.

16 ALJ STERN: I understand. I got it.

17 MS. CORROW: Can we question our witness?

18 THE WITNESS: Did I do okay?

19 MS. CORROW: May we question our witness?

20 ALJ STERN: You can now.

21 THE WITNESS: Now that he's done.

22 ALJ STERN: I just wanted -- you clarified
23 you're not giving up any land on yours for an easement;
24 that's fine.

25 MS. CORROW: If the Court then feels she's

1 clarified that without me asking that question, based on
2 the exhibit that we submitted with Mike Carroll and
3 Sharon Horner stating that they would not grant an
4 easement through their property for water to go through
5 up to the northern properties --

6 ALJ STERN: That's what she said.

7 MS. CORROW: In that case, the water company
8 would be required to --

9 ALJ STERN: I don't know what the water company
10 would be required to, at least as of right now. If they
11 came to her and said --

12 Q. BY ALJ STERN: If I came to you with a million
13 dollars and I said I'll give you a million to have an
14 easement through your property so I can run my water
15 line, would you let me do it?

16 A. No.

17 Q. You still wouldn't do it? Two million?

18 A. No.

19 ALJ STERN: I don't know how much Mr. Geake has
20 in his pocket, but maybe he might come up with more.

21 MR. WHITEHEAD: Three.

22 ALJ STERN: All right, the bidding is stopped.
23 I don't think you're convinced, you're not up to granting
24 the water utilities.

25 THE WITNESS: My husband and I were born here

1 and we've lived here our entire lives, and we moved to
2 where we did because we want the land to look like what
3 we grew up in and we want to do whatever we can to keep
4 it that way.

5 Q. BY ALJ STERN: Okay. So you're not going to
6 agree to any more splitting of the area?

7 A. No, and neither will the people next to us that
8 are at chemo right now, because those are our close
9 friends and, you know, they just said no.

10 Q. That's Ross?

11 A. Ross.

12 ALJ STERN: Ross. Okay. All right.

13 THE WITNESS: Good friends of ours.

14 ALJ STERN: Anything else for this witness?

15 MS. CORROW: No, I suppose you've asked all the
16 questions. Thank you.

17 ALJ STERN: Mr. Geake, any questions for this
18 witness?

19 MR. GEAKE: No, Your Honor.

20 ALJ STERN: Mr. Ronald?

21 MR. RONALD: No, Your Honor. Thank you.

22 ALJ STERN: Thank you, ma'am. I just had to get
23 that geography straightened out in my mind.

24 Next witness for the complainants. Any more
25 witnesses?

1 MR. CORROW: I have no more witnesses and I
2 would like to make one short statement.

3 ALJ STERN: Well, that's at the end.

4 MR. CORROW: That's at the end.

5 ALJ STERN: You reserve that; that's at the end.

6 Okay. At this point, Mr. Geake, you have one
7 witness; right?

8 MR. GEAKE: Correct, Your Honor.

9 ALJ STERN: And staff has one, probably
10 short-term witness?

11 MR. RONALD: (No verbal response.)

12 ALJ STERN: Let's take a recess until about a
13 quarter to 2:00, come back at 2:00 o'clock and we'll
14 finish this up.

15 (The proceedings were at recess from 12:47 p.m.
16 to 2:06 p.m.)

17 ALJ STERN: Returning to the record. Make sure
18 your little green light is on your microphone.

19 At this point I believe we're ready for
20 Mr. Geake, you just have one witness; right?

21 MR. GEAKE: Yes, Your Honor.

22 ALJ STERN: That'll be very nice. Why don't you
23 call your first witness, then, your first and only
24 witness.

25 MR. GEAKE: Very well. The company calls to the

1 stand Michael J. Whitehead.

2 ALJ STERN: Come on forward.

3

4 MICHAEL WHITEHEAD,

5 called as a witness herein, having been first duly sworn

6 by the certified court reporter, was examined and

7 testified as follows:

8

9 ALJ STERN: Okay. Mr. Geake, as soon as he's
10 seated and you're ready, go ahead.

11 MR. GEAKE: Thank you, Your Honor.

12

13 DIRECT EXAMINATION

14

15 Q. BY MR. GEAKE: Could you state your name and
16 business address, please.

17 A. My name is Michael Whitehead. I'm employed by
18 Arizona Water Company, place of business, 3805 North
19 Black Canyon Highway, Phoenix, Arizona.

20 Q. How long have you been employed by Arizona Water
21 Company?

22 A. Approximately 25 years.

23 Q. What is your current position with Arizona Water
24 Company?

25 A. VP engineering.

1 Q. As part of your duties and responsibilities in
2 that position, have you read and are you familiar with
3 the complaint that has been filed in this proceeding?

4 A. Yes.

5 Q. In fact, were you involved with the complaint on
6 an informal basis even before it was filed with the
7 Commission?

8 A. Yes.

9 Q. Now, have you been present during the entire
10 proceeding so far today, Mr. Whitehead?

11 A. Yes, I have.

12 Q. Did Mr. Corrow, either earlier this year or
13 perhaps late last year, I'm not sure of the exact time,
14 did he approach Arizona Water Company requesting water
15 service to his parcels 5A and 5 -- excuse me, 5C and 5D,
16 I apologize, as identified on Exhibit C-1?

17 A. Yes, he did.

18 Q. And at that time can you tell us what Arizona
19 Water Company informed Mr. Corrow would be required to
20 bring water service to his property?

21 A. Mr. Corrow's first inquiry was through our
22 Apache Junction office, Dana. I'm sure Dana told him
23 that a main extension would be required, probably even
24 quoted him a ballpark figure.

25 Q. Excuse me just a minute. Let's identify who

1 Dana is for the record, specifically.

2 A. Dana is our --

3 Q. If I can interrupt, it's Dana Kopp?

4 A. Yes.

5 Q. He's, I believe, the operations superintendent?

6 A. Yeah, operations superintendent.

7 Q. And he, in turn, reports to whom?

8 A. Judd Williams, who is the manager of Apache

9 Junction.

10 Q. And Judd, in turn, reports to whom?

11 A. Bill Garfield -- actually, Rick Henderson, vice
12 president of operations.

13 Q. Excuse me. Continue with your narrative,
14 please.

15 A. I believe the first inquiry about bringing water
16 service to these two pieces of property was through Dana
17 through our Apache Junction office. I'm sure Dana told
18 Mr. Corrow that it would require a main extension,
19 probably even quoted him a ballpark price.

20 From there we proceeded by taking a \$450
21 deposit. Upon receiving that \$450 deposit, we
22 immediately prepared construction drawings, submitted
23 those drawings to ADEQ for their approval, we submitted
24 the plans to whatever other agencies we need permission
25 from, we put the project out to bid.

1 Immediately upon receiving those bids we
2 prepared a cost estimate, an extension agreement
3 contract, along with a set of construction drawings,
4 offered those to Mr. Corrow.

5 Mr. Corrow took that extension agreement
6 contract, signed it, wrote a check, sent it back to
7 Arizona Water Company. But unfortunately, upon that same
8 contract was the words "paid under protest."
9 Nevertheless, we submitted those contracts to the
10 Commission for the Commission's review and approval. The
11 Commission still holds those contracts, waiting the
12 outcome of this hearing.

13 Q. Mr. Whitehead, you were present, then, this
14 morning when Ms. Dickson testified?

15 A. Yes.

16 Q. And the information that you just described that
17 was provided to Mr. Corrow, would that have been, in your
18 experience and knowledge in working with Arizona Water
19 Company, the same information or similar, very similar
20 information that would have been provided to Ms. Dickson?

21 A. It would have been exactly the same.

22 Q. I went a little out of order, Mr. Whitehead, I
23 apologize. Let me get back in order.

24 Now, did you prepare a map to refer to for the
25 hearing this morning?

1 A. Yes, I did.

2 Q. Could you --

3 A. Unveil?

4 Q. Yes, please.

5 (Witness complies.)

6 MR. GEAKE: Mr. Stern, we have, as you can see,
7 Mr. Whitehead is going to an easel. He prepared a large
8 map which we propose to at least have marked for
9 identification and I in turn have copies of this which
10 I'll now distribute.

11 ALJ STERN: Okay. Well, we'll just mark a small
12 copy, he can refer to that for illustrative purposes, but
13 we can't accept it as an exhibit, it's too big.

14 MR. GEAKE: Okay. What initial would you prefer
15 we use?

16 ALJ STERN: You are the respondent, so R-1.

17 MR. GEAKE: I'm handing the court reporter
18 Exhibit R-1 marked for identification, please.

19 (Exhibit No. R-1 was marked for identification.)

20 Q. BY MR. GEAKE: Mr. Whitehead, do you have in
21 front of you a copy of what has been marked for
22 identification as Exhibit R-1?

23 A. Yes.

24 Q. And that is also over your right shoulder
25 appearing on the easel in a much larger image; would that

1 be the same document, just blown up, so to speak?

2 A. Yes, it is.

3 Q. If you would identify for us, please, what
4 Exhibit R-1 depicts?

5 A. R-1 is a map that shows an entire quarter
6 section in Apache Junction; more or less the south half
7 of that quarter section is a platted subdivision called
8 Peralta Estates, I believe. The north half of the
9 quarter section is what I consider to be a
10 metes-and-bounds type division of property; for the lack
11 of a better word, it's a wildcat subdivision.

12 ALJ STERN: Lot split subdivision type thing?

13 THE WITNESS: It goes by many names; wildcat,
14 renegade, you name it, it's just split it up, do whatever
15 you want.

16 ALJ STERN: Okay.

17 THE WITNESS: Featured, more or less, in the
18 center of this same map highlighted are parcels 5C and
19 5D. Those are the two parcels requesting service from
20 Mr. Corrow.

21 Also on this map we're showing, at least in the
22 rights-of-way and in some other places where there are no
23 rights-of-way, where Arizona Water Company has pipelines
24 in the ground by virtue of easement, those darkened lines
25 show where our pipelines are located. The dotted line

1 running east/west along Junction and north/south along
2 Prospectors Road from Junction, that's a proposed
3 pipeline, how we see this distribution system developing
4 in the future.

5 Q. BY MR. GEAKE: Mr. Whitehead, was Exhibit R-1
6 prepared either by you or at your direction?

7 A. It was prepared at my direction.

8 Q. And to your knowledge, is it a true and accurate
9 depiction of the company's water system and the property
10 located in the area that's located on the map?

11 A. Yes, it is.

12 Q. Referring to Exhibit R-1, could you point out
13 for us briefly and particularly for Judge Stern's benefit
14 precisely where the main extension to the proposed main
15 extension to serve Mr. Corrow's property would be
16 located?

17 A. The starting point for Mr. Corrow's extension
18 would be the end of what is Prospectors Road, which is
19 the southwest corner of parcel 5E. From there you would
20 proceed north to the common line, common boundary line
21 between parcels 5C and 5D.

22 Q. And this is the main extension that the company
23 informed Mr. Corrow would be necessary to extend service
24 to his property?

25 A. That is correct.

1 MR. GEAKE: At this time, Your Honor, I'd like
2 to have two additional exhibits marked for
3 identification.

4 ALJ STERN: Sure.

5 MR. GEAKE: And those are two pages from the
6 company's terms and conditions for the provision of
7 TC-243.

8 ALJ STERN: These are your filed terms and
9 conditions?

10 MR. GEAKE: Yes, Your Honor. I'd like to finish
11 distributing them and then I'll refer to them.

12 I would ask of the sheets that I provided to the
13 court reporter if that page numbered seven at the bottom
14 could be marked for identification as Exhibit R-2 and the
15 page identified at the bottom as page ten marked as
16 Exhibit R-3.

17 (Exhibits Nos. R-2 and R-3 were marked for
18 identification.)

19 Q. BY MR. GEAKE: Mr. Whitehead, do you have in
20 front of you copies of what have been marked for
21 identification as Exhibits R-2 and R-3?

22 A. Yes, I do.

23 Q. And would you identify each one for the record,
24 please?

25 A. R-2 is page seven of the company's terms and

1 conditions, TC-243. R-3 is page ten of those same terms
2 and conditions, TC-243.

3 Q. And these are, as Judge Stern asked me a moment
4 ago, part of the company's tariff that is on file as
5 approved by the Commission?

6 A. Yes, they are approved by the Commission.

7 Q. Let's refer first, if you would, to Exhibit R-2.
8 And if you would refer to part of section four of the
9 tariff, refer to 4.B.3, if you would refer to that -- I'm
10 sorry, make it 4.B.4., refer to that. And would you tell
11 us, is that the section of the company's terms and
12 conditions on which it relied and for Mr. Corrow that a
13 main extension would be required to serve his property?

14 A. Yes, 4.B.4. provides the company with three
15 options: One, set the meter at the property line; one,
16 set the meter on the property; one, set the meter at
17 another location mutually agreed upon by both the company
18 and customer.

19 Q. And in this case, the option was the property
20 line?

21 A. Well, it was certainly either option one or
22 option two. We would set the meter at the property line
23 or on the property, whichever is more convenient.

24 Q. Now, referring to Exhibit R-3, now reading
25 section 4.D. of the company's terms and conditions, I

1 would ask you, was section 4.D. -- actually, were
2 sections 4.D.1. and 4.D.2. also relied upon in providing
3 information to Mr. Corrow concerning the requirement for
4 a main extension to serve his property?

5 A. Yes.

6 Q. And just in summary, Mr. Whitehead, what do
7 those revisions provide for?

8 A. Those two provisions provide for the company to
9 size, design, basically manage the water distribution
10 system that we will own, operate, maintain forever and
11 ever.

12 Q. Now, based on your experience and judgment,
13 Mr. Whitehead, and your position as vice president of
14 engineering, Arizona Water Company, did the company
15 follow these tariff provisions in dealing with Mr. Corrow
16 concerning extending water service to his property?

17 A. Yes, we did.

18 Q. You were present this morning when Mr. Ness
19 testified?

20 A. Yes, I was.

21 Q. Now, referring to Exhibit R-1, where is
22 Mr. Ness's property located?

23 A. Mr. Ness is parcel 5E, which is directly south
24 of Mr. Corrow's properties.

25 Q. Are you familiar with Mr. Ness's situation

1 concerning extending water service to his property?

2 A. Yes, I am.

3 Q. Did the company treat Mr. Ness any differently
4 than it is proposing to treat Mr. Corrow?

5 A. No, we did not.

6 Q. Now, Mr. Whitehead, I think it's clear from the
7 record, but just in case it isn't, let me ask: Before
8 Mr. Ness and Mr. Corrow acquired their parcels 5C and 5D
9 and 5E before they became owners of those parcels, was
10 what is depicted on Exhibit R-1 as 5A, 5B, et cetera, and
11 including 5E, was that all one parcel?

12 A. Yes, that was one five-acre parcel back in
13 1997 -- I believe 1991, maybe. 1997.

14 Q. And I believe Mr. Corrow testified he obtained
15 title to his property in 2003?

16 A. I think I heard him say that.

17 MR. GEAKE: Thank you.

18 I don't think I have any further questions,
19 Mr. Stern. I would move for admission into evidence of
20 Exhibits R-1, R-2, and R-3.

21 ALJ STERN: Okay. Just a minute, I just want to
22 ask you one question, sir, before I forget: The parcel 5
23 you say was all one parcel back in when?

24 THE WITNESS: 1997.

25 ALJ STERN: Is that when it was split?

1 THE WITNESS: I don't know, but I do know that
2 according to the Pinal County Assessor's maps, that was
3 all one parcel in 1997.

4 MS. VASSAR: Sir?

5 ALJ STERN: Ma'am, you're not on the witness
6 stand and I don't need to know it. If he doesn't know
7 it, I guess I'll forget about it.

8 MS. VASSAR: I'm sorry.

9 ALJ STERN: Any objections to Exhibit R-1,
10 Mr. Corrow?

11 MR. CORROW: No.

12 ALJ STERN: Staff, any objections?

13 MR. RONALD: No, Your Honor.

14 ALJ STERN: Okay. Exhibit R-1 is admitted,
15 Exhibits R-2 and R-3.

16 Mr. Corrow.

17 MR. CORROW: Thank you, Your Honor.

18 Good afternoon, Mr. Whitehead.

19 THE WITNESS: Good afternoon.

20 ALJ STERN: No. No. Exhibits R-2 and R-3, any
21 objections?

22 MR. CORROW: I said no. I'm sorry, I guess you
23 didn't hear me.

24 ALJ STERN: Mr. Ronald?

25 MR. RONALD: No, Your Honor.

1 ALJ STERN: Exhibits R-2 and R-3 are admitted.

2 Okay, go ahead.

3 You're done, right, Mr. Geake?

4 MR. GEAKE: Yes, Your Honor.

5 ALJ STERN: Okay. Mr. Corrow, do you have any
6 questions for the witness?

7 MR. CORROW: Yes, thank you.

8

9 CROSS-EXAMINATION

10

11 Q. BY MR. CORROW: Good afternoon, Mr. Whitehead.

12 It's my understanding that you're in a management
13 capacity as vice president of engineering. What degree
14 do you have?

15 A. I have a bachelor's degree in mechanical
16 engineering.

17 Q. And you became -- you've been a long-term
18 employee of this company, but as a mechanical engineer
19 you became -- would you call yourself a hydrologist?

20 A. No. A hydrologist deals with --

21 Q. Subsurface?

22 A. -- water that's found below the surface of the
23 ground.

24 Q. I understand. But then you're well-versed as to
25 fluid dynamics, I'm sure?

1 A. You betcha.

2 Q. And, let's see, when did you prepare this map?

3 A. Pardon?

4 Q. When did you prepare this map?

5 A. Well, I didn't prepare that map, I had it
6 prepared under my direction, and I gave instructions to
7 the person that prepared that map about a week ago before
8 I went on vacation.

9 Q. And earlier you heard in testimony Mr. Corrow
10 presented as a witness Ms. Dickson, who owns property
11 that's to the north of lot 4C on this; not shown on your
12 parcel map, but on this particular map it would be lot 21
13 just north of the northeast corner of 4C; is that
14 correct?

15 A. I'll take your word for that, yes.

16 Q. In that discussion we had surmised that you had
17 hoped to continue this line to the north with various
18 options, but you presented this option to go westerly on
19 Junction as your choice for extending this main?

20 A. For whom?

21 Q. On this map, you're suggesting that this map --

22 A. Oh, uh-huh.

23 Q. Would you please explain in terms that Judge
24 Stern would understand, as well as the learned people, or
25 not so, why you chose that particular route?

1 A. Sure.

2 Q. Thank you.

3 A. Parcel three on my map somewhere down the road,
4 not today, not tomorrow, but sometime in the future will
5 split, and more than likely it will split very similar to
6 the five-acre parcel that you have your two lots in. In
7 other words, the lot lines will run east/west and
8 there'll be five parcels.

9 Parcel 4C will probably split into two five-acre
10 parcels and it will split in the same fashion, giving me
11 ten lots along what will be an extension of Prospectors,
12 north of your two parcels. It's imperative that we have
13 a main running on Prospectors to Junction to catch all of
14 those lots that will be created along that alignment.

15 Parcel 4J, parcel 4G, I realize that there's
16 people sitting in this audience today telling us that
17 they will never, ever, ever subdivide those parcels, but
18 again, my job is not to look for today or tomorrow or the
19 end of this week, it's to look down the road 10, 20, 30
20 years from now.

21 I can assure you that those two parcels down the
22 road will subdivide and we will be providing more than
23 one service to those two parcels, we will be providing
24 multiple services. At lunch we discussed the probability
25 that Prospectors will be a three-, four-lane highway 30

1 years from now with stoplights and all the infrastructure
2 that you have moved out there to avoid, but it will be
3 there.

4 My job is to make sure that I have the correct
5 infrastructure in place or set in place moving in that
6 direction so that somebody 30 years from now will be
7 ready to provide water service.

8 Q. Are you suggesting 30 or 40 years ago if you had
9 a similar scenario that the property owner would have
10 been forced to pay for this infrastructure?

11 A. Yes.

12 Q. And you chose to take this north-south route.
13 If you understand that parcel 3 and 4C would ultimately
14 as that plan has shown will develop into 15 parcels,
15 why -- if they should bear a proportionate or actually, a
16 disproportionate of amount of the cost for this new
17 infrastructure to supply themselves with water, but why
18 is it you didn't suggest taking your east-west route all
19 the way across on an easterly route to go to La Barge,
20 the way you have the main --

21 ALJ STERN: Excuse me. La Who?

22 MR. CORROW: La Barge Road, which is on this map
23 here, that's to the easterly -- further east.

24 Q. BY MR. CORROW: You have a main over there and
25 you have a main and you have -- Junction Road is shown

1000000000

1 here, you already have an easement, these people would
2 have been required to give you an easement here, and you
3 could have jumped over here to La Barge and had a good
4 circulation; why didn't you choose to do that route?

5 A. Well, as you pointed out, there's probably going
6 to be 15 parcels on parcels 4C and 3; of those 15
7 parcels, only three of those parcels will front on
8 Junction, the balance will front on Prospectors.

9 Q. The balance will front on Prospectors, but when
10 4C is split up, if they split the same way, in a
11 north/south direction with five on each side, you're
12 going to require a loop to go down through there to
13 connect back up at the top.

14 In other words, if you came in -- if you came in
15 at 4C at the top on Junction and midpoint through lot 4C,
16 turned, and went south to the southerly line east to what
17 you are calling the end of Prospectors Road, back north
18 again, then you would effectively serve all 15 lots and
19 then continue east back out to La Barge and then you've
20 got a main line serving all 15 lots. This is a Mickey
21 Mouse thing here, because now you're adding a new line
22 when you -- to serve --

23 MR. GEAKE: Excuse me, Your Honor. Is there a
24 question here somewhere?

25 THE WITNESS: I have lost complete track of

1 where we were going with this.

2 Q. BY MR. CORROW: The question is wouldn't you
3 save a fair amount of footage by bringing your line
4 coming -- your line midpoint at 4C, come south to the
5 south line, go east to Prospectors, go back north again
6 to Junction, and then east out to La Barge, and that way
7 you've got full loop around all 15 potential lots here
8 with less distance and a good loop system serving this
9 entire loop. If you're an engineer I ask you, why didn't
10 you think of that as a possible alternative to the longer
11 route you've chosen?

12 A. For starters, I'm not so sure that the route
13 I've chosen is a longer route, I'm not quite following
14 your directions.

15 Q. Let's try it again, Mr. Whitehead. Let's try it
16 again. Why don't you draw on your map to follow along?

17 A. Can I have him just show me?

18 ALJ STERN: Why don't you come up here, because
19 I'm getting lost too. Go slowly, please.

20 THE WITNESS: Very.

21 ALJ STERN: On this map here.

22 THE WITNESS: I'd prefer over here to draw it
23 again.

24 ALJ STERN: Why don't you use a black Magic
25 Marker on his map that's just for demonstrating purposes.

1 There's one right over to your left, one of those wide
2 ones so we can see where you're drawing.

3 MR. CORROW: We're going to outline for the
4 purposes of this conversation 4C and 3. Here's 4C,
5 here's 3 like this.

6 THE WITNESS: Uh-huh.

7 Q. BY MR. CORROW: Okay. You're suggested path is
8 to come here and down?

9 A. Right.

10 Q. When this is split up, more than likely this lot
11 will split up into five parcels just like this, as an
12 example, creating 15 parcels.

13 A. Uh-huh.

14 Q. Right. Now, if you extended your water line and
15 you come down here like this and back up to here and out
16 to here, now you would have served all of this in one
17 loop and gone out here and you would have looped your
18 entire system and not left this stalled out here.

19 Now, the way you want to go, you've got this
20 additional footage here that would have to be added
21 because you put this in, and in order to fill this in
22 you've got to come back in and do this, and this is
23 ambiguous -- is redundant, rather. Excuse me. Makes
24 sense?

25 A. No.

1 Q. Okay.

2 A. This stuff here, what's this all about?

3 Q. I'm pointing to this section here.

4 A. No, this line coming down here, what's that?

5 Q. That I'm pointing to, that I've drawn?

6 A. Oh, it's not a pipeline.

7 Q. No. I'm drawing reference to this piece right
8 here, now this piece of line has become redundant.

9 A. Well, isn't that piece of pipe this piece of
10 pipe right here? How can it be redundant?

11 Q. Because if we do the scenario that you proposed
12 and put this in and it lays dormant until this property
13 develops, then they still have to build a main line here
14 to service these lots and this line has become redundant,
15 so let's continue on with the scenario.

16 We've gotten us here; now, this is the area that
17 you're concerned about, this is all split out, it's done
18 for 30 years.

19 A. No, this guy's going to need service.

20 Q. He has service.

21 A. He does?

22 Q. No, these lots have been combined, he has one
23 lot.

24 A. Okay.

25 Q. That's why he signed off both lots A and B.

1 Now, that said, you've got a full loop system
2 going through here to meet the needs that you need
3 instead of creating this. It's that hard push that you
4 guys are doing that's so difficult to swallow here, when
5 a little thought, you know, say, look, we can be a good
6 neighbor, we can come in here as a good neighbor in your
7 community, put in our pipeline. We see what we need to
8 get for the future here without having to go through here
9 and disrupt this whole neighborhood and have everybody
10 all in an uproar, when you've got your needs met through
11 here, when you have got from here to here at any point
12 that this wants to be developed.

13 A. Okay. My answer to your question is based on my
14 experience in this area, these kinds of areas where it's
15 unknown what the future holds in terms of how properties
16 are going to be developed.

17 You follow section lines, you follow midsection
18 lines, and you follow mid-midsection lines of sections.
19 You do not go meandering down 33s, you just don't do it,
20 because the likelihood of what you've just described
21 happening is highly unlikely. It's more likely that
22 Prospectors will be the main arterial road running
23 through this quarter section.

24 Q. It's not shown in the Pinal County five-year
25 transportation plan.

1 A. Is yours? Is your alignment shown in there?

2 Q. No, I'm talking about at any Pinal --

3 A. Based on my experience --

4 Q. I'm talking about the road.

5 A. -- Prospectors will be the major arterial road
6 running through this quarter section. Junction will be
7 the northern boundary of this quarter section, Geronimo,
8 Broadway, and La Barge, I suppose, will be the other
9 major arterial roads going through these 33s that you're
10 proposing --

11 Q. But it's well --

12 ALJ STERN: Just a minute. You've got to wait
13 until he answers your question.

14 MR. CORROW: That's beyond the scope of my
15 question.

16 Q. BY MR. CORROW: So as a mechanical engineer,
17 you're also a transportation and planning authority; is
18 that correct?

19 A. You know, in my line of work, yes, I've got to
20 be a little bit of a Jack-of-all-trades, you betcha.

21 ALJ STERN: Mr. Corrow, just before you proceed
22 with your next question, I still haven't got quite clear
23 what your route is. Did you split lot 4C with your
24 proposed --

25 MR. CORROW: Yes, because he has it split in a

1 full six-lane boulevard running down --

2 ALJ STERN: Excuse me. I asked you a question.
3 Don't tell me what he proposed. Lot 4C, you went down
4 the middle of?

5 MR. CORROW: Yes.

6 ALJ STERN: How far down did you go? Did you go
7 to Peralta Estates?

8 MR. CORROW: No, that's why I wanted to show --

9 ALJ STERN: To the bottom of 4C?

10 MR. CORROW: That's correct.

11 ALJ STERN: And then you went --

12 MR. CORROW: East.

13 ALJ STERN: To where?

14 MR. CORROW: To the dividing line between 3 and
15 4C.

16 ALJ STERN: Between 3 and 4C?

17 MR. CORROW: That's correct.

18 ALJ STERN: Wait. And then -- well, it's been
19 nice of Mr. Whitehead, he drew me a little diagram here
20 so now that I see where everything is. So then you go
21 back up along 3 on its eastern boundary?

22 MR. CORROW: No, on its western boundary.

23 ALJ STERN: It would be east. You're on the
24 western boundary when you split lot 4C, but when you go
25 over to lot 3 you're going north.

1 MR. CORROW: On the westerly boundary.

2 ALJ STERN: It would be the easterly boundary.

3 MR. CORROW: Well, we're looking at different
4 compasses, I guess.

5 THE WITNESS: Am I wrong?

6 ALJ STERN: I'm wrong.

7 MR. CORROW: That's why I wanted to put it on
8 the black board, because it's very simple. May I please
9 do it on the black board, Your Honor, real quick?

10 THE WITNESS: No, I drew it right.

11 ALJ STERN: Go ahead. Wait a minute. Let's get
12 this diagram out of the way. Okay. Do your drawing
13 again.

14 MR. CORROW: This is 4C and 3, we agree.

15 ALJ STERN: Right.

16 MR. CORROW: He's proposing currently that we
17 come into here on an existing right-of-way that ends
18 right here.

19 ALJ STERN: Right, I know. I know.

20 MR. CORROW: Okay. Then he proposed to go
21 south.

22 ALJ STERN: Right.

23 MR. CORROW: Now, when these become split into
24 one-acre parcels like that --

25 ALJ STERN: Yes, sir.

1 MR. CORROW: -- you get 15 lots. Got it?

2 ALJ STERN: Yes, sir.

3 MR. CORROW: If he came down here with his water
4 main like this and like this and like this, he serves all
5 of these lots. Then he tells -- in order to get this
6 split these guys give him his easement here and then one
7 block beyond is La Barge out here. So now his water main
8 is coming down here, down here, up and out, so now if you
9 look at his big map you have circulation through this
10 entire loop; good circulation. I mean, good planning.

11 Now, if he had thought far enough ahead instead
12 of coming down, he said well, okay, these guys are going
13 to split this. Let's at least do this: Let's come down
14 here and then ask to go down here through Prospectors.
15 When this gets developed you still have to supply these
16 lots somehow or other, so if he came down here like this,
17 came across here, came up here, then back out here, that
18 gives him his loop the way he proposes it, then this
19 piece here would become redundant, would become a
20 redundant line.

21 ALJ STERN: Which one?

22 MR. CORROW: This one right here.

23 ALJ STERN: The one across the top?

24 MR. CORROW: This one right here, it becomes a
25 redundant line.

1 ALJ STERN: What's that do for you?

2 MR. CORROW: Well, what it does for me is that
3 he can come back out here, he services all of these lots,
4 this guy's got to pay for the major infrastructure
5 because he's got \$2 million he's sitting on here, then he
6 gets the circulation he wants and the rest of the
7 neighborhood is happy.

8 ALJ STERN: What about you?

9 MR. CORROW: I go down and put my remote meters
10 in like everybody else has for 20 years. And I'd like
11 one of these people in this room to tell me where it says
12 in the law that I can't put in a remote meter. And
13 Mr. Whitehead just testified a moment ago --

14 MR. GEAKE: Your Honor, I tried to be patient,
15 but my goodness.

16 ALJ STERN: I understand. I asked him a
17 question, so I wanted to see how he was going to be
18 served by all this and what this is accomplishing. Okay.

19 MR. CORROW: Let's go on to my next question.

20 ALJ STERN: Okay.

21 Q. BY MR. CORROW: Referring back to page seven,
22 service lines, B.4., "A company at its option may install
23 its meter at the property line on the customer's property
24 or in another location mutually agreed upon."

25 Did you ever at any time get into discussions

1 with Mr. Corrow or, for that matter, any other property
2 owner giving the option to put a remote meter in?

3 A. Yes.

4 Q. With other customers?

5 A. Yes.

6 Q. That was not a clear question, but have you ever
7 given the Corrows the option for a remote meter?

8 A. No.

9 Q. May I ask under what scenarios do you allow a
10 remote meter?

11 A. When it absolutely makes absolutely no sense to
12 run a 60-foot, 50-foot, 100-foot of six-inch pipe just to
13 get to a piece of property for the purpose of setting a
14 meter at the property line or on the property.

15 Q. Would you expound on that? That wasn't clear to
16 me. I'm sorry.

17 A. Sure. There are certain pieces of property; in
18 fact, we could probably find one right on this map right
19 here -- unfortunately, I can't, but there are properties,
20 particularly in Pinal County, where we have
21 metes-and-bounds type subdivisions; take five acres,
22 split it up five times. There are many cases where a
23 piece of property winds up as more or less an island, and
24 it would make absolutely no sense for a water utility
25 company to run 75 feet of six-inch pipe just for the sole

1 purpose of getting a meter at the property line or
2 setting the meter on the property. There are times when
3 setting a remote meter has some merit.

4 Q. Let's get back to this Junction Road issue on
5 this top water main here. If you were to run that main
6 the way you show it on here instead of turning south on
7 Prospectors and you were to go all the way over to La
8 Barge, in the terms of hydrology and not from water flow
9 and fluid dynamics of this system, would that be any
10 different than cutting it off at the junction at
11 Prospectors and coming south? Would it have -- for
12 efficiency, water efficiency and flow dynamics?

13 A. I don't think either one of us could answer that
14 question here today. It would have to be modeled.

15 Q. Why did you not consider that as an option to
16 come all the way across Junction?

17 A. Well, to be quite honest with you, this is the
18 minimum that I will require in this quarter section. In
19 all likelihood, depending on how the north half of this
20 quarter section develops, we may very well run a main
21 from Prospectors, the junction of Prospectors junction
22 east to La Barge; we very well may do that.

23 Q. Who will have to pay for that?

24 A. Probably somebody in that northern portion of
25 that section, quarter section, all that open territory to

1 the north.

2 MS. DICKSON: Isn't that part of the reserve?

3 ALJ STERN: Ma'am, hello. You can't ask a
4 question. You're not a party.

5 Q. BY MR. CORROW: Now, your easterly boundary
6 that's shown on the far east end of this map, this white
7 line over there, if I'm not mistaken, that's trust lands
8 and preserves, so no water is going to ever be necessary
9 to go east of that; is that correct, probably? I mean,
10 that's a vague question.

11 A. It's very vague, because I've seen state land
12 traded out, deer land, you name it, I've seen it go. But
13 assuming you are correct, it will never be developed, it
14 will never have the need for water service --

15 Q. I'm sorry, I stand corrected, it's national
16 forest.

17 A. National forest. Let's assume it will never be
18 traded out, it will never need water service.

19 Q. So with a main going down La Barge the way it is
20 to service this area over here, what -- I'm having
21 trouble posing these questions.

22 I still don't feel that you've -- other than
23 what you'd like to have in this quarter section here, in
24 this north-south route, is not really anything more than
25 a convenience to keep a straight line, then, as far as

1 why you chose that route. The east-west route to
2 continue all the way across, you would not reconsider
3 that as an option for the purposes of this conversation?

4 A. I see no reason to do that. When you look at
5 the grid system in Arizona, not New Mexico, Arizona, you
6 will find that all of our major arterial roads run
7 east/west, north/south, the big ones on the section line,
8 the small ones on the midsection and on and on, right
9 down to 660; I'm following a 660 here.

10 My assumption here is just based on how I've
11 seen Arizona develop, Mesa, Tempe, Phoenix, Prospectors
12 will be a major arterial road in the future not going
13 through the center of this parcel 4C.

14 ALJ STERN: What's a 660?

15 THE WITNESS: Well --

16 MR. CORROW: I know, I have no idea where you're
17 coming from, because Mountain View is further to the
18 west; that's the main road. It's less than a mile to go
19 from Mountain View, a full block to get to the trust
20 lands. I don't know why you're coming up with this and
21 all this private land showing here to think that that's
22 going to be open land.

23 MS. CORROW: May I ask a question of this
24 witness since I'm a co-complainant?

25 Why is it important -- why do you keep referring

1 to Prospectors as going to be an arterial? Why is it
2 important that you run a water main through the arterial
3 road? What does water main runs have to do with whether
4 it's a roadway or not? You've got arterials on other
5 places that are not roadways.

6 THE WITNESS: That's true. What we find in
7 these rural areas, we tend to be the pioneers with our
8 own easements. We tend to create the roads. We get an
9 easement, we put a water line in, we excavate, we open up
10 the desert; all of a sudden people start driving on it.
11 All of a sudden Prospectors Road is driven, people are
12 driving down it. We see it every day and I've seen it
13 for the last 25 years and I have no reason to believe
14 that it's going to change in the next 25 years.

15 MR. CORROW: So he's the source of the problem.

16 It's amazing to me that you haven't come back
17 and do a little bit of help here, we talked about earlier
18 about utilities --

19 MR. GEAKE: Your Honor, question?

20 MR. CORROW: I've got a question.

21 Q. BY MR. CORROW: I testified earlier that we got
22 some help from utilities contributing hard costs by
23 materials. Do you ever contribute material to putting in
24 your infrastructure, for example, piping?

25 A. Yes.

1 Q. In a situation like this, would you consider
2 offering the Corrows piping as an inducement to try and
3 continue this?

4 A. When I say that Arizona Water Company spends
5 money constructing an infrastructure, Arizona Water
6 Company spends about \$10 million every year upgrading its
7 water systems throughout the state of Arizona.

8 Q. What about specific examples such as this?

9 A. Not this. This is a specific demand from you.
10 This is your request for water service. You're looking
11 to build yourself a home, build yourself a spec home,
12 you're looking to make some money on this whole
13 transaction. You should be the responsible party paying
14 for bringing water service to these two parcels, not the
15 rest of our Apache Junction customers, which is what
16 you're asking us to do.

17 If we participate in this, our money is
18 considered part of rate base, it increases rates, the
19 rest of our customers in Apache Junction will pay or
20 subsidize your main extension, and that is not right.

21 Q. That's only if you require a main extension.

22 Let's talk about lot 5C. I have here your
23 easement location drawing that was proposed and it shows
24 on lot 5C that you wanted a 20-foot easement dedicated on
25 that map. Okay?

1 MR. CORROW: Mr. Geake, would you like to look
2 at this?

3 MR. GEAKE: Yes, please. Thank you.

4 Q. BY MR. CORROW: Now, in order to bring water you
5 have -- currently have an easement on 5E and 5D. And
6 now, in order to bring me 5C you've not unlike what you
7 did to Joyce, you wanted a full 20-foot easement the
8 entire length of her property just by bringing in the
9 water six feet in.

10 Why is it I can't run that main six feet inside
11 of my property and why should I have to give you a
12 20-foot foot easement for the rest of the length of my
13 property? Isn't that holding a gun to my head?

14 A. Absolutely not.

15 Q. When do we get a shot at it? When do we get a
16 shot at it?

17 A. You get a shot at it when you sell your spec
18 home; that's when you're going to get your shot at it.

19 Q. Talk to my wife, she does the numbers, she'll
20 tell you there isn't that much there, especially when
21 you're going to shell out 16 grand for a water main that
22 may never go anywhere.

23 While we're on the subject, I understand,
24 Mr. Whitehead, that you chose to use cast iron, six-inch
25 ductile iron pipe in your lines. Isn't that correct?

1 A. Yes, we made the transition from cement asbestos
2 back in 1986, and we went from AC pipe to ductile iron
3 pipe in 1986 and we've been using it ever since.

4 Q. And are you aware that most -- many
5 municipalities today have upgraded to PVC?

6 A. What I am aware of is that many municipalities
7 have banned C-900 plastic pipe and they too are going to
8 ductile iron pipe. Scottsdale will not use it, City of
9 Phoenix is trying to write C-900 out of their specs.
10 Everybody is very disappointed in plastic pipe, C-900.

11 Q. As an engineer, will you tell us why, please?

12 A. I have never used it. I don't know.

13 Q. And you wouldn't investigate it?

14 I propose that if you forced us to put this
15 water main in, why can't we get a choice other than
16 something approved by various codes in lieu of ductile
17 iron pipe and going to PVC?

18 A. When you say PVC, what do you mean?

19 Q. Well, the technical name is, what, C-900; is
20 that what you're saying?

21 A. Well, C-900 is certainly one form of PVC pipe
22 that is used in our industry, but there are many other
23 PVC pipes that are used in our industry which are very,
24 very suspect.

25 Q. Suspect of from an -- you obviously have

1 investigated this as you're vice president of
2 engineering; will you please be more specific? What is
3 the matter with some of the state-of-the-art plastics
4 today? For example, some homes are using cross-link
5 polyethylene for house water instead of copper, it's a
6 better product, especially in our environment, and so on.
7 There are other products out there that cost less money
8 than ductile iron pipe.

9 A. Well, C-900 right now really doesn't cost that
10 much less than ductile iron pipe. And if you get 12-inch
11 enlarger, C-900 is more expensive than ductile iron pipe.

12 Q. Well, we're specifically talking about six-inch.

13 A. It's almost a wash, and I can tell you that the
14 labor difference between installing ductile iron versus
15 C-900 is definitely a wash, there is no difference.

16 MR. CORROW: I think that -- I just don't think
17 I have any further questions. I'm going to turn this
18 over, let my wife --

19 MS. CORROW: I don't know if now is the time.

20 MR. CORROW: You just have a closing statement?

21 MS. CORROW: Yes.

22 MR. CORROW: I have no further questions for
23 you, Mr. Whitehead.

24 ALJ STERN: Mr. Ronald.

25 MR. RONALD: No questions, Your Honor.

1 ALJ STERN: Okay. Mr. Whitehead, approximately
2 when was Mr. Whitehead's request for services deposit
3 given to the company?

4 THE WITNESS: Mr. Corrow?

5 ALJ STERN: I'm sorry, Mr. Corrow's deposit, his
6 request for service deposit.

7 THE WITNESS: I can find out. 12/29/03.

8 ALJ STERN: 12/29/03. And what was the total
9 cost quoted for the, what is it, 260 foot of main
10 extension?

11 THE WITNESS: Well, obviously, the deposit that
12 we collect is \$450.

13 ALJ STERN: Uh-huh.

14 THE WITNESS: And on this receipt for the
15 deposit we've noted that there would be a main extension
16 of 260 lineal feet of six-inch ductile iron pipe and that
17 was dated 12/29/03.

18 ALJ STERN: But what was the estimated cost or
19 projected cost of this main extension?

20 THE WITNESS: Well, we don't show that on the
21 deposit.

22 ALJ STERN: So you wouldn't know what -- he said
23 it was 16,000; I'm just wondering if that's --

24 THE WITNESS: Well, he may have talked to one of
25 our guys in Apache and said hey, how much is it going to

1 cost for 260 lineal feet of pipe and they probably quoted
2 some ballpark number; I'm going to guess that's what
3 happened.

4 MR. CORROW: If I may, Your Honor, Arizona Water
5 Company estimate, 16,179.

6 ALJ STERN: You want to show it to Mr. Geake so
7 we know.

8 MR. GEAKE: I'll accept it, sir.

9 ALJ STERN: What's the figure, sir?

10 MR. CORROW: 16,179.

11 ALJ STERN: That was just an estimate given to
12 you?

13 MR. CORROW: Yes, that was an estimate done in
14 July 16th; this was based upon -- with a release of bid.

15 THE WITNESS: That's something quite different.

16 MR. CORROW: And they -- that bid was -- low
17 bidder was MRW Contracting.

18 MR. GEAKE: Mr. Stern -- excuse me, Mr. Corrow,
19 for interrupting. I changed my mind. May I see that,
20 what you're referring to, see if I can shed some light on
21 it? Thank you.

22 Well, this is your extension agreement. Do you
23 have something on the bidding you're talking about?

24 MR. CORROW: Keep going.

25 MR. GEAKE: Tell you what, Mr. Stern, I'll just

1 give Mr. Whitehead the whole package and he can maybe dig
2 something out of it, maybe he can enlighten us.

3 THE WITNESS: Yes, this is not a cost estimate.

4 ALJ STERN: What is it?

5 THE WITNESS: This is the cost.

6 ALJ STERN: That's the actual --

7 MR. GEAKE: Make sure you dig through the
8 whole --

9 THE WITNESS: This right here is Mr. Corrow's
10 extension agreement contract that was based on a bid from
11 a contractor.

12 ALJ STERN: Is this the one that was signed,
13 "Paid under protest"?

14 THE WITNESS: Exactly.

15 ALJ STERN: Submitted to the Commission?

16 THE WITNESS: Exactly.

17 ALJ STERN: Did the Commission approve it or
18 they're waiting?

19 THE WITNESS: Not hardly.

20 ALJ STERN: Okay. How often in the past 12
21 months has the company put in, to your knowledge, in this
22 Apache Junction system a remote meter location?

23 THE WITNESS: This would be a pure guess on my
24 part, we may do one or two a year. And keep in mind,
25 Apache Junction is a very large system, we have 19,000

1 customers, so maybe one or two a year, but those truly
2 are exceptions.

3 ALJ STERN: Are there any real rules, is there
4 any real rule of thumb that is determinative of whether
5 you use a remote meter versus putting in a main extension
6 for a single or two-lot situation?

7 THE WITNESS: No.

8 ALJ STERN: What about here, we've had some
9 evidence at least from one lot owner who testified she'd
10 never give you an easement to run your water line up
11 alongside of her property.

12 THE WITNESS: Uh-huh.

13 ALJ STERN: That's the co-owner of lot 4G.
14 Would it even be necessary if you had easements from --
15 and then also it's purported that lots 5A and 5B wouldn't
16 need easements.

17 THE WITNESS: Uh-huh. Well, my answer to that
18 question is that, again, I'm not looking for developing a
19 water distribution system for tomorrow or for today, I'm
20 looking down the road 20, 30 years.

21 These property owners that are assembled here in
22 this room today will not be the property owners 30 years
23 from now. The property owners 30 years from now will
24 have an entirely different mentality on how they want to
25 develop their property. And if they want water service,

1 I can assure you that they will probably grant these
2 easements if they want to get water pipelines to their
3 property.

4 ALJ STERN: Okay. Are there ever situations
5 when a remote meter hookup is terminated and a customer
6 is required to hook up to a main?

7 THE WITNESS: Yes.

8 ALJ STERN: How does that happen?

9 THE WITNESS: On large parcels today, a
10 five-acre parcel, let's just take, for example, what was
11 parcel 5 which is now parcel 5A, B, C, D, and E. If that
12 property owner were to come into our Apache Junction
13 office today and request water service, we would have to
14 set him service at the southwest corner of that five-acre
15 parcel because we have a pipeline there, we have a main
16 there. We have a pipeline that's adjacent to the
17 property and we will set him a meter.

18 However, we would ask him to sign a conditional
19 service agreement which states that if you ever split
20 this parcel up we get a second crack at you for a main
21 extension, because we understand that more than likely
22 you will subdivide that five-acre parcel. I know you're
23 not going to tell us today that you're going to subdivide
24 it, but at some point in the future we know you probably
25 will.

1 Q. Now, when the company installs a water main or
2 another significant addition to its water system, in
3 addition to perhaps Commission approval does the company
4 have to get approval from any other agencies?

5 A. Many approvals. Seems like everybody loves to
6 tell us how to run a water distribution system.

7 Q. So the company's, notwithstanding the company's
8 tariff, the company's not completely free with respect to
9 regulatory agency approval to design its water system
10 just in a willy-nilly fashion however it wants?

11 A. Oh, heavens no.

12 Q. For instance, the Department of Environmental
13 Quality has some approval and some jurisdiction over the
14 company that requires their approval for extensions to
15 the company's system?

16 A. Any significant extension to a water
17 distribution system has to be reviewed and approved by
18 ADEQ.

19 Q. And presumably, if it could be approved, it
20 could be not approved, and the company has to go back to
21 the drawing board, so to speak?

22 A. That is correct.

23 Q. Does that happen occasionally?

24 A. I've never seen it happen.

25 Q. Mr. Whitehead, the grid system or the 660 which

1 you testified about and I think Judge Stern asked about
2 and I am not sure if you ever had a chance to answer that
3 question, but regardless, is that a water system design
4 technique, if you will, that's followed solely in Apache
5 Junction by the company?

6 A. No, it's followed in other communities where the
7 major arterial roads tend to follow section lines. Casa
8 Grande would be another good example, Coolidge. When you
9 get into the mountain community like Superior, Lakeside,
10 certainly Bisbee, Sierra Vista, those communities,
11 Sedona, those communities, their rights-of-way, their
12 roads don't necessarily follow section lines. Their
13 roads are more controlled by topography and terrain.

14 Here in the Valley it's flat, we can follow
15 section lines very, very simply and it makes for a very
16 efficient grid system, which in turn makes for a very
17 efficient water distribution system.

18 Q. Is it your testimony that that's the system that
19 the company is designing for in the area that's depicted
20 on Exhibit C-1 and R-1?

21 A. That is correct. This is my job to make sure
22 that I in some fashion take this metes-and-bounds,
23 chaos-type subdivision and bring some order to it in the
24 form of a water distribution system.

25 MR. GEAKE: Thank you. That's all I have.

1 ALJ STERN: Okay, Mr. Whitehead, you're excused.

2 THE WITNESS: Thank you.

3 MR. CORROW: May I redirect, please?

4 ALJ STERN: You mean recross?

5 MR. CORROW: Recross, whatever you call it.

6 ALJ STERN: What's it in relation to?

7 MR. CORROW: Two things. The issue of
8 remuneration for costs, if Arizona Water Company has
9 thought about or in their plans in the future have some
10 vehicle with which to rebate people like myself who have
11 put an infrastructure when someone ties on to rebate
12 other than this silly ten percent of the water used
13 thing, which is meaningless.

14 ALJ STERN: Is that all you want to ask him?

15 MR. CORROW: That is my question.

16 ALJ STERN: I'm not sure he's qualified to
17 answer that, because he's answering engineering questions
18 primarily.

19 MR. CORROW: He's president of the company.

20 MR. GEAKE: But I'm also going to interpose an
21 objection to that, because that was not at all mentioned,
22 I don't believe, in my redirect and which recross is
23 supposed to follow redirect.

24 ALJ STERN: I'll sustain the objection.

25 He didn't raise anything new in his prior

1 questioning. His questioning, essentially, was he
2 brought up to re-emphasize that Mr. Whitehead has 25
3 years of experience in how these distribution systems
4 primarily follow grid lines in the Valley. There's
5 nothing about compensation or anything. I don't really
6 think it was brought up at any time as to how the refunds
7 are made on main extensions, so I'm not going to go into
8 them now.

9 You're excused.

10 THE WITNESS: Thank you.

11 ALJ STERN: Okay. You don't have any more
12 witnesses; right?

13 MR. GEAKE: That's correct, that's our only
14 witness.

15 ALJ STERN: Staff ready to call a witness?

16 MR. RONALD: Yes, Your Honor, staff calls Connie
17 Walczak.

18 ALJ STERN: Ms. Walczak, do you want to come to
19 the stand be sworn in.

20 MR. RONALD: Let's make that S-1.

21 (Exhibit No. S-1 was marked for identification.)

22

23

24

25

1 CONNIE WALCZAK,
2 called as a witness herein, having been first duly sworn
3 by the certified court reporter, was examined and
4 testified as follows:

5

6

DIRECT EXAMINATION

7

8 Q. BY MR. RONALD: Please tell us your name and
9 your business address.

10 A. Yes. I'm losing my voice too, I'm sorry. My
11 name is Connie Walczak, W-a-l-c-z-a-k, my business
12 address is 1200 West Washington, Phoenix, Arizona 85007.

13 Q. And where do you work, Ms. Walczak?

14 A. I work for the Arizona Corporation Commission,
15 I'm the consumer services manager for the utility
16 division.

17 Q. And how long have you been with the Commission?

18 A. Approximately ten years.

19 Q. And could you describe your duties?

20 A. Yes. I am the manager of approximately ten
21 consumer service analysts in the utility division. We
22 handle calls that come into the division from the
23 consumers in Arizona. They will call us, they will call
24 our department when they have questions regarding
25 regulated utilities; sometimes not regulated. We answer

1 the questions, begin investigations, and handle any
2 complaints for those calls.

3 Q. Have you reviewed this formal complaint that
4 we're here to discuss?

5 A. Yes, I have.

6 Q. Would it be fair to say that at one point this
7 was an informal complaint?

8 A. This began as an informal complaint, yes.

9 Q. And does staff believe that the company, Arizona
10 Water, acted outside its tariffs in this case?

11 A. No, staff believes that Arizona Water is
12 following their tariffs.

13 MR. RONALD: Your Honor, may I approach the
14 witness?

15 ALJ STERN: Yes.

16 Q. BY MR. RONALD: You should have what's been
17 marked previously as S-1 in front of you. Could you
18 describe for us what that is?

19 A. The information that I have in front of me is a
20 request that the Commission has given to Arizona Water
21 for information to be provided in their service
22 contracts. Staff has asked over the years that they
23 provide this particular information to avoid the problems
24 that we're looking at today and that customers are
25 experiencing in lot-split situations.

1 Q. And this particular language in S-1, where would
2 staff prefer that this language be inserted? Would it be
3 in an application or would you explain that?

4 A. Staff would prefer that this language be
5 inserted in a service application. If it were inserted
6 in the application, the original application of any
7 request for service, staff feels that it would eliminate
8 the situation at hand.

9 Q. And does this particular language in S-1
10 contradict any of the information in the company's
11 tariffs?

12 A. No, it does not contradict, it clarifies.

13 MR. RONALD: Your Honor, at this time staff
14 would move for the admission of S-1.

15 ALJ STERN: Do you have any objections,
16 Mr. Geake?

17 MR. GEAKE: No objections.

18 ALJ STERN: Mr. Corrow, any objections?

19 MR. CORROW: No, Your Honor.

20 ALJ STERN: Okay. No objections. Exhibit S-1
21 is hereby admitted.

22 Q. BY MR. RONALD: Ms. Walczak, you've been here
23 for the entire course of testimony today?

24 A. Yes.

25 Q. Did you have any additional comments regarding

1 this case and any other staff recommendations on the
2 issues?

3 A. I do not have a staff recommendation on the
4 issues. However, staff has offered options that could be
5 followed in this case, options that the administrative
6 law judge may want to consider; they would be for working
7 more with the customer. In the options there are many
8 options that have been suggested in the previous hearing.
9 Mr. Olea had also offered suggestions and options that
10 might be worked through the company and the customer,
11 Mr. Corrow, Mr. and Mrs. Corrow, and come to a
12 resolution.

13 There are, again, numerous options; splitting of
14 the cost as one, spreading the cost over a number of
15 years, yet staff does have rules that dictate -- tariffs
16 dictate. The company has the ability and staff does not
17 have an objection to the company working with the
18 customer.

19 Q. When you say Mr. Olea, are you referring to
20 Steve Olea?

21 A. Mr. Steve Olea, the deputy director of the
22 utility division.

23 MR. RONALD: Thank you, Ms. Walczak.

24 No further questions, Your Honor.

25 ALJ STERN: Mr. Geake, any questions?

1 MR. GEAKE: Yes. Thank you, Your Honor.

2 ALJ STERN: Excuse me. I guess I ought to give
3 Mr. Corrow, since he's the complainant, I'm not sure, I
4 think Mr. Corrow gets the first question.

5 MR. GEAKE: I'd agree, and I'd certainly --

6 ALJ STERN: Go ahead, Mr. Corrow. Any
7 questions?

8 MR. CORROW: Would it be appropriate if I
9 defer -- may I defer to the respondent and then I might
10 contemplate my questions?

11 ALJ STERN: Okay.

12 Mr. Geake, do you have any questions for the
13 witness, and then if you do, fine? If you don't, it's
14 his turn again.

15 MR. GEAKE: Yes, I do have just a couple.

16 ALJ STERN: Okay.

17

18 CROSS-EXAMINATION

19

20 Q. BY MR. GEAKE: Good afternoon, Ms. Walczak.

21 A. Good afternoon.

22 Q. The language that is contained on Exhibit S-1,
23 did I understand you to say that that had been provided
24 to Arizona Water Company at some time in the past?

25 A. It is my understanding that that has been

1 offered to Arizona Water on numerous occasions, yes.

2 Q. Do you know if it's been offered to any other
3 water utilities?

4 A. I do not know. I was told that it was offered
5 to Arizona Water. And we weren't actually speaking of
6 other customers, we were discussing this case when we
7 discussed this language. And the reason was because of
8 the numerous complaints that the Commission has received
9 over the years regarding the same type of situation, flag
10 lots, split lots, that type of thing.

11 Q. So if S-1 was offered, as you say, this was
12 something that was done recently?

13 A. The information that I can provide you is that
14 Mr. Olea, Steve Olea, deputy director, has provided this
15 information, requested that it be in the service
16 agreements, thus disallowing this type of problem to
17 arise.

18 Q. What I'm trying to pin down, and maybe you don't
19 know because I take it you didn't do this personally,
20 someone else did, perhaps Mr. Olea?

21 A. Yes, Mr. Olea provided me the language. Yes.

22 Q. I'm just trying to pin down as much as I can,
23 and maybe we can't do that, but when that was done?

24 A. I cannot answer the exact date as to when that
25 may have been done.

1 Q. Do you know if it was even this year?

2 A. I cannot even -- I cannot tell you. What was
3 told to me was that this has been requested of Arizona
4 Water on numerous occasions throughout the years.

5 Q. You just don't have too much particular
6 information about this yourself, when it was provided,
7 who provided it, who it was provided to when?

8 A. It was provided by Steve Olea, yes. The dates I
9 do not know.

10 Q. Do you know of any particular person at Arizona
11 Water Company that he dealt with?

12 A. I do not know. I would assume that he was
13 dealing with Bill Garfield.

14 Q. But you don't know for sure?

15 A. I do not know for sure.

16 Q. You were present during Mr. Whitehead's
17 testimony?

18 A. Yes, I was.

19 Q. And I believe in response to a question by Judge
20 Stern, Mr. Whitehead testified about what he believed he
21 understands the policy behind the commissions and the
22 company's main extension rule and refundable, I'll call,
23 portion of that. Do you recall that?

24 A. Yes.

25 Q. And I believe Mr. Whitehead had made the

1 statement, did he not, that part of the policy for that
2 was to avoid more or less subsidies by other customers to
3 new customers who might wish to have mains extended at
4 current customers' expense. Do you recall that?

5 A. Yes.

6 Q. Do you agree that that's a fair assessment of at
7 least part of the policy of the main extension rule?

8 A. And is what you're talking about when
9 Mr. Whitehead discussed current customers absorbing the
10 cost of Mr. Corrow's main extension rather than him
11 paying for it; is that what you're referring to?

12 Q. Yes. I'm saying do you agree that that would be
13 an effect of doing things as Mr. Corrow's proposed, that
14 current customers would, in effect, subsidize that main
15 extension?

16 A. If, in fact -- I would agree somewhat. I mean,
17 I do understand the Corrows' complaint. It's very
18 difficult in a lot-split situation and we've seen it
19 repeatedly, that the customer -- the Commission will tell
20 a customer the cost causer is the cost payer, and that's
21 pretty much what you're saying.

22 In a lot-split situation when other remote
23 meters have been placed when other lots have been split,
24 when a customer sees five meters at the end of their
25 property, it's a difficult situation to try to tell them

1 sorry, you can't get what everyone else has had.

2 So I understand the Corrows, I understand their
3 problem with this situation in sitting there and seeing
4 five meters on a lot right across the street from them.
5 So even though I do agree that the cost causer is the
6 cost payer, in lot-split situations, more -- there's more
7 going on than the normal, I want a meter, I'm two miles
8 out, there's nobody between me and the main. That's too
9 bad, you purchased the property, you need to do your
10 homework, you will have to put in that line. This is not
11 quite the same situation.

12 MR. GEAKE: Just a moment, please.

13 Thank you. I have no further questions, Your
14 Honor.

15 ALJ STERN: Mr. Corrow, any questions for the
16 witness?

17 MR. CORROW: Yes.

18

19 CROSS-EXAMINATION

20

21 Q. BY MR. CORROW: Good afternoon.

22 A. Good afternoon.

23 Q. If we are putting in a remote meter to an
24 existing line and we're paying for that meter, how do you
25 think that we might be costing other people in the water

1 system money?

2 MR. RONALD: Your Honor, I'm going to object to
3 that on the basis that this witness's expertise is more
4 of a policy witness than a financial expert. And also,
5 it's requiring the witness to speculate.

6 ALJ STERN: Mr. Geake, do you have any
7 objection?

8 MR. GEAKE: Well, I can't disagree with what
9 Mr. Ronald has said. It's his witness and I guess he is
10 familiar with her capacity to testify, so I guess with
11 that I'd support staff's objection.

12 ALJ STERN: Well, she isn't a financial witness
13 as to what happens.

14 MR. CORROW: I'll move on.

15 ALJ STERN: Okay.

16 Q. BY MR. CORROW: In reference to -- is there a
17 specific reference, to your knowledge, about when remote
18 meters are eliminated or is there any such thing? Is
19 there a law or a code or whatever that says remote meters
20 are not allowed?

21 A. Again, I'm not the technical -- what I can
22 answer, how I can answer is that I do know that Arizona
23 Water as well as other water companies in Arizona that
24 had once done lot remote meters, flag lots, have for a
25 number of years tried to stop doing that, because it

1 doesn't promote the integrity of the system they're
2 installing and a flag lot and remote meter both hinder
3 the movement of that system that I am aware of.

4 And because of that, I do know that many of the
5 companies that have provided this are doing as little as
6 possible of those types of installations as they can.
7 And it's the thing to do. I mean, it doesn't promote an
8 integrity, a good integrity of a system.

9 Q. As part of your discussions that you alluded to
10 earlier, did any of those discussions ever include
11 discussions of rebating individuals or property owners
12 that put in infrastructure other than just this ten
13 percent of the water used business?

14 A. Well, ten percent follows the rules of the
15 Commission. The companies -- that's a minimal
16 requirement. A company can actually -- and with the
17 Commission's -- with an okay from the Commission, I mean,
18 it doesn't even need an okay from the Commission, a
19 company can expound on that percentage, so a company has
20 the ability to --

21 Q. And it's the Commission, then, that sets these
22 rates, this policy, so if we were to --

23 ALJ STERN: I guess maybe just so you
24 understand, the ten-percent, ten-year standard on a main
25 extension agreement is sort of at the minimum floor as

1 used in these agreements. What the parties finally agree
2 on and what staff when they review the agreements says
3 okay, we'll accept this agreement, it's filed, the
4 parties are satisfied, we can accept it, it's okay, you
5 can go forward. If they want to do a 50-year, 50-percent
6 it's up to the company and the individual. The company
7 probably won't agree to it, but I'm just saying that
8 that's the way the main extension agreement, it starts at
9 ten percent for ten years and, in fact, they may lessen
10 them, I guess, but it's up to the parties on what they
11 can agree on. It's like any contract.

12 MR. CORROW: I understand that, Mr. Stern.

13 Q. BY MR. CORROW: What I'm trying to find out is
14 if there's something in the system that our witness may
15 have heard alluding to the possibility that sometime in
16 the future they will look at more than just this water
17 rebate thing, that the hard costs of putting an
18 infrastructure would be rebated back to an upstream
19 developer that puts in the infrastructure, which would be
20 more fair. In this particular case -- well, that's my
21 question.

22 A. Well, again, as Judge Stern said and I said
23 before, it is a minimum. The company has the option of
24 looking at pretty much any type of agreement that the
25 company and the customer may come to.

1 Q. Right, but the Commission itself making demands
2 if they choose in putting that hard and fast into their
3 tariffs, et cetera, that rebating for hard costs, has
4 there been any talk of that?

5 A. I could not answer that. I don't know that.

6 MR. CORROW: That's the only other question I
7 had.

8 ALJ STERN: That's it.

9 Ms. Walczak, my only primary question, I
10 guess -- well, two questions, I guess. Is the tariff
11 that was put into evidence here on behalf of the company,
12 that's on file with the Commission; isn't that correct?

13 THE WITNESS: Yes, that is correct.

14 ALJ STERN: And it's been approved and when it
15 was filed?

16 THE WITNESS: Yes, it's an approved tariff.

17 ALJ STERN: And it's consistent with the
18 Commission's rules?

19 THE WITNESS: Yes.

20 ALJ STERN: Okay. The only other question I can
21 conceivably have is that this language that was admitted
22 that staff is suggesting that the company, being Arizona
23 Water use, isn't it somewhat similar to what
24 Mr. Whitehead testified to today, that with newer
25 customers that they suspect could go into a lot split

1 situation, they sign what is a conditional service
2 agreement with them, I believe is the term he used; might
3 not be exactly the same, but it advises them that if in
4 the future the lots are split and that meter has to be
5 moved, they will have to talk about the cost of a main
6 extension. Isn't that what he --

7 THE WITNESS: It's similar to it and it's a good
8 step. However, staff feels that if this were put in a
9 service agreement it would cover not only those that may
10 become lot splits. I mean, it could just be general
11 language in a service agreement. You want service, take
12 a look at this, and it will --

13 ALJ STERN: But to your knowledge, Arizona Water
14 nor any company has adopted this language?

15 THE WITNESS: To my knowledge, that is true.

16 ALJ STERN: Okay. I don't have anything else.

17 Any redirect?

18 MR. RONALD: No, Your Honor. Thank you.

19 ALJ STERN: Okay. Thanks. You're excused.

20 Any other witnesses for staff?

21 MR. RONALD: No, Your Honor.

22 ALJ STERN: With that, brief closing statements,
23 Mr. Corrow.

24 MS. CORROW: I'll go ahead and make the closing
25 statements for us. Thank you.

1 ALJ STERN: I thought he said he had the closing
2 statement.

3 MR. CORROW: No.

4 ALJ STERN: She is. Okay.

5 MR. CORROW: More levelheaded.

6 MS. CORROW: Well, we've listened to the
7 arguments of the Arizona Water Company and we still feel
8 that we have a good case for an exception here. There is
9 an acceptable alternative. They've allowed flag lots in
10 the past. We've been caught in the middle of a change of
11 how they operate and how they have allowed water service
12 to be installed and we feel that we are being treated
13 differently than people before us. They put the question
14 to Darrell Ness if he felt he would be being treated
15 differently. Well, we feel we're being treated
16 differently than many, many others before us.

17 The practice that they want to follow is sound,
18 I think it's perhaps better and more aptly applies to new
19 developments and not in what I would like to quote,
20 unquote, called an infield situation where you've got a
21 late lot split after much development has gone on around
22 us.

23 They suggested that they could get easements
24 through at some future date 30 years from now to get
25 water up to 4C and 3 through lots 4G and J, the five-acre

1 parcels, one of which the Vassars own and the other
2 party, the fellow who has cancer and couldn't make it
3 today to testify, he owns. Then I suggest that if that
4 cost, if those parcels were divided into individual acre
5 lots in some 30 years from now, that cost for those mains
6 could more easily be absorbed by them than by us.

7 Judge Stern, you made comments about Arizona
8 Water, you know, when my husband was on the stand about
9 them following their tariffs or laws and regulations,
10 whatever they're called, they're there for a purpose, you
11 stated that. And in this case the purpose is to get
12 water eventually, some 30 years from now, perhaps, to
13 lots 4C and 3, and I think that purpose can be served by
14 an existing easement, the scenario which my husband
15 presented of running their water mains through other
16 lines and that developer, again, could easily absorb the
17 cost that develops that subdivision. And it's just --
18 it's a very unique situation here.

19 And we have made offers to negotiate with the
20 water company; they've refused to even discuss any of the
21 options which, I'm sorry, I forget your name, the staff
22 witness mentioned that Steve Olea presented. They
23 refused to talk to us even before we submitted a
24 complaint, so there's just simply no open discussion here
25 and that's why it's gotten to this point.

1 Obviously, there's some things that at a state
2 level that need to be addressed here, and we're just --
3 we're just the little guy caught paying the bill and just
4 think it's a very, very unfortunate situation and we seek
5 a fair judgment in this case.

6 I guess that's all I have to say. Thank you.

7 ALJ STERN: Mr. Geake.

8 MR. GEAKE: Thank you, Your Honor.

9 Without fail in the hearing today every witness,
10 I think perhaps even Mr. Corrow, although I could be
11 wrong, stated that the company is following the tariffs
12 and was following Commission's rules in dealing with
13 Mr. Corrow. No one has contradicted that. No one has
14 testified or presented any evidence that that's not true;
15 that's firmly established in the record in this case.

16 So what we're left with, unlike Mr. Ness, for
17 example, is a customer who because of his personal
18 situation and as he testified, because of his, in part,
19 due to his assumptions and his lack of an investigation
20 before he purchased his property, wants to be excepted
21 from the rules, wants to not follow the rules, wants to
22 have the other customers eventually pick up the cost of
23 the main that would be required eventually to go past his
24 property.

25 And the company submits not only is that

1 contrary to the record in this case, but it's more public
2 policy. The Commission's rules were designed for a
3 reason, as Mr. Whitehead said, in part is to keep
4 existing customers from subsidizing new customers and put
5 demands on the system for any number of reasons that we
6 have discussed today.

7 We believe those rules should be followed. We
8 don't think any evidence has been presented in this case
9 that an exception should be made, and for that reason we
10 think the record is clear that the only conclusion that
11 can be supported by the evidence that has been presented
12 today is a rejection of Mr. Corrow's complaint. Thank
13 you.

14 ALJ STERN: Is there anything more?

15 MR. GEAKE: No.

16 ALJ STERN: Thank you.

17 Staff?

18 MR. RONALD: Thank you, Your Honor. Staff
19 agrees that the tariff should apply to each customer the
20 same way. Unfortunately, some persons who are customers
21 may be situated differently, depending on their personal
22 circumstances, and the tariff may affect them
23 differently. But staff does agree that this customer
24 should have to pay the price, just like Mr. Ness did, to
25 be served in this area.

1 But staff would urge that the company to adopt
2 the language in S-1. Perhaps if this language had been
3 in the agreements that Mr. Corrow and his wife reviewed
4 maybe they would have thought differently about making
5 their choice to live out in that area. But staff would
6 just urge that language to be adopted.

7 And that's all I have, Your Honor. Thank you.

8 ALJ STERN: You're saying that language should
9 be put into Arizona Water service agreements in the
10 future?

11 MR. RONALD: Staff thinks that that would be
12 helpful if that language was presented to customers that
13 were going to enter into agreements with main extensions.

14 ALJ STERN: All right. With that, I'll take the
15 matter under advisement and issue a recommended opinion
16 and order to the Commissioners for final disposition.
17 Thank you. That concludes today's hearing.

18 (The proceedings concluded at 3:47 p.m.)

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

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5 I, DOREEN M. LOBOCK, Certified Court Reporter
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 7 that the foregoing printed pages constitute a full, true,
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12 WITNESS my hand this 29th day of November, 2004.

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