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BEFORE THE ARIZONA CORPORATION COMMISSION

2010 JUN 17 P 4: 39

AZ CORP COMMISSION
DOCKET CONTROL

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KRISTIN K. MAYES
Chairman

GARY PIERCE
Commissioner

PAUL NEWMAN
Commissioner

SANDRA D. KENNEDY
Commissioner

BOB STUMP
Commissioner

IN THE MATTER OF THE APPLICATION OF)
ARIZONA-AMERICAN WATER COMPANY,)
AN ARIZONA CORPORATION, FOR A)
DETERMINATION OF THE CURRENT FAIR)
VALUE OF ITS UTILITY PLANT AND)
PROPERTY AND FOR INCREASES IN ITS)
RATES AND CHARGES BASED THEREON)
FOR UTILITY SERVICE BY ITS ANTHEM)
WATER DISTRICT AND ITS SUN CITY)
WATER DISTRICT.

DOCKET NO. W-01303A-09-0343

IN THE MATTER OF THE APPLICATION OF)
ARIZONA-AMERICAN WATER COMPANY,)
AN ARIZONA CORPORATION, FOR A)
DETERMINATION OF THE CURRENT FAIR)
VALUE OF ITS UTILITY PLANT AND)
PROPERTY AND FOR INCREASES IN ITS)
RATES AND CHARGES BASED THEREON)
FOR UTILITY SERVICE BY ITS)
ANTHEM/AGUA FRIA WASTEWATER)
DISTRICT, ITS SUN CITY WASTEWATER)
DISTRICT AND ITS SUN CITY WEST)
WASTEWATER DISTRICT.

DOCKET NO. SW-01303A-09-0343

Arizona Corporation Commission
DOCKETED

JUN 17 2010

DOCKETED BY

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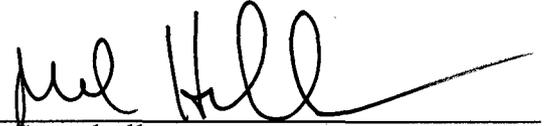
NOTICE OF FILING REDACTED TRANSCRIPT

Arizona-American Water Company hereby docketed the redacted version of
the evidentiary hearing transcript Volume 3, Phase II, dated May 20, 2010. The Company

1 has redacted with black marking the specific portions of Mr. James M. Jenkins's
2 examination that are confidential.

3 RESPECTFULLY SUBMITTED this 17th day of June, 2010.

4 LEWIS AND ROCA LLP

5 

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8 Michael T. Hallam
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11 Attorneys for Arizona-American Water Company

12 ORIGINAL and thirteen (13) copies
13 of the foregoing filed this 17th day
14 of June, 2010, with:

15 The Arizona Corporation Commission
16 Utilities Division – Docket Control
17 1200 W. Washington Street
18 Phoenix, Arizona 85007

19 Copy of the foregoing hand-delivered
20 this 17th day of June, 2010, to:

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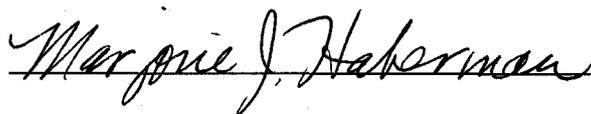
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1 BEFORE THE ARIZONA CORPORATION COMMISSION

2 IN THE MATTER OF THE APPLICATION) DOCKET NO.
3 OF ARIZONA-AMERICAN WATER COMPANY,) W-01303A-09-0343
4 AN ARIZONA CORPORATION, FOR A)
5 DETERMINATION OF THE CURRENT FAIR)
6 VALUE OF ITS UTILITY PLANT AND)
7 PROPERTY AND FOR INCREASES IN ITS)
8 RATES AND CHARGES BASED THEREON)
9 FOR UTILITY SERVICE BY ITS ANTHEM)
10 WATER DISTRICT AND ITS SUN CITY)
11 WATER DISTRICT, AND POSSIBLE RATE)
12 CONSOLIDATION FOR ALL OF ARIZONA-)
13 AMERICAN COMPANY'S DISTRICTS.)

14 IN THE MATTER OF THE APPLICATION) DOCKET NO.
15 OF ARIZONA-AMERICAN WATER COMPANY,) SW-01303A-09-0343
16 AN ARIZONA CORPORATION, FOR A)
17 DETERMINATION OF THE CURRENT FAIR)
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19 PROPERTY AND FOR INCREASES IN ITS)
20 RATES AND CHARGES BASED THEREON)
21 FOR UTILITY SERVICE BY ITS ANTHEM/)
22 AGUA FRIA WASTEWATER DISTRICT, ITS)
23 SUN CITY WASTEWATER DISTRICT AND)
24 ITS SUN CITY WEST WASTEWATER)
25 DISTRICT, AND POSSIBLE RATE) EVIDENTIARY HEARING
CONSOLIDATION FOR ALL OF ARIZONA-)
AMERICAN COMPANY'S DISTRICTS.) PHASE II

16 At: Phoenix, Arizona
17 Date: May 20, 2010
18 Filed:

19 **REPORTER'S TRANSCRIPT OF PROCEEDINGS**
20 **VOLUME III - PHASE II**
(Pages 450 through 672, inclusive)

21 **ARIZONA REPORTING SERVICE, INC.**
22 Court Reporting
23 Suite 502
24 2200 North Central Avenue
25 Phoenix, Arizona 85004-1481

22 Prepared for:
23 THE COMPANY
24 TO DESIGNATE
25 CONFIDENTIAL PORTIONS

By: Colette E. Ross
Certified Reporter
Certificate No. 50658

1 CAUTION: These proceedings contain portions
2 subject to a Protective Order.
3 Transcripts containing the confidential
4 portions are bound under separate
5 sealed cover.
6 Docket Control of ACC is receiving
7 for filing transcripts without the
8 confidential portions. The presiding
9 officer is receiving the original
10 transcript of the confidential
11 portions under seal. Electronic files
12 and Condensed Transcripts and Indices
13 containing the confidential portions
14 have been distributed to the parties
15 who were in attendance during the
16 confidential proceedings.

10 CONFIDENTIAL PORTION
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12 461 through 576

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1 INDEX TO EXHIBITS

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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, Hearing Room 1 of said
4 Commission, 1200 West Washington Street, Phoenix,
5 Arizona, commencing at 9:40 a.m., on the 20th day of
6 May, 2010.

7 BEFORE: GARY PIERCE, Commissioner
8 TEENA WOLFE, Administrative Law Judge

9 APPEARANCES:

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17 Certificate No. 50658

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1 Anthem Golf and Country Club.

2 (No response.)

3 ALJ WOLFE: The DMB White Tank, LLC; Mashie, LLC
4 dba Corte Bella Golf Club.

5 (No response.)

6 ALJ WOLFE: Let the record reflect no appearance
7 for those three parties.

8 Marshall Magruder.

9 A VOICE: He's here.

10 COM. PIERCE: He is here.

11 A VOICE: He ran off to reproduce something.

12 COM. PIERCE: I thought he was getting a little
13 old for that.

14 ALJ WOLFE: We will call him again at the end.

15 COM. PIERCE: My mike is off.

16 ALJ WOLFE: Mr. W.R. Hansen.

17 MR. HANSEN: Present.

18 ALJ WOLFE: If you would like to sit up at the
19 table you are more than welcome.

20 MR. HANSEN: That's fine.

21 ALJ WOLFE: Philip H. Cook.

22 (No response.)

23 ALJ WOLFE: Let the record reflect no
24 appearance.

25 Larry Woods.

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

3 Let's go on the record and take appearances this
4 morning, beginning with the company.

5 MR. CAMPBELL: Thank you, Your Honor,
6 Commissioner Pierce. Tom Campbell and Mike Hallam of
7 Lewis and Roca on behalf of the company, and with me at
8 counsel table is Mr. Broderick.

9 ALJ WOLFE: Water Utility Association of
10 Arizona.

11 (No response.)

12 ALJ WOLFE: Let the record reflect no
13 appearance.

14 Anthem Community Council.

15 MS. DWORKIN: Judith Dworkin from Sacks Tierney,
16 and Lawrence V. Robertson, Jr., for Anthem Community
17 Council.

18 ALJ WOLFE: The Paradise Valley Resorts.

19 (No response.)

20 ALJ WOLFE: Let the record reflect no
21 appearance.

22 The Town of Paradise Valley.

23 (No response.)

24 ALJ WOLFE: Let the record reflect no
25 appearance.

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1 (No response.)

2 ALJ WOLFE: No appearance.

3 RUCO.

4 MR. POZEFSKY: Good morning, Your Honor; good
5 morning, Commissioner Pierce. Daniel Pozefsky on behalf
6 of RUCO.

7 ALJ WOLFE: The Commission's Utilities Division
8 Staff.

9 MS. SCOTT: Good morning, Your Honor,
10 Commissioner Pierce. Maureen Scott and Robin Mitchell
11 on behalf of the Utilities Division.

12 ALJ WOLFE: Mr. Magruder, would you like to
13 enter an appearance this morning?

14 MR. MAGRUDER: Yes, Your Honor, I would like to
15 enter an appearance.

16 ALJ WOLFE: The reason some parties aren't here
17 is that we have witnesses today that don't -- that are
18 carryover witnesses from the Phase I portion of the
19 proceeding, and this is Phase II. I just want to make
20 that clear for the record.

21 Mr. Campbell, would you like to call your
22 witness?

23 MR. CAMPBELL: Your Honor, the company would
24 like to call Mr. James Jenkins. And we would also like
25 to request, pursuant to the protective order, that his

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1 testimony be subject to the protective order, that the
 2 transcript be sealed, and that the room only contain
 3 folks who have signed the protective agreement.
 4 ALJ WOLFE: Okay.
 5 MR. ROBERTSON: Your Honor, in that regard, if I
 6 might raise a related procedural matter. During the
 7 cross-examination of Mr. Jenkins I will be referring to
 8 the ninth set of data requests that the Anthem Community
 9 Council submitted to the company and the company's
 10 responses. Some of the attachments to the company's
 11 responses to the data requests, counsel for the company
 12 advised me, contain what they believe to be confidential
 13 information. So we would like that also to be subject
 14 to the protective order.
 15 ALJ WOLFE: Thank you. We will do that.
 16 First let's get Mr. Jenkins sworn in before we
 17 close the record.
 18 (James M. Jenkins was duly sworn.)
 19 ALJ WOLFE: At this time the hearing will be
 20 closed to all persons who would be required to sign
 21 Exhibit A to the protective order that was issued on
 22 May 6, 2010 in this docket in order to receive the
 23 information the company has designated confidential. I
 24 will note it has been designated by the company
 25 confidential; I have not yet ruled whether it is

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***** CONFIDENTIAL PORTION *****

1 (Beginning of confidential information.)
 2
 3 ALJ WOLFE: Mr. Campbell.
 4 MR. CAMPBELL: Thank you, Your Honor. I do know
 5 that the microphones are off, so we all need to project
 6 so that everybody in the room can hear.
 7
 8 JAMES M. JENKINS,
 9 a witness on behalf of the Applicant, having been
 10 previously duly sworn by the Certified Reporter to speak
 11 the truth and nothing but the truth, was examined and
 12 testified as follows:
 13
 14 DIRECT EXAMINATION
 15 BY MR. CAMPBELL:
 16 Q. Mr. Jenkins, would you please state your name
 17 and business address for the record.
 18 A. My name is James M. Jenkins. And I reside at
 19 727 Craig Road in Creve Coeur, Missouri.
 20 Q. Mr. Jenkins, what is your title within the
 21 American Water family?
 22 A. I am presently the vice president of finance for
 23 the western division.
 24 MR. ROBERTSON: Mr. Campbell, if you will excuse
 25 me for a moment.

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1 confidential or not. The hearing will be transcribed
 2 with this confidential portion. The transcript will be
 3 kept closed according to the terms of the protective
 4 order.
 5 I will request that after the company gets a
 6 copy of the closed transcript that the company review
 7 the transcript and work with the court reporters to file
 8 a redacted form that includes all nonconfidential
 9 testimony.
 10 At this time the hearing room will be closed. I
 11 have to go ask for the cameras to be turned off.
 12
 13
 14 (The following pages contain confidential
 15 information.)
 16
 17
 18
 19
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 21
 22
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***** CONFIDENTIAL PORTION *****

1 Your Honor, if I might make a request. I am
 2 completely deaf in my left ear, and it is that ear that
 3 is closest to Mr. Jenkins.
 4 You have a very soft voice, sir. So if you
 5 could project forcefully it would be most appreciated.
 6 ALJ WOLFE: Would it help if you moved your
 7 seat, too?
 8 MR. ROBERTSON: I don't think it would make that
 9 much difference, and I am so spread out.
 10 THE WITNESS: I will accommodate. I have a deaf
 11 son, so I should project louder. So it is probably
 12 pretestimony jitters.
 13 MR. ROBERTSON: You and I have already begun to
 14 bond.
 15 BY MR. CAMPBELL:
 16 Q. In your job of vice president of finances for
 17 the west, what responsibilities do you have for
 18 accounting and financial reporting for the company, and
 19 specifically for Arizona-American Water Company?
 20 A. Yeah. With respect to Arizona-American, I am
 21 the finance person that really certifies that our
 22 financial statements are in accordance with GAAP, which
 23 is generally accepted accounting principles.
 24 The ownership of the financial statements rests
 25 with the company, and it is me that signs off and

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1 actually makes that representation to Pricewaterhouse,
2 as our financial statements are certified in terms of
3 being in compliance with GAAP. So I am the one that
4 actually signs off that the financial statements conform
5 with GAAP requirements.

6 Q. Mr. Jenkins, do you have in front of you what
7 has been marked for identification as Exhibit A-44 and
8 Exhibit A-45?

9 A. I do.

10 MR. CAMPBELL: And A-44, for the record, is a
11 confidential copy of Mr. Jenkins prefiled testimony
12 dated May 7, and A-45 is the public version that has
13 been redacted.

14 BY MR. CAMPBELL:

15 Q. Mr. Jenkins, I am going to ask these questions
16 with respect to both the exhibits. Was your prefiled
17 testimony prepared by you or under your supervision?

18 A. Yes, it was.

19 Q. And do you have any corrections or changes to
20 that testimony at this time?

21 A. Yes, I have one change. And that change is on
22 the title page with reference to the date. And the
23 testimony used the date of May 7, 2009, and that should
24 be adjusted to May 7th, 2010.

25 Q. And with that long correction, Mr. Jenkins, do

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1 is really the regulatory accounting for utilities that
2 are regulated.

3 And I have confirmed that the plant that is
4 subject of these advance payments currently is in rate
5 base, that the prior advance repayments of this plant
6 have been placed into rate base and deemed prudent by
7 the Arizona Corporation Commission.

8 And based on my review, I have concluded that if
9 Mr. Neidlinger's proposal were to be adopted,

10 [REDACTED]
11 [REDACTED] Mr. Neidlinger's rate mechanism
12 is inadequate, doesn't allow the company full cost
13 recovery. [REDACTED] It
14 denies the company an immediate return on and of. It
15 takes away depreciation expense on the investment. It
16 doesn't include anything with respect to carrying costs
17 to keep the company whole.

18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1 you adopt your prefiled testimony as your testimony in
2 this case?

3 A. I do.

4 MR. CAMPBELL: Your Honor, I would move the
5 admission of A-44 and A-45.

6 ALJ WOLFE: Is there any objection to A-44 or
7 A-45?

8 MR. ROBERTSON: No objection.

9 ALJ WOLFE: A-44 and A-45 are admitted.

10 (Exhibits A-44 and A-45 were admitted into
11 evidence.)

12 BY MR. CAMPBELL:

13 Q. Mr. Jenkins, would you provide for the record a
14 brief summary of your prefiled testimony.

15 A. Yes. I have reviewed Mr. Neidlinger's proposed
16 phase-in with respect to the Pulte repayments that were
17 made during the 2008 test year and those that were made
18 in March of 2010 this year. And I have also reviewed
19 the applicable accounting standards with respect to
20 those payments. And those standards include accounting
21 standards codification 980-340, which refers to
22 Financial Accounting Standard No. 92, as well as
23 accounting standards codification 980-360, which refers
24 to the Financial Accounting Standard No. 90, as well as
25 the accounting standards codification topic 980, which

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1 Q. Mr. Jenkins, in addition to your prefiled
2 testimony, Chairman Mayes had a question the other day
3 that she specifically asked me to ask you.

4 So with Your Honor's permission, I would like to
5 pose that question now.

6 ALJ WOLFE: Yes.

7 BY MR. CAMPBELL:

8 Q. Chairman Mayes talked in terms of whether, apart
9 from Mr. Neidlinger's specific proposal, what would be
10 the accounting and financing reporting impact of some
11 sort of amortization of the \$20 million payment. And by
12 that I believe she meant somehow only including it in
13 rate base over a period of years.

14 Can you address the financial accounting and
15 reporting implications of an amortization program?

16 A. Yes. That accounting for that would fall under
17 Statement of Financial Accounting Standards 90, [REDACTED]

18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 As we would assess something like that, we would
24 have to also assess the ability of the Commission to
25 guarantee that that amortization would continue into the

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1 future and couldn't be stopped at some point. And that
2 would be part of the determination as well. [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 Q. And Mr. Jenkins, when you say some guarantee
7 that the amortization would be continued, does that
8 include some guarantee that rates would actually be
9 increased to reflect a return on those amortized
10 portions?
11 A. That's correct.
12 Q. Mr. Jenkins, since you filed your prefiled
13 testimony, Anthem Council filed a direct testimony of
14 Michael L. Arndt which has been marked for
15 identification as Anthem No. 13, I believe.
16 Mr. Robertson, correct me if I am wrong, but I
17 believe it is Anthem No. 13.
18 Do you have a copy of that in front of you?
19 A. I do.
20 Q. And have you had a chance to review that, that
21 testimony?
22 A. I have.
23 Q. I would like to ask you a few questions about
24 that testimony.
25 And again, Your Honor, I guess this is in the

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1 MS. MITCHELL: Yes. Thank you very much.
2 BY MR. CAMPBELL:
3 Q. Can you explain what FASB stands for.
4 A. That stands for the Financial Accounting
5 Standards Board. And that's the governing body with
6 respect to GAAP financial statements. And GAAP
7 financial statements deal with generally accepted
8 accounting principles.
9 Q. And what does SFAS stand for?
10 A. That stands for Statement for Financial
11 Accounting Standard.
12 Q. Let me read the entire sentence now. It says
13 FSAB's SFAS92 was issued in August 1987 and relates to
14 phase-in plans concerning plant completed before
15 January 1, 1988 and plants on which substantial physical
16 construction has been performed before January 1, 1988.
17 Do you agree with that statement, Mr. Jenkins?
18 A. Yes, I do. But it also relates and is
19 reflective of plant for post-1988 investment as well.
20 Q. Okay. So the plant in Anthem that was obviously
21 built after 1988 is also covered by this SFAS92?
22 A. Yes, that's correct. And there is an important
23 distinction between the pre-1988 and the post-1988
24 accounting standards with that guidance. The post-1988
25 standard is still in effect today and is still

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1 category of rejoinder testimony since this was filed
2 after his prefiled testimony. So with your permission I
3 would like to just ask just a few questions about that.
4 ALJ WOLFE: Yes, please proceed.
5 BY MR. CAMPBELL:
6 Q. Mr. Jenkins, I would like you to turn first of
7 all to page 6 of Mr. Arndt's testimony, and look at his
8 Answer No. 13 which begins on line, roughly line 4.
9 A. I have that, yes.
10 Q. Found that, thank you.
11 Let me read you the first sentence and then ask
12 you a couple questions. It starts, FASB's SF --
13 MS. MITCHELL: Could you speak -- excuse me,
14 Your Honor.
15 Can you just speak up just a little bit? I am
16 getting older, too.
17 MR. CAMPBELL: I am sorry. Maybe we should just
18 move all these desks closer and sit in more of a Kumbaya
19 circle.
20 MS. MITCHELL: Yes, I'd like that.
21 BY MR. CAMPBELL:
22 Q. Let me go back to this first sentence,
23 Mr. Jenkins. It starts with reference to FASB's SFAS92.
24 Before I read the rest of the sentence,
25 Ms. Mitchell, is this carrying better?

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1 applicable.
2 But backing up to the pre-1988 standard, what
3 the guidance effectively allowed in which a phase-in
4 plan that compensated the company for its full cost
5 recovery, which means that a guaranteed revenue
6 requirement stream into the future, carrying costs on
7 that investment so the company wasn't being put in a
8 position of providing interest free loan, a full return
9 on and of that investment, for pre-1988 property the
10 standards did allow for the company to book a deferral,
11 in other words capitalize a deferral, and not have an
12 adverse financial consequence in the reported earnings
13 for the company -- it certainly would be adverse in
14 terms of the cash flow of the company, because you are
15 putting off cash today for future recovery -- but in
16 terms of reported earnings, there would not be
17 necessarily a requirement that we could not defer,
18 provided the standard, the phase-in plan provided that
19 type of mechanism in terms of guaranteed recovery.
20 With respect to the post-1988 plant investment,
21 the standard is applied that you are no longer allowed
22 to actually book a deferral or capitalize those costs
23 and eliminate any type of adverse financial consequence
24 for a phase-in plan that would guarantee future
25 recovery, keep the company whole with the proper

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1 carrying costs, return on investment, and those kinds of
2 items.

3 Q. Mr. Jenkins, let me move on to the next sentence
4 following the sentence I just read to you. It begins on
5 line 7 of page 6. And Mr. Arndt says, in addition,
6 SFAS92 does not address refunds relating to prior AIAC,
7 which is advances in aid of construction. Do you agree
8 with that statement?

9 A. I don't agree with the statement with respect to
10 address. I mean the standards are written and they
11 can't cover every example. But the phase-in plan is
12 designed, the standards consistent -- let me back up.

13 The standards don't necessarily cover all the
14 funding mechanisms for the investment. So therefore,
15 the advance type of accounting is no different than any
16 other type of debt and equity, debt and equity type of
17 requirement to support the investment. So just because
18 there is not a specific reference to advances in aid of
19 construction does not mean it does not apply.

20 Q. So, Mr. Jenkins, just to clarify the record,
21 because you use the word does not cover, did you mean
22 does not mention any type of financing arrangement that
23 is applicable?

24 A. That is correct.

25 Q. And then finally, SFAS92 therefore does not

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1 Commission. We could be -- before we could get a final
2 decision to ensure we are getting full recovery return
3 on and of we might be in 2015, 2016.

4 So a combination of those events, no attempt to
5 keep the company whole, the carrying things and things
6 that you typically find with a phase-in plan that was
7 put together to ensure full cost recovery, it is just
8 clear to me and the standards, both under SFAS90 and
9 SFAS92, [REDACTED]

10 [REDACTED]
11 [REDACTED]

12 Q. And Mr. Jenkins, therefore look at the final
13 sentences or the sentence immediately following the
14 sentence I just read here where Mr. Arndt concludes
15 SFAS90, therefore, not does not apply in this case. Do
16 you agree with that statement?

17 A. No, not at all. And that gets to the
18 consistency of pre-1988 plant investment and post-1988
19 plant investment. Standards have been clear all along.
20 If there is a situation where the company is not allowed
21 full recovery, either a direct disallowance such as the
22 one that Anthem has proposed with no guarantees at all
23 or a mechanism in which, for example, the company didn't
24 get a return on its investment to cover its carrying
25 costs, which is an indirect disallowance, the standards

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1 apply in this case, is its final conclusion. Do you
2 agree with that statement?

3 A. No.

4 Q. That's for the reasons you have just described?

5 A. That's correct.

6 Q. Can you turn to page 9 of Mr. Arndt's testimony.

7 A. Okay.

8 Q. All right. I would like to direct your
9 attention on page 9 to a sentence, it is actually the
10 second half of a sentence that begins roughly on line 6,
11 it looks like. And it starts by saying Anthem's ratable
12 plant transfer proposal -- Mr. Jenkins, just for your
13 information, we have been referring to that in
14 shorthand, this phase in, as a phase-in proposal --
15 Anthem's ratable plant transfer proposal does not
16 contemplate or require a disallowance of utility plant.
17 Do you agree with that statement?

18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 It provides no guarantee with respect to recovery into
23 the future. The amortization or the phase-in period of
24 the proposal extends to test years in the 2013 time
25 frame based on the ratemaking practices of the Arizona

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1 are clear under both those that a financial recognition
2 needs to be made and needs to be [REDACTED]

3 [REDACTED]

4 MR. CAMPBELL: Thank you, Mr. Jenkins.

5 That completes the direct examination of
6 Mr. Jenkins, and he is available for cross-examination
7 and questions.

8
9 EXAMINATION

10 BY ALJ WOLFE:

11 Q. Good morning, Mr. Jenkins. I just have one
12 question for you at this time. Is there a notification
13 that the company is required to make to the SEC whenever
14 a write-off becomes probable?

15 A. I don't know. I don't know the answer to that
16 question, because my primary focus is with respect to
17 Arizona-American. What gets rolled up on a consolidated
18 basis at Arizona-American corporate, I don't see the
19 financial statements of that. But clearly there is, you
20 know, communications with respect that at the time that
21 event would occur it would come through footnote
22 disclosure and items like that would take place.

23 Q. So no disclosure has been required, as far as
24 you know, based on the recommendation of the Anthem
25 Community Council?

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1 A. Absolutely. Nothing has been disclosed on SEC
2 at this point, because it is just a proposal. And we
3 would wait until if the Commission for some reason was
4 to adopt a proposal similar like that to where it was a
5 Commission decision, and then the accounting would
6 follow.

7 ALJ WOLFE: Commissioner Pierce.

8 COM. PIERCE: Yes, Your Honor.

9
10 EXAMINATION

11 BY COM. PIERCE:

12 Q. I think it is certain that you have a certain
13 time period. If you are right, a decision certain, that
14 it may be, I don't think it is 24, but I think it may be
15 24, 48, 72 hours, but I don't think it would go very
16 long because of how the markets are sensitive to that.

17 A. That's correct. That would probably fall under
18 the 8-K and those type of documents that you would file
19 with the SEC.

20 So at this point, you know, at my level in the
21 company, this is not a probable event. So I don't have
22 anything to report at this point other than what, you
23 know, as part of this rate case, in which objecting to
24 it, of course, but it is not probable that something
25 like this would be ordered.

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1 Initially I am going to spend some time
2 exploring your professional background and experience,
3 particularly in connection with possible instances in
4 the past where you may have had occasion to work with,
5 interpret, and apply both FAS92 and FAS90. And for
6 purposes of brevity and reference, I will use those
7 characterizations, FAS92 and FAS90, if that's acceptable
8 to you.

9 A. That's fine.

10 Q. After I have gone through the background
11 questions, I actually intend to proceed to your prepared
12 testimony, both in the unredacted form and, I assume, by
13 inclusion in the redacted form.

14 Then with regard to the third area, which would
15 pertain to your rejoinder, since I heard that for the
16 first time this morning, I am going to ask my witness,
17 Mr. Arndt, who has been here in the room this morning
18 from the outset, and thus he had an opportunity to hear
19 you, to respond to your rejoinder testimony. And then I
20 may have some additional questions of you as I listen to
21 your answers as we move forward. But that's my general
22 intended approach at this point.

23 Let me ask you in that regard, do you have
24 copies of both your unredacted and your redacted
25 testimony in front of you?

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1 Q. I understand.

2 A. Once it crossed that, I think that's where we
3 would fall into what the judge was asking.

4 COM. PIERCE: Your Honor, it seemed like we
5 would have some real haywire experiences all through
6 every rate case if it were everything that was proposed.

7 THE WITNESS: Absolutely.

8 ALJ WOLFE: Thank you.

9 Mr. Robertson, do you have questions for this
10 witness?

11 MR. ROBERTSON: Despite that mental lapse on my
12 part, I do have some questions. Thank you, Your Honor.

13
14 CROSS-EXAMINATION

15 BY MR. ROBERTSON:

16 Q. Good morning, Mr. Jenkins.

17 A. Good morning.

18 Q. I appreciate your willingness to project, and I
19 will endeavor to do so upon my part as well. And
20 welcome to Arizona.

21 A. Thank you.

22 Q. I thought I would outline for you the manner in
23 which I intend to proceed with my cross-examination
24 today, and then I will actually move to the
25 cross-examination.

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1 A. Yes, I do.

2 Q. Would I be correct in understanding that with
3 the exception -- and I am now referring to Exhibit A-44,
4 which is your May 7th, 2010 unredacted testimony -- that
5 with the exception of the language which appears on
6 page 5, line 15, with the words begin confidential in
7 brackets, and continues on to page 6 ending on line 13,
8 that the preceding portion of your unredacted testimony
9 is identical to your redacted testimony, so that for
10 purposes of comparison, Exhibit A-44 and A-45 would be
11 identical in terms of context, except for the additional
12 language in Exhibit A-44 that begins on line 15 of
13 page 5 and continues through line 13 on page 6?

14 A. That's correct.

15 Q. Okay. So for --

16 MR. CAMPBELL: Mr. Robertson, could I interrupt
17 you a second? That attachment is also different between
18 the two, just so the record is clear.

19 THE WITNESS: We need to add the exhibit.

20 MR. CAMPBELL: There is an attachment to the
21 testimony, a chart that is attached to the confidential
22 document that is not attached to the public document.

23 MR. ROBERTSON: And by attachment, Mr. Campbell,
24 you are referring to Exhibit JMJ-1 that is attached to
25 the unredacted?

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1 MR. CAMPBELL: Yes. There is some redaction in
2 that document.
3 MR. ROBERTSON: Thank you for that
4 clarification. Yes, I would have intended that in my
5 question as well.
6 BY MR. ROBERTSON:
7 Q. And the reason I asked you these questions, I
8 wanted to make it simple for you and me just to work
9 from your unredacted version without any concern there
10 might be something in the redacted version that we
11 should be addressing.
12 A. Okay.
13 Q. Okay?
14 Let's start first with some questions pertaining
15 to your background. And as I indicated a moment ago,
16 when I give you a page and line reference I am going to
17 be working from A-44.
18 On page 1, lines 19 to 20 of your prepared
19 testimony, you indicate that you began your career in
20 1984 with the Illinois Commerce Commission. What were
21 your responsibilities as an accountant with the
22 commission?
23 A. Well, I started at the staff level. I started
24 at the staff level, and my responsibilities included
25 audits of companies, rate cases, or in the gas,

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1 electric utility cases. What were your responsibilities
2 with regard to electric utility rate cases?
3 A. I would have been part of the audit team that
4 would have investigated a company rate filing. It would
5 have been preparing data requests, participating with
6 the team in terms of making recommendations in terms of
7 what costs to allow for recovery. It would have been
8 those kinds of activities.
9 Q. When did you first testify in an electric
10 utility rate case?
11 A. I do not recall.
12 Q. Okay. Do you have any recollection of issues
13 you may have addressed the first time that you did
14 testify?
15 A. I do not recall.
16 Q. Okay. Do you recall how many electric utility
17 rate cases you had occasion to testify in during your
18 tenure with the Illinois Commission?
19 A. I don't know specifically, but it would have
20 been a handful.
21 Q. I believe that you may have answered this with
22 one of your previous questions, but I wanted to be sure
23 not to overlook it. Do you recall the issues that you
24 addressed on the occasions that you testified?
25 A. Not having that, you know, in front of me to

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1 electric, and at that time, believe it or not, telephone
2 was still regulated, and then water and sewer companies.
3 Q. And at what staff level were you?
4 A. At that time when I started in '84 I was a staff
5 accountant or the beginning financial analyst position.
6 Q. That would have been an entry level position?
7 A. Yes, an entry level position.
8 Q. What were your responsibilities as a staff
9 accountant? You indicated the different types of
10 utilities that you were exposed to. What about your
11 specific responsibilities in that position?
12 A. Well, under the supervision of other employees
13 and managers with respect to the, at the commission, I
14 would have been responsible to evaluate, for example, a
15 company's rate case filings, take positions in terms of
16 whether the costs from a regulatory perspective should
17 be allowed or not, and testify in specific cases that
18 would have been subject to a docket, if you will, at the
19 Illinois Commission.
20 Q. When did you begin testifying as a witness on
21 public utility matters?
22 A. Like many commissions, pretty early, I imagine
23 1984, 1985, I would assume.
24 Q. Now, on page 1 at lines 21 and 22 of your
25 prepared testimony, you indicate that you worked on

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1 recollect all those memories, I wouldn't be able to
2 recall specifically.
3 Q. Okay. When was FAS90 issued?
4 A. Oh, December 1986.
5 Q. Have you ever testified on FAS90 in an electric
6 utility rate case?
7 A. Yes.
8 Q. What were the circumstances surrounding that
9 case and what was the nature of your testimony?
10 A. I don't recall all of the specifics, but it
11 would have involved one of the nuclear plants in
12 Illinois. So it was with respect -- at that time would
13 have been a Commonwealth Edison company or an Illinois
14 Power Company.
15 Q. If you could project just a little bit, please.
16 A. Okay.
17 Q. You recall the case and that it involved a
18 nuclear plant, but you don't recall the specific aspects
19 of FAS90 that your testimony might have related to, is
20 that correct?
21 A. That's correct.
22 Q. Were there any other electric utility rate cases
23 other than the one you mentioned that you testified in
24 where you had occasion to address or consider FAS90?
25 A. No.

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1 Q. When was FAS92 issued?
2 A. August of 1987.
3 Q. Have you ever testified on FAS92 in an electric
4 utility rate case?
5 A. I do need to correct something for the record.
6 With respect to FAS90, which is plant disallowances, I
7 don't believe I have ever testified. So I got my
8 standards mixed up. So I don't believe I have ever
9 testified as to FAS90 when I was at the commission for a
10 plant disallowance.
11 With respect to FAS92, which is the phase-in
12 accounting, I have testified to that before.
13 Q. In electric utility rate cases?
14 A. In electric utility rate cases, sorry about
15 that.
16 Q. I am sorry.
17 A. Sorry about that.
18 Q. I appreciate the clarification.
19 A. Okay.
20 Q. So the "perhaps a handful" is now less than a
21 handful and actually none, is that correct, with regard
22 to FAS90?
23 A. With respect to FAS90, correct.
24 MR. CAMPBELL: Excuse me, Mr. Robertson. Just
25 to correct the testimony, his testimony was he testified

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1 qualified or not.
2 Q. And would that have been a phase-in plan
3 relating to a nuclear plant?
4 A. That is correct.
5 Q. Okay. Have you ever testified concerning the
6 abandonment of an electric utility plant?
7 A. I have not ever testified --
8 Q. Concerning?
9 A. -- concerning abandonment of an electric utility
10 power plant.
11 Q. Okay. Have you ever testified concerning the
12 disallowance of an electric utility plant?
13 A. I just don't recall.
14 Q. Have you ever testified concerning a phase-in
15 plan for an electric utility plant?
16 A. As a regulator? Addressing --
17 Q. I will move to your private sector experience in
18 a few moments. As a regulator.
19 A. Would you repeat the question again.
20 Q. Yes. Have you ever testified concerning a
21 phase-in of an electric utility plant?
22 A. I have addressed the subject. And I just -- it
23 has been too many years ago for me to recall exactly,
24 you know, what the specific issues were. But I imagine
25 it involved whether the phase-in was qualified or not.

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1 in a handful of electric utility cases. He didn't
2 testify that he had done FAS90 in a handful, he just
3 referred to one.
4 MR. ROBERTSON: I believe Mr. Campbell is
5 correct.
6 BY MR. ROBERTSON:
7 Q. Just for clarity of the record, with regard to
8 FAS90, you have corrected your testimony to indicate
9 that having thought upon the matter further, you have
10 not on any occasion testified in an electric utility
11 rate case involving FAS90, is that correct?
12 A. As a regulator for an electric utility I don't
13 believe I have.
14 Q. Okay. And I appreciate your clarification on
15 that point.
16 Let's go back to FAS92. I believe I had begun
17 to ask you whether you have had occasion to testify in
18 any electric utility rate cases involving FAS92.
19 A. Correct. And I have.
20 Q. Okay. What were the cases, if you can recall
21 the names of the applicants, and what were the
22 circumstances surrounding the testimony relating to
23 FAS92?
24 A. I just don't recall all the specifics, but it
25 would have involved whether a phase-in plan was

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1 Q. When you say qualified, are you saying in
2 reference to FAS92?
3 A. With reference to FAS92 and whether it was a
4 pre-1998 property and whether it met those type of
5 criteria which were required.
6 Q. How many water utility rate cases have you
7 testified in?
8 A. With respect to my private sector experience?
9 Q. Both, regulated and private sector.
10 A. Many.
11 Q. Can you provide us with an estimate? Many is a
12 rather open-ended term.
13 A. Yeah. Well, I have testified in Illinois as
14 part of water rate cases. I have testified in at least
15 four water rate cases in Missouri.
16 Q. Was that as a regulator or in the private
17 sector?
18 A. In the private sector. I have submitted written
19 testimony, I believe, in Iowa. I have submitted written
20 testimony and testified in Indiana. I have submitted
21 written testimony in Ohio, or one or two cases in Ohio.
22 Q. May I stop you at this point for a moment. You
23 appear in your answers to be making a distinction
24 between submitting written testimony and testifying.
25 And in the case of Iowa and Ohio, you indicated you

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1 submitted written testimony. Did you also actually
2 testify in those two jurisdictions?
3 A. It is important for the record in those
4 jurisdictions at that time those cases were settled.
5 So, in other words, it didn't go through the
6 cross-examination process like, you know, like we are
7 going through here with Arizona. So that was my
8 distinction.
9 Q. Okay. Are there any additional water utility
10 cases that you can recall that you have testified in
11 and/or submitted written testimony?
12 A. Not at this time.
13 Q. Okay. Do you recall the issues you addressed in
14 the testimony that you presented or submitted in written
15 form?
16 A. In which, which company cases?
17 Q. As --
18 A. All of them?
19 Q. As a regulator or in the private sector. I am
20 interested in the types of issues that you addressed in
21 your testimony in water utility cases.
22 A. With respect to, for example, a Missouri rate
23 case, so if you look at my testimony in which after my
24 regulatory experience I transferred into the Missouri
25 operation in St. Louis County and was the manager of

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1 immediate financial impact, adverse financial impact of
2 not being allowed to collect its full cost of service.
3 Q. You are here referring to a phase-in plan in
4 this response. My understanding is that FAS90 refers to
5 disallowances, FAS92 refers to phase-ins. And my
6 question that I had asked you was limited to have you
7 had any occasion to testify with regard to FAS90 in a
8 water utility rate case.
9 Let's close the circle on that line of inquiry
10 first, and then if in fact you were talking about a
11 FAS92 situation we will proceed to that in a moment or
12 two.
13 A. No, thanks. The issue is sometimes FAS92 issues
14 also apply to FAS90 issues. So therein lies a little
15 bit of confusion.
16 With respect to FAS90 in a plant disallowance, I
17 believe I have testified to that specific issue in
18 Missouri as well.
19 Q. Do you recall when that testimony would have
20 been?
21 A. Given I have been in this industry for 25 plus
22 years, the dates all blend together. I don't recall
23 specifically the dates.
24 Q. Do you recall the nature of your testimony and
25 the issue that you were addressing?

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1 rates, I would have done the rate base, the income
2 statement, the capital structure.
3 And then as I developed through the years with
4 other testimony, it wouldn't be as much in terms of the
5 rate base and income statement, it would be specific
6 issues with respect to rebuttal testimony and items like
7 that. But I have testified pretty much from A to Z with
8 respect to the revenue requirement.
9 Q. Have you ever testified on FAS90 in a water
10 utility rate case?
11 A. Yes, I have.
12 Q. Would you provide us with the specifics as to
13 the case, the point in time, and the situation that
14 occasioned testimony being presented on FAS90.
15 A. The specifics would have been in Missouri. And
16 it would be on topics such as a phase-in plan. And in
17 Missouri, for example, we had some major water treatment
18 plants. The St. Joe treatment plant is what I remember
19 most vividly here on the witness stand in which parties
20 were advocating implementing a phase-in plan for that.
21 And I testified, advised the parties and the
22 commission with respect to the implications of a
23 phase-in plan in which no deferrals could be set up
24 under the post-1998 application of the standard. So I
25 advised the parties that the company would suffer

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1 A. I don't recall the exact nature of my testimony.
2 I have not reviewed it recently. But the issue would
3 have been involved with an old water treatment plant
4 that was being replaced by a new water treatment plant,
5 and the depreciation on the old water treatment plant
6 was not fully depreciated yet. And so if the commission
7 didn't allow us recovery of the old water treatment
8 plant, the return on and of that investment. Then we
9 had a plant disallowance for the old water treatment
10 plant. That's what I recall.
11 Q. You used the word us in that response. That
12 would suggest that you were testifying on behalf of the
13 applicant, is that correct?
14 A. On behalf of the Missouri-American Water
15 Company.
16 Q. Would that have been the applicant in that
17 proceeding?
18 A. That would have been the applicant.
19 Q. Do you recall whether or not the Missouri
20 Commission's decision in that proceeding addressed that
21 specific issue on which you presented testimony?
22 A. In that specific issue, the Missouri Commission
23 upheld an intervenor's recommendation to deny those
24 costs, and so the write-off took place. The company
25 appealed the decision. It was won at a higher court

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1 level, and the company was allowed subsequently to
2 collect those costs in rates. And so the write-off was
3 restored.

4 Q. Mr. Jenkins, I anticipate that Judge Wolfe is
5 going to be asking the parties to submit at least one
6 round of briefs in this proceeding, and possibly two.
7 So against the background of that assumption on my part,
8 would you be willing to provide the parties and this
9 record with a citation to the Missouri case that you
10 just have been describing, both the commission decision
11 so that we might access it, and also any judicial
12 decisions that were reported where you have indicated
13 that a court or courts overturned or reversed the
14 decision of the commission?

15 A. I would be happy to do that. And then just for
16 clarity of the record -- the older you get your memory
17 gets a little bit faded -- so that will allow us to make
18 sure that what I have testified to I have actually
19 testified to. And in my role as an officer of a
20 company, sometimes I might forget in terms did I testify
21 to it or was I on the receiving end of that as the
22 finance representative signing off on financial
23 statements that they are fairly represented, which I
24 have been doing for 11 plus years.

25 Q. Well, I appreciate your willingness to provide

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1 officer of the company, the vice president, treasurer.

2 Q. What was of the nature of your testimony with
3 regard to FAS92 in that case?

4 A. Would have been that it, that the standard, the
5 application of that standard would not allow us to defer
6 costs or capitalize those, and there would be financial
7 harm to Missouri-American as a result of it.

8 And the difference in that case versus what we
9 have looked -- what I am examining with Mr. Neidlinger
10 is in that type of phase-in plan the parties were
11 allowing full cost recovery and carrying costs, and so
12 on a present value term the company was made whole. But
13 still it doesn't help on the initial years of the
14 phase-in because we have got expense cost that is
15 incurred, and I was addressing that matter.

16 Q. What was the commission decision in that case
17 with regard to that issue?

18 A. The commission ultimately did not approve a
19 phase-in.

20 Q. Would you also be willing to provide the
21 information necessary to obtain a copy of that decision?

22 A. Yes.

23 Q. Now, was that decision appealed to the courts by
24 any party?

25 A. I don't know.

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1 that information. I think it is very important and that
2 it be provided well in advance of whatever briefing
3 schedule Judge Wolfe might establish so that the parties
4 can examine that case. And I sense I may be a little
5 bit older than you, so I can understand the fleeting
6 memory syndrome from time to time.

7 Now let's go back to FAS92. And let me ask you,
8 have you had occasion to testify with regard to FAS92 in
9 a water utility rate case?

10 A. Yes, I have.

11 Q. Do you recall that case and the circumstances
12 surrounding your having occasion to present testimony?

13 A. That would be in reference to St. Joe water
14 treatment plant in which a brand new plant was being
15 brought on line that resulted in a significant rate
16 increase, resulted in a significant rate increase.

17 Q. Who would have been the applicant in that case?

18 A. Would have been Missouri-American, we would have
19 been filing for the rate increase, which I have been an
20 officer of.

21 Q. I am sorry, I didn't mean to speak while you
22 were still speaking. I believe you may have just
23 answered the question I am about to ask, but to be sure,
24 upon whose behalf were you testifying?

25 A. On Missouri-American. And I would have been an

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1 Q. Okay. How do electric utilities finance
2 construction of nuclear and coal-fired power plants,
3 based on your experience?

4 MR. CAMPBELL: Your Honor, I am not -- I would
5 like to understand the relevance of that question in
6 this context.

7 MR. ROBERTSON: Your Honor, I believe in
8 briefing it may become very pertinent to examine the
9 means of financing between different types of utilities
10 in connection with the application of FAS92 and FAS90,
11 and the background against which particularly FAS92
12 arose.

13 And so I wanted to have something on the record
14 from this witness, to the extent he has knowledge or
15 understanding, as to how an electric plant is financed.
16 And I am going to ask similar questions with regard to
17 water, so that for briefing purposes we are not having
18 to make assertions or assumptions in the briefs without
19 an underlying evidentiary record.

20 MR. CAMPBELL: Well, my reaction is the issue
21 here that Mr. Jenkins was brought in and prefiled
22 testimony is a narrow issue of the applicability of
23 certain accounting standards to a water utility under
24 the Neidlinger proposal that stemmed from Mr. Townsley's
25 testimony. And factual issues relating to electric

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1 utilities strike me as irrelevant.

2 MR. ROBERTSON: Your Honor, the background to
3 FAS92 and FAS90 is a background in which you had
4 electric plants coming on line in the late '80s and the
5 mid '80s where there was substantial cost involved, and
6 there was a concern on the part of regulators with
7 regard to rate shock, appropriate means for mitigating
8 rate shock, and on behalf of the financial community on
9 how you deal with that and report it.

10 I think it is important to know whether his
11 interpretation and view of how you apply FAS92 and FAS90
12 to a water utility situation, that's one of the central
13 issues in this case, with regard to each of those,
14 whether he is correct in his assumption or whether
15 Mr. Arndt is correct in his assumption.

16 I think the background of where FAS92 arose and
17 FAS90, how those utilities were financed versus the
18 financing that's involved in this situation, is very
19 pertinent to portraying an entire picture of whether or
20 not FAS92 and FAS90 should be applied to a water
21 utility. I have very few questions here, but I believe
22 it is very pertinent and very material.

23 ALJ WOLFE: Mr. Robertson, the means of
24 financing may be very pertinent and very material. But
25 whether this witness' testimony as to that is pertinent

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1 understanding of allowance for funds used for
2 construction?

3 A. Allowance for funds used during construction, an
4 acronym, AFUDC, AFUDC is allowed to be capitalized
5 during the construction cycle of a plant that has an
6 extended construction period. So generally a company
7 capitalizes AFUDC if the construction period is going to
8 extend more than one month.

9 Q. Are you familiar with the concept of advances in
10 aid of construction as used in financing water utility
11 plant?

12 A. Yes.

13 Q. What is an advance in aid of construction?

14 A. Well, an advance in aid of construction is when
15 a developer, for example, may actually build the
16 backbone part of a utility's system, and then as part of
17 that agreement with the developer, the utility will
18 agree to reimburse the developer for that backbone part
19 of the water and/or sewer utility system. And typically
20 that's over some sort of period of time specified type
21 of arrangements within a contract.

22 And then ultimately what happens is the utility
23 reinvests and actually puts investor supplied capital,
24 you know, based on the contractual arrangements of
25 reimbursing the developer for that backbone utility

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1 and material is questionable. I will allow you to ask a
2 few, just a few questions, but we are not going to go
3 into detail into how nuclear plants were financed in
4 this proceeding.

5 MR. ROBERTSON: Thank you, Your Honor. I was
6 not intending to go in detail. I was going to respond
7 further to your last comment, but since you are allowing
8 me to ask a few questions, I will just proceed with
9 those, if that's satisfactory.

10 ALJ WOLFE: Yes.

11 BY MR. ROBERTSON:

12 Q. I believe my question to you, Mr. Jenkins, had
13 been how do electric utilities finance construction of
14 nuclear and coal-fired power plants.

15 A. In that, in this area, I can only discuss in
16 general terms, but in general terms, would be some sort
17 of debt as well as some sort of investor supplied
18 capital.

19 Q. Are you familiar with the concept of allowance
20 for funds used during construction in connection with
21 the financing of electric utility power plants?

22 A. I am familiar with the concept of allowance for
23 funds used during construction, yes.

24 Q. To be sure that we have clarity in the
25 transcript, what would be your definition or your

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1 plant.

2 Q. Is it your understanding that the 2008
3 20.2 million refund that was made to Pulte and the 2010
4 \$3.1 million refund that was made to Pulte were the
5 result of obligations the company had under what
6 essentially was an advance in aid of construction
7 arrangement?

8 A. That's correct, to reimburse Pulte for the
9 backbone plant.

10 Q. Okay. And those refunds were made pursuant to
11 the refund formula that was set forth in the
12 infrastructure agreement in the amendments, is that
13 correct?

14 A. That's correct.

15 Q. Let's move to your prepared testimony.

16 One last question with regard to the
17 infrastructure agreements and the amendments. Were the
18 advances that were provided by the developers interest
19 free in terms of the refund obligations associated with
20 them?

21 A. I don't know specifically.

22 Q. Mr. Jenkins, I think I am ready to move to your
23 prepared testimony. And I am going to be working from
24 your unredacted version. And essentially my questions
25 are intended to be of a clarifying nature, and I will

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1 try and give you page and transcript reference as we
 2 move forward.
 3 Let's start with page 2 and the question and
 4 answer which appear at lines 17 through 19. There you
 5 indicate the purpose of your testimony is to indicate
 6 the impact on Arizona-American Water Company of
 7 Mr. Neidlinger's phase-in proposal. Do you see that?
 8 A. I do.
 9 Q. Do I understand correctly that your prepared
 10 direct testimony does not address the impact of
 11 Mr. Neidlinger's proposal on American Water Company or
 12 American Water Corporation itself?
 13 A. That is correct.
 14 Q. Do you know whether or not in the financial
 15 statements of American Water -- is it a corporation or
 16 company?
 17 A. American Water Company.
 18 Q. American Water Company. Do you know whether in
 19 the financial statements of American Water Company,
 20 Arizona-American Water Company is singled out for
 21 specific treatment or indication as to its financial
 22 performance?
 23 A. In the company's 10-K, which might be about 300
 24 pages long, to the extent Arizona-American would be
 25 singled out, it would be more towards the nature of its

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1 Q. You are not familiar with that. Do you know
 2 whether or not this case is the first case in which a
 3 party to the rate case has questioned the reasonableness
 4 of the refund provisions that were set forth in the
 5 infrastructure agreement and amendments to the
 6 infrastructure agreement?
 7 A. I am not aware of any specific concerns raised
 8 in that area.
 9 Q. I missed the last part of your response.
 10 A. Sorry. I am not aware of any of the specific
 11 concerns in that area.
 12 Q. Okay. In both this case or in any previous
 13 cases?
 14 A. That's correct.
 15 Q. Do you believe that a Commission decision in
 16 this case which involves the 2008 test period on the
 17 treatment of the refunds that you refer to in your
 18 answer which begins on line 21 of page 2 of your
 19 prepared testimony would in any way set a precedent on
 20 how to treat for future ratemaking purposes the
 21 \$6.7 million refund payment in March of 2010 to which
 22 you make reference?
 23 MR. CAMPBELL: Objection; calls for a legal
 24 conclusion.
 25 BY MR. ROBERTSON:

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1 rate filing status it is in for a rate case, what level
 2 is it filed with. That would be, that would be what I
 3 would recollect of what would be singled out.
 4 Q. When you say to the extent that American --
 5 Arizona-American Water Company would be singled out as
 6 to its rate case, do you mean in that section where it
 7 reports on the regulatory status of various proceedings
 8 in various jurisdictions?
 9 A. That's correct.
 10 Q. Okay. Now, in the question and answer which
 11 begin on page 2 of your prepared testimony, at line 20
 12 you are asked if you have reviewed Mr. Neidlinger's
 13 phase-in proposal as it relates to the 2008 test year
 14 \$20.2 million refund payment and the March 2010 refund
 15 payment. And you make the following statement, which
 16 begins on line 23 of page 2: This is the first time
 17 these specific payments have been subject to a rate
 18 determination. And that ends on line 24. Do you see
 19 that part of your testimony?
 20 A. I do.
 21 Q. How familiar are you with the decision that was
 22 issued by the Commission that related to
 23 Arizona-American Water Company's 2005 test period which
 24 involved the Anthem districts?
 25 A. I am not familiar with them.

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1 Q. Do you as a layperson have any reason to believe
 2 that a Commission decision on the 2008 refund treatment
 3 for ratemaking purposes, a decision in this case might
 4 have an influence on how the Commission might address a
 5 similar question with regard to the 2010 refund payment
 6 in a future case?
 7 MR. CAMPBELL: Same objection.
 8 ALJ WOLFE: I believe that does call for a legal
 9 conclusion, Mr. Robertson.
 10 MR. ROBERTSON: I will defer to Your Honor. I
 11 think there are only so many ways you can phrase the
 12 question, and I will abide by your ruling.
 13 BY MR. ROBERTSON:
 14 Q. I believe I do have a different way to approach
 15 it. As you were preparing your testimony for this
 16 proceeding, were you and your colleagues at the company
 17 concerned that a decision on the 2008 refund payment in
 18 this proceeding might have the potential to create a
 19 precedent for future cases?
 20 MR. CAMPBELL: Again, objection. Another
 21 objection there is to the extent that calls for
 22 privileged information.
 23 ALJ WOLFE: Sustained.
 24 MR. ROBERTSON: Your Honor, Mr. Campbell's
 25 objection assumes that that concern was specifically

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1 discussed with the company's attorneys. So let me
2 perhaps approach it in a different way.
3 BY MR. ROBERTSON:
4 Q. Did the company have occasion to discuss with
5 its attorneys what effect a Commission decision in this
6 case on the 2008 Pulte refund might have on future
7 regulatory treatment of the 2010 Pulte refund? And I am
8 not asking you for the nature of the advice you might
9 have received from the company's attorneys, but rather
10 whether a conversation of that nature occurred.
11 A. Our attorney --
12 MR. CAMPBELL: Let me, before you answer, I am
13 going to interpose an objection to -- the privilege, the
14 attorney/client privilege goes to conversations and the
15 substance of the conversation. The nature of that
16 question is very close to dealing with the substance of
17 a conversation. In other words, merely the fact that a
18 person consulted an attorney on a specific issue could
19 be privileged.
20 I agree and I have great respect for
21 Mr. Robertson, and I appreciate his ability to try to
22 rephrase questions, but I do at least want to note that
23 objection for the record so his answer to the question
24 might not be deemed a waiver.
25 MR. ROBERTSON: Your Honor, I think to move the

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1 proposal. And then your answer appears specifically at
2 lines 11 through 13 for the first part of the answer. I
3 want to ask you some questions about that first
4 paragraph at lines 11 through 13.
5 Mr. Neidlinger in his proposal and testimony did
6 not refer to either FAS92 or FAS90, did he?
7 A. No, he did not.
8 Q. And have you had occasion to review the
9 cross-examination of Mr. Neidlinger when he testified
10 previously in Phase I?
11 A. I have reviewed his cross-examination.
12 Q. He did not in his cross-examination agree that
13 either FAS90 or FAS92 were applicable to his proposal,
14 did he?
15 A. As to the specifics, I could not recite that. I
16 could accept it subject to check, but as to the
17 specifics, I couldn't recite it.
18 Q. Would your answer in essence be that you don't
19 recall at this moment?
20 A. That's correct.
21 Q. When the word applicable appears in both the
22 answer at lines 9 through 10 on page 3 and in your
23 answer on line 11 of page 3, where you include a
24 reference to both FAS92 and FAS90, that reflects a
25 conclusion upon your part as to the applicability and

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1 proceeding along -- well, I will wait for Your Honor's
2 ruling. I don't have that many questions, if any more,
3 in this area if I receive a response for the last
4 question. So I will await Your Honor's ruling.
5 ALJ WOLFE: Could --
6 MR. ROBERTSON: I have tried very carefully to
7 phrase the question so I didn't pierce the
8 attorney/client privilege.
9 ALJ WOLFE: Could I please have the original
10 question read back.
11 (The record was read by the reporter as
12 requested.)
13 ALJ WOLFE: You may answer the question whether
14 a conversation of that nature occurred.
15 THE WITNESS: I do not specifically recall all
16 our conversations, but our attorneys were involved in
17 our collective meetings to discuss the testimony that I
18 have prepared.
19 MR. ROBERTSON: Thank you.
20 BY MR. ROBERTSON:
21 Q. Let's move to page 3 of your prepared direct
22 testimony. And I am focusing now on the first portion
23 of your answer to the question which appears on lines 9
24 and 10. And that question asks you can you describe the
25 accounting standards applicable to Mr. Neidlinger's

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1 not Mr. Neidlinger's, is that correct?
2 A. That's correct. This is my, my interpretation.
3 Q. Let's turn to page 5 of your prepared testimony.
4 And I am looking at the two sentences which begin on
5 line 1 with the words under the accounting provisions of
6 SFAS92, and conclude on line 5 with the words ordered
7 today by a regulator.
8 As I read your discussion of FAS92 and your
9 description of the application of the requirements of
10 FAS92, you are necessarily assuming that FAS92 applies
11 to water and wastewater utilities, are you not?
12 A. I am.
13 Q. And what is the basis for that assumption?
14 A. The basis is that a water and wastewater utility
15 such as Arizona-American is a rate regulated utility.
16 That means it follows the accounting standards
17 codification 980 which relates to rate regulated
18 utilities, which is SFAS71. The standard under 980 also
19 refers to those specific standards which now is what we
20 are referring to as SFAS92, accounting for phase-ins.
21 So it is, it applies to the water and sewer industry. I
22 think it has always applied.
23 I have been doing this at a company level for
24 11 plus years. And that's, from my training, my
25 expertise, there wouldn't be anything other than it

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1 would apply the same way as it does for the electric
2 industry.
3 Q. Is the linchpin or the threshold for your
4 conclusion as to the applicability of FAS92 and FAS90
5 your reference to rate regulated utility in the context
6 of FAS71?
7 A. Yes.
8 Q. FAS92 does not speak of water utilities, does
9 it?
10 A. It doesn't make specific reference to water
11 utilities, but if we go to the accounting standards
12 codification for FAS92 --
13 Q. Mr. Jenkins, before you begin to read, if you
14 could describe for the record the document you are
15 looking at so that the parties and Judge Wolfe will be
16 able to reference it if we have occasion to during
17 briefing.
18 A. No, thank you. Accounting standards
19 codification 980, section 340-05, paragraph number 2,
20 when it refers to the applicability of the standard, it
21 references utility companies. It makes no specific
22 reference or call that this only applies to electric
23 companies.
24 Q. If we go back to the context of FAS92 itself,
25 and the circumstances in which it evolved, was it

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1 for GAAP today.
2 Q. Does that guidance to which you refer
3 specifically indicate that FAS92 was intended to be
4 applied to water and wastewater utilities?
5 A. That guidance refers to utility companies in
6 general. It doesn't reference it only applies to
7 electric or it only applies to gas, et cetera.
8 Q. Okay. And you are inferring the intent is to
9 apply it to all utilities, is that correct?
10 A. All rate regulated utilities, yes.
11 Q. So going back to your testimony at the two
12 sentences appearing at lines 1 through 5 on page 5 of
13 your testimony, that testimony is based upon your
14 understanding and your interpretation as you have just
15 described it, is that correct?
16 A. Yes. It is based on my experience. It is based
17 on my interaction with external auditors that I
18 participate with on both an annual and quarterly basis.
19 We routinely talk about these specific standards with
20 application to our utility company.
21 Q. How many years have you been with the Arizona
22 Water Company system?
23 A. The Arizona Water Company system, probably about
24 one year, but --
25 Q. I am sorry if I said Arizona. I meant American

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1 intended to address the situation presented by large new
2 electric utility plants that were coming on line during
3 that point in time?
4 A. In my opinion, it was intended to address large
5 rate spikes that commissions were having difficulty
6 putting into place at one specific moment. And the
7 electric utility industry happened to be the vehicle for
8 the example. But the applicability of that still
9 applies to every other rate regulated utility.
10 Q. Now, when you just addressed the applicability
11 of that still applies to every other rate regulated
12 utility, that's your opinion, is that correct?
13 A. That is my opinion, yes.
14 Q. And again, to confirm my understanding, the
15 operative feature or threshold for arriving at that
16 conclusion of applicability for FAS92 is the rate
17 regulated utility language of FAS71, is that correct?
18 A. That's correct, as well as the accounting
19 standards codification that FAS71 has been rolled into,
20 as well as SEC guidance, as well as EITF rulings.
21 See, what has occurred effective June of 2009,
22 we have got an accounting standards codification which
23 has taken all this literature and put it in one place
24 with respect to the specific codification numbers that I
25 have referred in my testimony. And that is the guidance

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1 Water Company system. Thank you for correcting my
2 phrasing of the question.
3 A. It is one of those age questions again.
4 Q. You have already used that mulligan.
5 A. With the American system specifically, I am
6 going on roughly nine years. But my company prior to
7 that was acquired by the American system. So I had
8 eight years with that. So I am up to about 17 years in
9 the investor-owned utility business and application of
10 the standard.
11 Q. Since you have been with those two companies,
12 how many times have any of the companies that you were
13 involved with had occasion to address the very issue
14 that has been presented in this case with
15 Mr. Neidlinger's proposal and the question of whether
16 FAS92 applied to it?
17 A. With this specific proposal in this case?
18 Q. Yes.
19 A. I meet with Pricewaterhouse on our earnings
20 every quarter, and my memory is we did not discuss
21 Mr. Neidlinger's filing at that time. It would be a
22 subject that I would discuss with them at the next
23 quarter's meeting as we release our earnings on
24 Arizona-American's financial statements.
25 It is part of our routine discussions, routine

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1 inquiry, because part of our obligation for financial
2 statements is to ensure that both present and future
3 potential investors as well as creditors are fully
4 informed. And those are the type of inquiries that I
5 get from Pricewaterhouse, because they provide the next
6 level of assurance that our financial statements are in
7 accordance with generally accepted accounting
8 principles.

9 Q. Let me see if I understand your question
10 correctly. It is a little bit different from the
11 question I asked you, but I will come back to that in a
12 moment because I think it is an important bit of
13 information.

14 But let me lay a foundation here. Is
15 Pricewaterhouse the outside auditor for your company?

16 A. Yes.

17 Q. And is it the outside auditor for the American
18 Water Company system as a whole?

19 A. That's right. I think it is referred to as
20 PricewaterhouseCoopers.

21 Q. Now, do I understand correctly your testimony is
22 that thus far you have not had occasion to discuss with
23 Pricewaterhouse whether Mr. Neidlinger's proposal would
24 be subject to FAS92, is that correct?

25 A. That's correct.

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1 correct.

2 Q. I very consciously, as I put together my
3 cross-examination in preparation for your appearance
4 today, made a point not to include any legal issues,
5 because I don't think it is appropriate for an attorney
6 to cross-examine a witness on legal issues. But you
7 have just used a phrase in your last response that I
8 think I do need to address.

9 Mr. Neidlinger's proposal relates to the 2008
10 refund payment made to Pulte, and analytically it also
11 relates as a concept to the 2010 refund payment made to
12 Pulte, even though that's outside the test period in
13 this rate case.

14 You just said this is the first time you have
15 seen a proposal that would take away rate base. How is
16 Mr. Neidlinger's proposal taking away from rate base
17 something that is being addressed for the first time?
18 It hasn't previously been included in rate base in the
19 form of a 2008 refund payment.

20 A. In terms of the part of my challenge before you,
21 this was a 2008 payment. You know, from a financial
22 perspective, just got through 2009, I am moving through
23 2010. And so with respect to something in rate base or
24 out of rate base, from a financial standpoint we have
25 already accounted for this transaction. So from just

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1 Q. Would that also be the answer with regard to
2 whether his proposal is subject to FAS90?

3 A. That's correct.

4 Q. Now, let me go back to the question that I
5 started to ask you a moment ago. In your 17 years, both
6 with --

7 I forget the name of the company.

8 A. St. Louis County, Missouri.

9 Q. I know it had the word Missouri in it.

10 A. Right.

11 Q. -- then more recently with your current
12 employer, have you ever had occasion in a water utility
13 rate case to address a proposal of the specific nature
14 of Mr. Neidlinger's?

15 A. Your reference to the specific nature of
16 Mr. Neidlinger's, I must say over my career I do not
17 recall a party proposing a phase-in plan and not
18 allowing the company full cost recovery with respect to
19 carrying costs.

20 Q. Would the short answer to that question be that
21 you have not previously encountered a proposal of
22 Mr. Neidlinger's nature?

23 A. That's correct, one that has the complete denial
24 of return on and of and taking things out of rate base
25 and then restarting them at a future period, that's

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1 pure financial accounting it is already in rate base.
2 Expenses are already being incurred.

3 Now, layer that on top of the ratemaking process
4 in Arizona, where we have got a 2008 test year. My
5 reference to in rate base, out of rate base was with
6 respect to the specific accounting of that transaction.
7 In terms of the ratemaking part of that, this is the
8 first definitive rate case, despite the fact that we are
9 almost, we are moving towards 2010, looks like rates
10 won't be recognized until sometime maybe this year, new
11 rates, but despite that, from a financial standpoint, it
12 has been in -- but it has been in rate base, expenses
13 have been incurred, et cetera, we have been carrying it.

14 And now in this specific example, in the
15 ratemaking process here, in terms of it being included
16 in rate base or out of rate base is this will be the
17 determination from a ratemaking standpoint. It is just
18 trailing the actual financials by two to three years.

19 Q. I think your answer is very helpful, because
20 when you talked in terms of removing from rate base, you
21 were speaking from a financial perspective not a
22 ratemaking, is that correct?

23 A. That's correct.

24 Q. Thank you.

25 Going back to Mr. Neidlinger's proposal, in your

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1 experience, my understanding of your testimony is you
2 have not seen a proposal of his specific nature in a
3 water utility rate case in which you were involved, is
4 that correct?

5 A. Not that I can recall.

6 Q. So to your knowledge, would it also be correct
7 to conclude from that that you are not aware of any
8 decision of any regulatory commission involving any of
9 the companies with which you have been involved that
10 rejected a proposal of Mr. Neidlinger's nature because
11 it was found to be in violation of FAS90 and FAS92?

12 A. Those within my, within my -- within the western
13 division companies I am not aware of any that the
14 commission has implemented a phase-in plan or ordered a
15 phase-in plan.

16 In those times in which I have had direct
17 experience, I have been able to bring up the issues like
18 what we are talking about today. And what I do recall
19 specifically, if somebody has ever recommended a plan
20 where they wouldn't allow us carrying costs, but during
21 the course of the proceedings, typically what I recall
22 is a party will say yes, we forgot that or we included
23 that. I can't remember if we did that up front or we
24 needed to remind them in terms how the standards apply.

25 But in any of the cases I have testified to in

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1 the decision, wouldn't we?

2 A. That's correct.

3 Q. And are those the two decisions that you have
4 agreed to provide us that we spoke about earlier that
5 you testified to?

6 A. I will provide what, you know, what I agreed to
7 provide.

8 Q. Okay. Let me have you look, let me have you
9 look now at the portion of your answer appearing on
10 page 5 at lines 6 through 14. Actually it is that part
11 appearing at line 6, continuing on to line 10 and ending
12 with the words recognized as a loss.

13 I think we should be able to move through this
14 fairly quickly in light of some of our previous
15 discussion, but I would like to confirm the correctness
16 of my understanding that your discussion of FAS90 in
17 this portion of your testimony and your application of
18 the requirements of FAS90 necessarily assumes that

19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1 which I have raised this issue with respect to the
2 adverse financial consequences on the company, my main
3 experience is Missouri because that's where I have been,
4 resided the longest, the commission has not adopted it.

5 Q. I want to be sure we have closed the circle on
6 this. I don't want to prolong it, but I want to be sure
7 to close the circle.

8 Are you aware of any commission decisions, any
9 regulatory commissions with which you have been
10 involved, where they have specifically rejected a plan
11 such as that proposed by Mr. Neidlinger because it was
12 found to be in violation of FAS92 and FAS90?

13 A. In terms of the ordering paragraphs of a
14 decision in a proceeding that I have been directly
15 involved, all I can say is the commission did not
16 approve it. I don't recall if the language, specific
17 language said we reject it because it would result in a
18 write-off specifically under SFAS90 or SFAS92.

19 Q. From that may we conclude that the reason for
20 not accepting a plan might have been for reasons other
21 than FAS90 or FAS92?

22 A. No, I don't think so.

23 Q. Why not?

24 A. Because of the adverse financial consequences.

25 Q. We would have to look to the actual language of

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 Q. You referred to all those things. Let's break
21 those things down for purposes of some questions. Let's
22 take Mr. Neidlinger's proposal as proposed and as you
23 described it. And let's assume that in a Commission
24 order adopting Mr. Neidlinger's proposal, it would allow
25 the company, as supplements to Mr. Neidlinger's

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1 proposal, to capitalize its carrying costs and also
2 there would be Commission language providing an
3 assurance as to the ability of the company to recover
4 those costs and its return on investment in future years
5 as the plant in question is ratably close to plant in
6 service. [REDACTED]

7 [REDACTED]
8 [REDACTED]
9 A. As I stated earlier, with respect to FAS92, the
10 challenge with the kind of statements you are making
11 that an accountant would need to assess is the
12 probability of that guarantee. I think that calls for a
13 legal determination in terms of if, if there is some
14 sort of guarantee that the company will be allowed to
15 recover these costs in subsequent rate cases, and future
16 Commissions will not be bound -- and future
17 Commissioners would have to follow through and allow
18 those rates to go into effect regardless of what was
19 taking place, regardless of if the company was in for a
20 rate case for other matters, you know, that's one part
21 that would have, we would have to assess then with
22 respect to the return on the investment, which right now
23 the return on that investment just on the 20 million is,
24 I think, about \$2.7 million.

25 I mean these are real dollars for this company

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1 A. I am speaking for Arizona-American Water
2 Company.

3 Q. Okay. Let me ask you in that regard, just on
4 that one point, is Arizona-American Water Company
5 required to report to the Securities and Exchange
6 Commission on a stand-alone basis?

7 A. No.

8 Q. Is its reporting, so to speak, only by virtue of
9 American Water Company's consolidated financial
10 statements?

11 A. Well, we report through American Water's
12 consolidated financial statements, but we also prepare
13 our own audited financial statements at
14 Arizona-American. And those audited financial
15 statements would be relied upon by third parties,
16 creditors, vendors that want to do business with us.

17 So beyond just what goes up through the
18 consolidated level of American Water Works, we produce
19 our own audited financial statements just to do business
20 in the State of Missouri, as any good corporate citizen
21 would do.

22 Q. Let's go back to Mr. Neidlinger's proposal and
23 the supplements to it. You have described you would
24 need to be able to capitalize the carrying charges, you
25 would need to be able to have an assurance of the

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1 that it would need to, that it would need to collect in
2 rates today, because that's a currently incurred cost.
3 That includes the debt and the equity return. Then if
4 you add the depreciation that's established, that pushes
5 that number up close to \$3 million. That is, that's the
6 guarantee that would have to go into the Commission
7 decision.

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 Q. Now, there you are speaking about
24 Arizona-American Water Company; you are not speaking
25 about American Water Company, correct?

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1 recovery of those charges as well as the return on the
2 investment in the future.

3 I am not sure whether in your description you
4 were describing things that would go into the concept of
5 carrying costs per se that would be capitalized, whether
6 depreciation was included in that or not. Could you
7 clarify that point?

8 A. Well, first of all, recall what I said is
9 nothing can be capitalized, nothing can be deferred. So
10 if the Commission was to modify the Neidlinger
11 proposal --

12 Q. That's what I am talking about.

13 A. -- and if it was to make it in essence that it
14 was present value neutral, carrying costs on the plant
15 investment, to the extent however you handle
16 depreciation, that's a real cost, so the present value
17 carrying costs on the depreciation, if it was pushed out
18 as part of the phase-in plan, all those type of items to
19 make the company present value neutral.

20 And a big hurdle to get over is the guarantee,
21 is it guaranteed recovery. And as an accountant, and I
22 have to rely on my legal counsel, but it would have to
23 be a guarantee. This is not something that a party
24 could come in and object to and all of a sudden it is
25 opened up. It is not something that could be revisited

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1 in the next subsequent rate case. I mean it is a
2 guarantee. It is there.

3 That wouldn't resolve all our problems today.

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 Q. Let's recognize for the moment that you and I
12 sitting here today cannot resolve the assurance or the
13 guarantee component to which you have alluded. But
14 let's talk about two terms that you used and define them
15 so that we have them in the record.

16 What does present value neutral mean as you used
17 the term?

18 A. That would mean, for example, if the revenue
19 requirement to support the \$20 million Pulte payment
20 that was made in the 2008 test year, if the revenue
21 requirement to support that approximated \$3 million
22 today, our rates should reflect when these new rates go
23 into effect, \$3 million of revenue requirement, it
24 should reflect it in year one, year two, year three, all
25 the way out until -- these are long-lived assets, so

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1 A. The return on plant investment at the cost of
2 capital in this case, which I think return on equity is
3 that the company is approved to, subject to check, is
4 around 10.7 percent ROE, so --

5 Q. But for purposes of this, for fleshing out the
6 concept, it would be whatever the Commission ultimately
7 approved?

8 A. Yes, good point. For purposes of this, it would
9 be what the Commission ultimately approved is the return
10 on equity. So the debt and equity would be the carrying
11 costs.

12 Now, keep in mind what happens with these
13 carrying costs is they compound. A lot of the reasons
14 these phase-in plans might sound good at the beginning,
15 but when you get to the end, a carrying cost is no
16 more -- it is similar to credit card. And so the rates
17 when you start out today will be lower, but when you get
18 on the back side of that, the rates are going to be
19 higher than what they would otherwise have been in
20 nominal terms, not in present value terms.

21 Q. Now, you mentioned debt. You mentioned equity.
22 Are there any other components to the carrying costs?

23 A. That is part of the return on. So whatever of
24 the overall revenue requirement that would get pushed
25 out into the future, and if for some reason the return

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1 that revenue requirement stream would go all the way
2 through the final retirement of that plant.

3 On a present value basis, to the extent you push
4 out that \$3 million, the company needs to be made whole
5 in terms of carrying costs. Carrying costs would be
6 your cost of capital, debt/equity. And in terms of if
7 that was a guarantee, then a present value basis, not a
8 cash flow basis, but on a present value basis, the
9 company would be neutral on a present value base. But
10 it does not mean it would be neutral on a reporting
11 basis or on a cash flow basis.

12 And that's the distinction I am trying to draw,
13 because the standards as I explained, the post-1988
14 investment such as what we are talking about today is
15 the company is not allowed to defer those costs. So the
16 company's earnings are going to suffer during whatever
17 period that some sort of correction or modified approach
18 to the Neidlinger methodology that made the company
19 present value neutral, it will not remove the adverse
20 financial consequences.

21 Q. While we are on carrying costs and the present
22 value neutral concept, what are the concepts of carrying
23 costs that you have been including when you have, for
24 example, arrived at that \$3 million figure? What did
25 that represent?

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1 of got pushed out into the future, that would need to
2 have a carrying cost on it as well.

3 Q. And by return of you mean what?

4 A. Depreciation recovery.

5 Q. Anything else?

6 A. In my example I am not aware of anything else.
7 If the Commission decided there was something else that
8 you could push out, you would need to put a carrying
9 cost. But in terms of the Neidlinger proposal, those
10 are the things I see return on and of and depreciation
11 makes up the basic revenue requirement.

12 ALJ WOLFE: Mr. Robertson, how much -- how many
13 more questions do you have? I see some pages there.

14 MR. ROBERTSON: I have -- the way I do it, Your
15 Honor, I have three Post-its left. I would guess I have
16 maybe five minutes, because I think we have covered
17 quite a bit in some of the witness' earlier responses.

18 ALJ WOLFE: I wasn't going to say Post-its, but
19 I saw those, yes.

20 MR. ROBERTSON: I am happy to say it. I live by
21 them.

22 ALJ WOLFE: Five minutes of questions might be
23 about 15 minutes of answers. So we are going to go and
24 take our break right now, and we will be back here at
25 11:40.

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1 (A recess ensued from 11:31 a.m. to 11:51 a.m.)
2 ALJ WOLFE: Let's go back on the record.
3 Mr. Robertson.
4 MR. ROBERTSON: Thank you, Your Honor.
5 BY MR. ROBERTSON:
6 Q. Mr. Jenkins, just before we took the morning
7 recess, I believe you and I were at a point where you
8 had been describing the various components that would be
9 within your concept of carrying charges and you had
10 indicated the debt and the equity aspects of the cost of
11 capital in order to address a recovery of investment
12 depreciation. And then I believe you indicated and
13 anything else the Commission might see fit to add. Do
14 you recall that discussion we were having?
15 A. I do.
16 Q. Let me ask you, in the event that the Commission
17 in this case should decide to adopt the Neidlinger
18 proposal with some supplements of the nature that we
19 have been describing, which would include carrying costs
20 which could be capitalized, which would include what the
21 Commission intended to be a form of assurance of
22 recovery in the future, would you describe for me your
23 understanding of how that would be dealt with when the
24 company had its next rate case.
25 And let's assume for discussion purposes the

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1 am not a lawyer, but in terms of the guarantee, it would
2 need to be outside that subsequent rate filing. The
3 type of guarantee that's contemplated in the probability
4 assessment is that it is ordered today. This is plant
5 used and useful deserving return on and of for the
6 investments that have been made, and it is set up in the
7 order today. And it has actually got rate recovery
8 dates set. It has nothing to do with whether this
9 company files a rate case or not. That's revenue
10 requirement that, based on a rate regulated utility,
11 should get recovery today based on cost of service
12 basis. So that guarantee would have to be very well
13 defined.
14 Somebody in my profession would need to very
15 much look at what the ultimate wording was, work with
16 the legal counsel in terms of probability of assessment,
17 you know, can people appeal that, can people attack it
18 or are future Commissions and Commissioners bound by
19 those decisions. All those things get into that mix of
20 guarantee.
21 So does that help?
22 Q. I am not sure, to be quite honest, but we will
23 find out with a few more follow-up questions.
24
25

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1 company at its next rate case it was using a 2011
2 calendar test period, and under Mr. Neidlinger's
3 proposal, 60 percent or three-fifths of the
4 \$20.2 million 2008 refund to Pulte by that point in time
5 would have been close to plant in service. How would
6 this concept of the capitalizing of carrying costs play
7 into that next rate case?
8 A. First of all, we will need to get some
9 equivalent terms. And you reference the company could
10 capitalize the carrying charges. The company cannot
11 capitalize the carrying charges. The company can never
12 defer any of the costs that would be pushed off into a
13 future period for financial reporting purposes.
14 Q. Okay.
15
16
17
18
19 Q. You appear to be -- have you completed your
20 response?
21 A. No.
22 Q. Okay. Please continue.
23 A. Thank you.
24 Now, with respect to the guarantee and how that
25 would be reflected in a subsequent rate filing, now, I

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1
2 Let's talk about the guarantee for a moment.
3 And I am just exploring with you alternative approaches.
4 I am not suggesting my client would support these, but I
5 think it is helpful for the record.
6 Are you saying the guarantee concern could be
7 addressed if the Commission should decide to recognize a
8 return on that \$20.2 million through a series of
9 predetermined rate increases that would occur over a
10 period extending into the future, be that three years,
11 five years, just to illustrate the concept for purposes
12 of my question?
13 A. In terms of -- yes, but I need follow up. And
14 the follow-up to that is that that assessment in terms
15 of a guarantee related to probability of recovery, a
16 long phase-in period is just unacceptable.
17
18
19 But to the extent the Commission -- and I am not
20 a lawyer, I don't know all the rules and what the
21 history is here in terms of the way Commission decisions
22 can be overturned or adjusted into the future, but as a
23 layperson, obviously the longer that period is, the more
24 when I assess things from an accounting perspective and
25 work with legal counsel, that's a big concern. And that

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1 has to be set up. And those are the types of
2 guarantees. But that doesn't eliminate the adverse
3 financial consequences on Arizona-American.
4 Q. We will come back to that in a minute.
5 A. Okay.
6 Q. Now, the next comment I am about to make is
7 intended to be good natured, and then we will come back
8 to your testimony.
9 You have indicated you are not a lawyer, and I
10 can assure you Mr. Campbell is not about to let you
11 become one sitting in that chair today.
12 A. That's correct.
13 Q. Now, let's talk about the assurance period. If
14 the Commission were to come up with a decision designed
15 to address your concerns and provide for a recovery on
16 that 20.2 million in a series of increases that would
17 occur annually over a five-year period, would that
18 address your assurance concern?
19 A. No.
20 Q. Why not?
21 A. One of the challenges that, as the vice
22 president of finance for Arizona-American, essentially
23 the lead accountant, if you will, is Arizona-American is
24 a rate regulated utility. Part of that basis is it
25 collects its costs in rates as they are incurred.

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 Q. You have used two phrases in your response, a
13 rate regulated company or a rate regulated utility and
14 cost of service regulation.
15 Now, those are two conceptual phrases. If this
16 Commission should decide in this case on the basis of
17 the facts presented in this case and legal arguments
18 made that the Commission does not believe it is
19 appropriate to provide full ratemaking recognition in
20 this case for the \$20.2 million for whatever the reasons
21 might be as a result of its review of the record and the
22 legal arguments, are you saying that a Commission
23 decision along the lines of what we have been talking
24 about that would be a supplement to the Neidlinger
25 proposal with the cost or the carrying charges being

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1 One of the challenges we have in Arizona, given
2 its earnings position today and what it has been in the
3 recent past, is I have got a concern from an accounting
4 perspective whether the rates that are being set are
5 truly cost-based rates and that that return is real.
6 And so you extend, you extend this phase-in type
7 period under that type of guarantee, if you will, it
8 really raises the red flags, is this company being
9 regulated on its true cost of service, because the
10 financial statements don't show it. The financial
11 statements are this company has been operating at a
12 loss. The financial integrity is absolutely impaired.
13 Look at the coverage ratios. One of the
14 coverage ratios I know Staff looks at is the times
15 interest earned ratio. Go back in history. The
16 coverage ratio is well below 1 percent, probably centers
17 on a half a percent. It is just unacceptable.
18 And those are the kind of things that, when an
19 accountant looks at the outcome, is in the equation of
20 this evaluation. And I have got significant concerns
21 with that.
22 And so that's, that's part of the reason this
23 guarantee, it helps in terms of [REDACTED] but
24 it does open the door up for something that's much
25 larger. [REDACTED]

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1 capitalized with the assurance, are you saying that a
2 decision of that nature would not be a decision based on
3 cost of service by this Commission as it considered the
4 record?
5 A. The Commission, you know, has the authority to
6 order and implement what it does based on the way the
7 Commission sees the evidence. What I am saying as the
8 lead accountant that has to sign off on the financial
9 statements and has to make -- and part of those
10 sign-offs is fair representations to investors, both
11 current and potential, and creditors, both current and
12 potential, that I have to look at the decision and the
13 economic consequences of that decision and a decision
14 point has to be made.
15 And what I am saying is to continue to push off
16 cost recovery out in the future for costs that are here
17 today, that under normal ratemaking practices are
18 included in rates, is -- it is a concern. [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 Q. You used a very important word there. You said
25 under normal ratemaking practices. If the Commission in

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1 this case should decide for various reasons that full
2 recognition of the \$20.2 million refund within the
3 context of this rate case would not be appropriate, and
4 that it would not be appropriate to accord what you
5 characterize as normal ratemaking treatment, but rather
6 to take the phased approach that we are now
7 hypothecating, [REDACTED]

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 But if you could package this guarantee and
17 ensure on a present value basis this company has not,
18 you know, suffered in terms of revenue requirements, [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

25 Q. Have we addressed the assurance aspect with what

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1 A. So the first assumption is that we will have a
2 rate decision in this case in 2011.

3 Q. Rates effective January 1, 2011.

4 A. Rates effective January 1, 2011. Now, your
5 second assumption is that we will have rates effective
6 January 1, 2012?

7 Q. Yes.

8 A. And based on that assumption, under traditional
9 ratemaking practices of the Arizona Commission, could
10 this company realistically put together a 2010 test year
11 and get rates in effect? Because it does take
12 Mr. Broderick and his team a little bit of time to pull
13 that together. So could they actually put rates into
14 effect within six months of January 2011?

15 Q. Let's shift it one year and make it the next set
16 of rates effective January 1, 2013 to address that
17 concern. The thrust of my inquiry as intended is to
18 find out [REDACTED]

19 [REDACTED]
20 [REDACTED] as you enter that next rate case context and the
21 next occasion the Commission has to address it.

22 A. Okay. So first we have to get over the
23 guarantee process. [REDACTED]

24 [REDACTED]
25 [REDACTED]

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1 I have asked you to hypothecate in the last few minutes,
2 including the traditional ratemaking substitution you
3 made for your word normal? I want to keep the assurance
4 concern that you have separate from your reporting of an
5 income loss. I intend to deal with that in just a
6 minute.

7 A. I would say we mitigated it but not resolved it.

8 Q. All right. Let's assume a Commission decision
9 of the nature that I hypothecated and asked you to
10 assume, and let's assume that occurs in this case with
11 new rates effective no later than January 1, 2011. And
12 let's assume the Commission has the next occasion to
13 consider a rate case for Arizona-American Water Company,
14 they would have a test period of 2010 so you have a
15 decision effective January 1 of 2012.

16 What happens to that loss, that operating loss
17 that you referred to as it relates to this specific
18 treatment of the refund amount when you get to the next
19 rate case? Would the Commission have an opportunity to
20 address it at that point in time?

21 A. The problem I have got with your example is we
22 have passed two or about three questions in between, I
23 am not exactly sure.

24 Q. Feel free to break it out if that helps you in
25 responding.

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1 [REDACTED]

2 Q. I thought I had asked you to assume --

3 A. We are parking that, okay.

4 Q. -- we dealt with the guarantee issue.

5 A. Okay. So now we are going to assume that this
6 is a guarantee. [REDACTED]

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 So with respect to this guarantee, [REDACTED]
11 [REDACTED]
12 the issue to avoid that is it needs to be a guarantee
13 where this next filing has nothing to do with the rate
14 recovery of it.

15 So, in other words, it is decided now. In that
16 January 1st, 2011 order the Commission said, you know,
17 \$3 million of revenue requirement here, in that
18 \$3 million I am going to allow, the Commission is going
19 to allow half of it in rates today, 1.5 million, and
20 then automatically outside of what the company elects to
21 do in terms of filing a rate case, automatically then
22 the next increase, let's say January 1st of 2012, the
23 other one and a half million dollars would have to go
24 into effect. No party could object, et cetera. Because
25 under traditional ratemaking your rates at

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1 January 1st, 2011 the rates ought to go into effect now.
2 And so carrying costs would need to be on that,
3 et cetera.

4 Now, what would happen under that narrow
5 two-year phase-in, 50 percent, 50 percent of the revenue
6 requirement, what would happen to the company's earnings
7 is in year one we would, we would have to -- we can't
8 defer anything, so we would have to expense the costs as
9 incurred. We would underearn. And with the financial
10 statements of this company, that's taking something
11 that's already in essence not making any money and
12 pulling it down even lower. In year two, in theory, we
13 would overearn because I already expensed the cost that
14 I am getting recovery on, if you follow.

15 So that's the nature of post-1988 phase-in plans
16 and the implementation of them.

17 Q. Let's go to page 5 of your prepared testimony,
18 and the question and answer which appear beginning at
19 line 16 and continuing through line 22. And I am
20 basically endeavoring to close the circle here because
21 we have had a rather extended discussion.

22 In this question and answer, am I correct in
23 understanding that your answer and the conclusions
24 contained within your answer necessarily assume that
25 FAS92 and FAS90 apply to the Neidlinger proposal, and

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 I can't remember the rest of your question. So
13 I am sure you will expand if I didn't answer it.

14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]

4 Q. On page 6 at lines 4, continuing on to line 5,
5 and [REDACTED]

6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]

18 Q. Thank you.

19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 Q. I have heard two things. I have heard the
5 assurance concern and I have heard a timing concern.
6 The timing in part, if not in large measure, is in the
7 hands of the company as to when it files its next rate
8 case, whether it is two years out, five years out or
9 seven years out. [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 Q. Okay. Is that -- strike the is that.
14 And are those accounting standards to which you
15 refer at arriving at that conclusion FAS92 and FAS90?
16 A. That's correct.
17 Q. If we assume for purposes of my question that
18 the infrastructure agreement and the amendments to the
19 infrastructure agreement did not provide for any
20 interest to be paid on the amounts advanced by Del Webb
21 and by Pulte over the years, would that mean that with
22 regard to the \$20.2 million refund payment that was made
23 in 2008 that the company had basically had the use of
24 that money for a number of years without any interest
25 being paid on it?

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1 Q. Do you know if the company intends to borrow the
2 money or issue any debt in fiscal 2010?
3 MR. CAMPBELL: [REDACTED]
4 [REDACTED]
5 [REDACTED] And
6 perhaps this is relevant, but I can't see the relevance,
7 so I object.
8 MR. ROBERTSON: I would be happy to try and link
9 it up, Your Honor. The witness has talked several times
10 today about what is and what is not required in the
11 world of financial reporting, [REDACTED]
12 [REDACTED] And
13 I was trying to lay as background to a question I am
14 going to ask what the company's financing plans are with
15 regard to the next four years, including 2010.
16 Ultimately what I want to get to is the question
17 of whether or not banks traditionally look at three to
18 five years of financial statements when they are
19 assessing a situation, and what the importance or lack
20 of importance of [REDACTED] would be within
21 that context, particularly when it comes to determining
22 interest rates for borrowed funds.
23 MR. CAMPBELL: Excuse me, Your Honor, two
24 responses. First of all, in terms of the detailed plans
25 of Arizona-American, Mr. Broderick is actually the

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1 A. The company would have had the use of that money
2 as well as the ratepayers would benefit, because rates
3 are lower because that wouldn't be included into the
4 capitalized investment cost. So we both -- that's a
5 good deal for both parties under that assumption.
6 Q. Let me restate my question. Looking at it from
7 strictly the company's perspective, assuming that it had
8 not been required to pay any interest on the funds that
9 were advanced, would it have had the use of those funds
10 for the number of years it had them without paying any
11 interest on it?
12 A. Yes.
13 Q. Okay. Mr. Jenkins, does Arizona-American Water
14 Company intend to borrow any money or issue any debt in
15 fiscal year 2010?
16 A. I believe we -- I believe we are. And I believe
17 we have got a case pending that we just got a decision
18 on. I don't -- I don't have that before me, but I think
19 the Commission recently ruled and gave us authority to
20 borrow money.
21 Q. So my understanding of your response to my
22 question is that Arizona-American does intend to borrow
23 money or issue some debt during fiscal 2010, is that
24 correct?
25 A. That's correct.

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1 witness who could answer that final question
2 Mr. Robertson just posed. I don't have any objection if
3 he just wants to ask that question.
4 ALJ WOLFE: If that's where you were going, then
5 please go ahead.
6 MR. ROBERTSON: Sure.
7 THE WITNESS: Can you restate that final
8 question so I could --
9 MR. ROBERTSON: It really wasn't a question, it
10 was more responding to an objection that had been
11 interposed. I will see if I can't reframe it as a
12 question without creating the necessity of recalling
13 Mr. Broderick to the stand.
14 BY MR. ROBERTSON:
15 Q. When banks are making a determination on an
16 interest rate to be charged to a company -- and let's
17 use as a case in point Arizona-American Water Company --
18 what period of time in terms of years do they request
19 financial statements for as a part of their analysis?
20 A. My experience would be that banks look both at
21 history as well as trying to get an idea of what the
22 future is, what are your future borrowing needs.
23 And one of the biggest questions banks and
24 parties that lend money ask when you are a utility is
25 they look at your returns. They look at your interest

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1 coverage ratios. And as we have talked, these are
2 substandard for Arizona. And, quite frankly, Arizona on
3 a stand-alone basis is not an investment grade utility.
4 So history of negative returns on equity, a history of
5 very poor interest coverage ratios is what banks look at
6 in deciding whether to lend money, et cetera, and, then,
7 whether the company can rely on the Commission through
8 the ratemaking process to recover all its costs and
9 start producing positive returns. That's my experience
10 with what banks look at.

11 Q. Now, let's take the utility in question,
12 Arizona-American. It is currently in a rate case. You
13 have indicated that it intends to proceed with borrowing
14 money or issuing debt this year. What time frame would
15 the banks look at there?

16 You have indicated that based on the test
17 period, the company is operating at a loss, or not the
18 full return that was previously authorized. But would
19 the banks also be looking at this case and looking
20 forward a year or two as to what might be anticipated?

21 A. Mr. Broderick, in this case, has handled the
22 specifics of that filing, is probably more aware of
23 those issues. But in terms of just generally speaking,
24 that's what a bank is going to look at.

25 And in terms of equity contribution, American

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1 present, and future. And they are going to measure that
2 and assess your earnings capability to meet your
3 interest payments. And as I have indicated with
4 Arizona-American, stand-alone, the times interest
5 coverage ratio is currently, you know, around a half
6 a percent, which is abysmal.

7 Q. You indicated just a moment ago you have never
8 worked for a bank. Would it be reasonable to say that
9 you are not in a position to know what significance or
10 weight the banks that the company might have occasion to
11 deal with would give to a Commission decision in this
12 proceeding as it related to this \$20.2 million refund
13 issue?

14 A. Yeah, I don't work for a bank so I don't know
15 their internal review processes and final decision
16 points.

17 Q. And so you don't know what the weighting would
18 be, is that correct?

19 A. I don't know.

20 Q. Earlier in your testimony, which seems like it
21 was awhile ago, you referred to FASB, or F-A-S-B. And I
22 believe you indicated that was the Financial Accounting
23 Standards Board, is that correct?

24 A. That's correct.

25 Q. Is that a government agency or is that a private

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1 Water being the equity holder, the intention is not to
2 provide any more equity into Arizona-American. And that
3 started in 2008. And that is predicated on the
4 financials that are being demonstrated.

5 So that's, that's the point of what I have been
6 talking about. We are looking at a company that's not
7 healthy on a stand-alone basis. And to combine that
8 with another proposal to push costs out in the future is
9 a very big concern and something the management has to
10 take a very serious look at.

11 Q. Do you know whether the decision of American
12 Water Company to not provide any more equity to
13 Arizona-American, which decision you indicated was made
14 in 2008, was made independent of the selection of 2008
15 as the test period for this rate case?

16 A. I do not know.

17 Q. Let's go back to what banks look at. Are you
18 saying that they look only at the present situation and
19 the past, and they do not take the contemplated future
20 situation into account when they determine an interest
21 rate?

22 A. First of all, I have never worked for a bank
23 that makes all those internal decisions they do to lend
24 money, but in terms of what a bank and a third party
25 looks at, they are looking at financial statements past,

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1 entity?

2 A. Private entity.

3 Q. Is that a for-profit or nonprofit entity?

4 A. I don't recall. I never asked that question.

5 MR. ROBERTSON: Mr. Jenkins, we have traveled a
6 long road together. I appreciate --

7 THE WITNESS: Yes, we have.

8 MR. ROBERTSON: -- your directness in responding
9 to my questions. It has been a pleasure, and I wish you
10 a safe trip back to Missouri.

11 THE WITNESS: Thank you.

12 ALJ WOLFE: This would be a good time for us to
13 take our lunch break, and after that we will have
14 cross-examination by RUCO and Staff.

15 Mr. Pozefsky, do you have cross-examination for
16 this witness?

17 MR. POZEFESKY: I don't. I don't, Your Honor.

18 ALJ WOLFE: Does Staff?

19 MS. SCOTT: I have some.

20 ALJ WOLFE: Okay. We will wait until after the
21 lunch break to do that. So we will be back here at --

22 MR. ROBERTSON: Your Honor.

23 ALJ WOLFE: Yes.

24 MR. ROBERTSON: If I might clarify one point
25 through you with Mr. Campbell before I release

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1 Mr. Jenkins, so to speak. I had intended to offer the
2 company's responses to the Anthem Council's ninth set of
3 data requests as Anthem Exhibit 15. And if Mr. Campbell
4 is willing to agree that can be offered without a
5 sponsoring witness, that would save me having to ask
6 Mr. Jenkins any more questions.

7 But I don't want to forego that foundation is
8 needed unless he is amenable to that and Your Honor is
9 amenable to admitting Anthem-15 into evidence, subject
10 to the protective treatment of the confidential
11 material.

12 ALJ WOLFE: Mr. Campbell.

13 MR. CAMPBELL: We don't have any objection. We
14 do want the confidential portions to be put in a sealed
15 envelope and treated confidentially, but subject to
16 that, we have no objection.

17 ALJ WOLFE: I just have a copy that you provided
18 me, and I don't see that any of it is marked as
19 confidential. Have you had a copy marked for admission?

20 MR. ROBERTSON: No, Your Honor, I haven't. I
21 will try and take care of that over the noon hour.

22 ALJ WOLFE: Okay. Then I should give this back
23 to you probably. Okay. That would be fine. We will
24 handle that after, after lunch.

25 So we will be back here at 1:40.

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1 comment on that suggestion, if you want to, I had
2 another procedural matter which is in nature of a
3 request of Your Honor.

4 ALJ WOLFE: That sounds like a reasonable way to
5 deal with it. It is the same way that the testimony is
6 dealt with.

7 MR. ROBERTSON: And we appreciate Mr. Hallam's
8 suggestion; it was very constructive.

9 In checking off my Post-its just before we
10 recessed for the noon break, I overlooked one piece of
11 paper that I had intended to ask Mr. Jenkins two
12 questions about.

13 I have conferred with Mr. Campbell. I had
14 previously distributed this piece of paper. And if Your
15 Honor would allow me to do so, since we haven't begun
16 with another party yet doing cross, I would like to ask
17 him one or two questions about it. They relate to his
18 interpretation of FAS92 and FAS90 against this
19 background.

20 ALJ WOLFE: Okay. That seems reasonable to me.
21 Or is there any objection?

22 MR. CAMPBELL: That's fine with the applicant.
23 BY MR. ROBERTSON:

24 Q. Mr. Jenkins, earlier today I passed out to the
25 parties -- and, Your Honor, I believe there is a copy in

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1 MR. ROBERTSON: Thank you, Your Honor.

2 (A recess ensued from 12:35 p.m. to 1:50 p.m.)

3 ALJ WOLFE: Let's go back on the record.

4 Mr. Robertson, you said you have some procedural
5 issues.

6 MR. ROBERTSON: Yes, Your Honor. I had two
7 procedural matters I would like to address. First of
8 all, with regard to Your Honor's request as it relates
9 to the data request, we have had an opportunity over the
10 noon recess to confer with counsel for the company. And
11 Mr. Hallam made a suggestion, and we feel it is a very
12 good one, that we take what has been marked as
13 Anthem-15, which is the responses to the data requests
14 that include the confidential information -- they are
15 shaded pages within that copy, and they actually
16 indicate the words confidential on them --

17 ALJ WOLFE: Okay.

18 MR. ROBERTSON: -- and that we have that to be
19 enclosed in an envelope that would be the confidential
20 aspect under the protective order; that we then make a
21 separate copy of the data request without the
22 confidential information, which we would request be
23 marked as Anthem-16 for identification and received into
24 evidence.

25 Then after Your Honor has had an opportunity to

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1 front of you -- of page 4 of 21 of the direct testimony
2 of Paul G. Townsley as it was filed in this docket on
3 July 2nd, 2009. Do you have a copy of page 4 in front
4 of you?

5 A. Yes, I do.

6 MR. ROBERTSON: And for the record,
7 Mr. Townsley's July 2nd, 2009 testimony I believe has
8 been received into evidence as Exhibit A-3. And that's
9 just to tie it together.

10 BY MR. ROBERTSON:

11 Q. What I would like you to do, Mr. Jenkins, is
12 take a look at that portion of Mr. Townsley's testimony
13 that begins on line 6 and continues through line 19.
14 And take a moment to read that, Exhibit A-3. Look
15 above, it says Exhibit A-3.

16 A. Okay, I have read it.

17 Q. Now, what I would like you particularly to focus
18 on is the language appearing beginning about the middle
19 of line 11 and continuing to about the middle of line 13
20 which reads as follows, quote: Despite the resulting
21 delay in recognizing these assets, Arizona-American had
22 agreed to this condition with Commission Staff,
23 including an agreed-upon one-year rate moratorium.

24 Against the background of your testimony earlier
25 today with regard to FAS92 and FAS90, how was the

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1 company able to find it could agree to that condition
2 with the Staff?
3 A. The accounting for this transaction falls under
4 business combination accounting and is part of
5 FAS144. It has no relationship to FAS90 and FAS92. So
6 the accounting for this was put on the books of
7 Arizona-American at the fair value, that's what that
8 standard is about, and put on the books at the fair
9 value of what was purchased from Citizens.
10 Q. Did you use the words business accommodation in
11 referring to the type of accounting?
12 A. A business combination.
13 Q. Business combination. What does that --
14 A. Business combination rules, acquisition
15 accounting rules is what that -- how that standard
16 relates to the accounting that was taking place back in
17 that time period.
18 Q. So is it your testimony that FAS92 and FAS90 did
19 not apply because this was in the context of an
20 acquisition as opposed to a regular rate case?
21 A. Yes, that's correct. The acquisition accounting
22 rules was what applied, and those were followed through
23 SFAS144. And within those accounting rules the fair
24 value of the assets acquired was recorded on the books.
25 I would note that goodwill was recorded on the

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1 recent Commission order that was issued on December 8th
2 of 2009, and it was your last rate case order, 71410.
3 Are you familiar with that?
4 A. Generally familiar, yes.
5 Q. Okay. On page 14 -- do you have a copy with
6 you? It is RUCO-1. Do you have a copy of that?
7 A. Not of the -- no, I don't.
8 MR. CAMPBELL: We will get one.
9 THE WITNESS: Okay, I have it.
10 BY MS. SCOTT:
11 Q. I would ask you to refer to page 14, the O&M
12 deferral mechanism discussion. And as are my remaining
13 questions, this question is more to further our
14 understanding and the Commission's understanding of what
15 is a difficult accounting issue.
16 On page 14 and on through page 16 of that
17 decision, it talks about some O&M expenses related to
18 the White Tanks plant, is that correct?
19 A. That's correct.
20 Q. And what the Commission ultimately ruled in that
21 case was to accept the company's proposal to defer the
22 actual White Tanks plant O&M costs as a regulatory
23 asset, is that correct?
24 A. That's correct.
25 [REDACTED]

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1 books, and subsequent to that recording of goodwill
2 initially, that has been written off in the company. So
3 as a result of this transaction, this has been a
4 write-off with respect to goodwill on Arizona-American's
5 books. But that's related to the, you know, the
6 acquisition accounting rules under FAS144 as opposed to
7 FAS90 and FAS92.
8 MR. ROBERTSON: May I have just one moment, Your
9 Honor?
10 ALJ WOLFE: Yes.
11 MR. ROBERTSON: That's all I had. Thank you,
12 Your Honor.
13 Thank you, Mr. Jenkins.
14 THE WITNESS: Thank you.
15 ALJ WOLFE: Ms. Scott.
16 MS. SCOTT: Thank you, Your Honor.
17 ALJ WOLFE: Oh, everyone.
18 MS. SCOTT: It doesn't work.
19
20 CROSS-EXAMINATION
21 BY MS. SCOTT:
22 Q. Good afternoon, Mr. Jenkins.
23 A. Good afternoon.
24 Q. I want to just start out with a question similar
25 to Mr. Robertson's last question, but this involves a

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1 [REDACTED]
2 [REDACTED]
3 A. Yes. With respect to the White Tanks project,
4 the completion of that plant and it being placed into
5 service occurred outside the test year in the last rate
6 case, or the rate case that this was applicable to, and
7 fell outside of those traditional ratemaking mechanisms.
8 So in the future with respect to White Tanks, we have a
9 future ratemaking event in which rates will be set on
10 the recovery, under the test year rules of the Arizona
11 Commission, and that will be the first definitive rate
12 case in which the Commission has an opportunity to
13 determine the return on and of, for ratemaking purposes,
14 of that plant being in service.
15 Now, with respect to the deferrals that have
16 taken place from that period of time on to this period
17 of time, what this falls under is SFAS71. And we have
18 the authority from the Commission to record -- record --
19 to defer the cost as well as record most of the carrying
20 costs.
21 What we weren't allowed to record for financial
22 reporting purposes, although the Commission has granted
23 us, is that between the time period that this plant went
24 into service and for the first definitive term that it
25 is placed in service for ratemaking, in service for

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1 operational purposes versus in service for ratemaking
2 purposes, that's referred to as post-construction AFUDC
3 costs. And we are not allowed to capitalize the equity
4 return of that carrying cost.

5 So Arizona-American today, financial statements
6 are being negatively impacted in a small manner to the
7 extent it can't record any equity return during that
8 period.

9 Q. Okay. Then I had a few follow-up questions that
10 are more in the nature of clarification of the record
11 and to assist me in understanding some of your earlier
12 testimony.

13 I believe that you testified that there are two
14 things here that would be subject to these accounting
15 rules if the Commission decided to adopt a plan similar
16 to what Mr. Neidlinger had proposed. First, you would
17 not be receiving -- there would not be a return on your
18 investment, nor would there be any guarantee of future
19 plant inclusion or a return of investment, correct?

20 A. That's correct. Under Mr. Neidlinger's rate
21 phase-in mechanism, it doesn't allow a return on nor
22 recovery of nor carrying costs, [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 of [REDACTED]
2 [REDACTED] and then we argued the
3 case, because it is hard to get your attorney to think
4 you are going to overturn a, as a matter of law, a
5 regulatory commission. And as a layperson I know the
6 courts give a lot of deference to commission opinions,
7 et cetera.

8 Q. Okay.

9 [REDACTED]

10 [REDACTED]

11 Q. Okay.

12 A. -- a January of 2011 decision, for example.

13 Q. Okay. Now, I just want to break this down a
14 little bit. Isn't it correct, though, that under the
15 Commission's decision, or I shouldn't say -- under
16 Mr. Neidlinger's proposal, wouldn't there be some
17 recoupment right away from year one? [REDACTED]

18 [REDACTED]

19 A. Mr. Neidlinger's proposal, the way I understand
20 it is, and I referred to a \$3 million revenue
21 requirement, we get zero in rates based on the
22 Commission decision in January 2011 if you assume rates
23 went into effect at that point.

24 Then Mr. Neidlinger's proposal says for you to
25 be able to get a piece of this over a five-year period,

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 Q. Now, were you trying to suggest a moment ago

20 that if Arizona-American appeals a decision there would

21 be a difference in how you would treat it?

22 A. We would have to evaluate the appeal to base

23 that on whether we felt we were going to win or prevail

24 on that issue. But my experience with that, and I have

25 had experience in Missouri, Missouri for a similar type

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1 the company needs to file a rate case. If it falls
2 within the test year, then we can request recovery of it
3 as part of that test year. They wouldn't object,
4 et cetera. And then we would get it as part of that
5 ratemaking cycle.

6 But there is nothing automatic about it, and
7 there would be no guarantees of recovery. And this
8 would start out with zero and then maybe two years later
9 we would get, start to get our first recovery of this
10 \$3 million exposure that we have.

11 Q. So are you looking at this as an upcoming rate
12 case, most of this plant would be outside the relevant
13 test period, is that the way you are viewing this, and
14 so it would not be subject to any ratemaking treatment?

15 A. Well, the accounting for the transaction would
16 reflect what the Commission ordered.

17 Q. Okay.

18 A. And so if the Commission ordered that there
19 wasn't a guarantee of rate recovery, and the company
20 would need to wait or time its rate case before it gets
21 its first component of the revenue requirement, the
22 standards are clear that that's denying a return on, of,
23 no carrying costs, [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]
2 Q. Okay. And, again, I just want to make clear
3 these questions are just meant for clarification
4 purposes and to further understanding of these issues.
5 If, for instance, Mr. Neidlinger's proposal was
6 structured a little different so you would recognize
7 part of the rate base in year one, [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 A. The devil is always in the details, but I
11 appreciate your question and it is an important
12 question.
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED] The rates would go in effect and
17 ordered as part of this rate case. The tariff is
18 already designed that said 1/1/2011, here is a rate
19 increase, 1/1/2011, 6/30/2011, 12/31/2011. It would
20 have to be structured to when those rate increases went
21 into effect and nothing in essence could get in the way,
22 it was ordered in the decision that this was good plant
23 to put in rate base from a ratemaking perspective.
24 Q. So then that goes to the guarantee aspect of all
25 of this, correct?

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1 [REDACTED]
2 [REDACTED]
3 Q. I also just want to divide the two. When you
4 talk about a guarantee of future plant inclusion and
5 then you talk about the second piece, the return on the
6 investment, if the Commission structured something more
7 in the nature of a guarantee where the rate base was
8 phased in over a number of years, let's say three just
9 as a hypothetical, the rate base itself then, it is
10 likely that the company [REDACTED]
11 [REDACTED]
12 A. The years are a concern, because these are
13 current incurred costs. There is no future plant.
14 Remember there is no future plant involved in light of
15 the ratemaking in Arizona. The plant's here, the
16 investment has been made. It was made in 2008, which
17 fits into the test year practices of Arizona.
18 So the determination has nothing to do with
19 future plant. It is here. It is all incurred costs.
20 We got into financial reporting. We are already having
21 this impact to earnings from 2008, '9, already.
22 But the point is, is that the longer this period
23 gets out, out there, my concern is how valid is that
24 guarantee, can commissions bind future commissions.
25 And the other point that I made from a pure

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1 A. That's correct.
2 Now, the important point with that guarantee,
3 though, is what -- I know it is hard for, hard enough
4 for accountants to understand, let alone lay
5 accountants, there you go.
6 Q. Or lawyers, lawyers might be the better.
7 A. Yes, lay lawyers, there you go.
8 But the point is, is you can't lose sight,
9 because even if we got all those guarantees, [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1 accounting perspective, the Commission can do what it
2 wants, but from a pure accounting perspective, [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 Q. Okay. And I think earlier -- I wanted to talk
16 about the return on this investment. Earlier did you
17 say that that was approximately 2.7 million? I am
18 wondering for what period of time you are talking about.

19 A. One year, that's just a pure return on the
20 investment.

21 Q. 2.7 million?

22 A. 2.7 million.

23 Q. Okay. I would like to ask you -- I just have
24 one more line of questions. I would like to ask you
25 about a variation, another variation. And that is: Do

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1 think, to a \$2.7 million number.

2 A. That's correct.

3 Q. Is that the revenue requirement on the
4 \$20 million refund amount?

5 A. That's correct.

6 Q. Secondly, you had a discussion, I think, with
7 Mr. Robertson, and it was a question about the
8 relationship of a phase-in program to ratemaking. And
9 he posited a two-year phase-in and how that would work
10 into a future rate case, or how it would be recorded.
11 And you said to the effect in the first year there would
12 be underearning and in the second year there would be
13 overearning. Do you remember that testimony?

14 A. I do.

15 Q. And isn't it correct that when you say in the
16 second year there would be overearning, that's assuming
17 all other factors remain the same in terms of the actual
18 expenses and any other factor that went into that
19 decision, is that correct?

20 A. That's correct. That's not from a pure
21 financial statement achieved return on equity
22 perspective, that's from just a pure regulatory look at
23 this one component.

24 Q. And do you have your testimony in front of you,
25 and in particular Exhibit JMJ-1?

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1 you believe that the same rules would apply with respect
2 to the Commission allowing the investment in rate base
3 but phasing in rates over a three-year period?

4 A. The same rules would apply, in my opinion. And
5 whether you phase in revenue requirement or rates it is
6 important to put things into rate base. That's
7 important. But just phase in the rates. [REDACTED]

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]

14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 MS. SCOTT: Okay. That's all I have, Your
18 Honor. Thank you.

19 ALJ WOLFE: Mr. Campbell, do you have redirect?

20 MR. CAMPBELL: Just a few, thank you.

21
22 REDIRECT EXAMINATION

23 BY MR. CAMPBELL:

24 Q. Just following up quickly on just a question or
25 two again, Mr. Jenkins, with Ms. Scott, you referred, I

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1 A. Yes, I do.

2 Q. If you look at that exhibit, do you remember
3 there was a question, again, I think it was

4 Mr. Robertson, [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 [REDACTED]
21 Q. And finally, there was a discussion about
22 whether you, the company, earned interest on its, I
23 think it was, the phrase was, use of developer funds,
24 talking about the Pulte \$20 million refund,
25 \$20.2 million refund. And you said no, we didn't earn

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1 interest on the use of those funds.
2 Do you have anything you would like to add or
3 clarify about that answer?
4 A. Yes. I misspoke with respect to that answer.
5 The reality is no funds changed hands. We had the use
6 of the facilities but no use of cash.
7 MR. CAMPBELL: That's all I have, Your Honor.
8 ALJ WOLFE: Is there any recross on that?
9 MR. ROBERTSON: Yes, on that last point.

10
11 RECCROSS-EXAMINATION

12 BY MR. ROBERTSON:
13 Q. Would it be correct to say that you had the use
14 of facilities for which you were not required to pay any
15 interest on the funds that had been used to construct
16 those facilities?
17 A. That's correct.
18 Q. And your predecessor in interest, Citizens
19 Utilities, also had not been required to pay any
20 interest on the funds advanced to build those
21 facilities, would that not also be correct?
22 A. My history does not go back to the Citizens
23 piece of the equation, so I would be a little bit uneasy
24 about responding to that question.
25 Q. Would it be correct to say that under the

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1 A. Yeah, the company as well as the ratepayers.
2 Q. I understand you want to make the point with
3 regard to the ratepayers. I want to confirm that you
4 paid no interest of any type until the refund payment
5 obligation due dates arrived. Correct?
6 A. Correct.
7 MR. ROBERTSON: That's all I have. Thank you.
8 ALJ WOLFE: Is there anything further,
9 Mr. Campbell?
10 MR. CAMPBELL: Nothing further. Thank you, Your
11 Honor.
12 ALJ WOLFE: Thank you for your testimony,
13 Mr. Jenkins.
14 THE WITNESS: Thank you.
15 ALJ WOLFE: You are excused.
16 At this time the hearing room will be open to
17 the public and the confidential portion --
18 MR. ROBERTSON: No, we still have Mr. Arndt.
19 ALJ WOLFE: Oh, you want his testimony
20 confidential as well?
21 MR. ROBERTSON: Oh, yes. I thought that we had
22 indicated that from the outset, Your Honor.
23 ALJ WOLFE: Oh.
24 MR. ROBERTSON: Because he addresses
25 Mr. Jenkins.

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1 infrastructure agreement and amendments with regard to
2 those funds that had been previously advanced -- and you
3 have indicated by the point your company entered the
4 scene those funds had been converted to
5 infrastructure -- you still were not required to pay any
6 interest until those future points in time when the
7 refund obligations became activated under the
8 infrastructure agreement and the amendments?
9 A. Yeah, with respect to the company during that
10 period of time, we would not have had to pay interest.
11 And as I explained before, both the company and the
12 ratepayer benefited for that, because during the time
13 frame that this, those type of payments were reflected
14 in rates, it was lower than what it could have been if
15 we would have had to include a carrying cost.
16 Q. But for the obligation, or the refund obligation
17 that is at issue in this case, the 20.2 million payment
18 that was made in 2008, there was no payment being made
19 during the period in your previous rate case, correct,
20 the one that had the 2005 test period?
21 A. Correct.
22 Q. So you basically had the use of facilities that
23 had been funded by those advances without paying any
24 interest until your obligation under the infrastructure
25 agreement required you make refunds, correct?

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1 ALJ WOLFE: I see. But his testimony hasn't
2 been marked confidential?
3 MR. ROBERTSON: Actually, Your Honor, I have no
4 concern with regard to the confidentiality of
5 Mr. Arndt's testimony. I would think if any party had a
6 concern it might be the company. So I would defer to
7 Mr. Campbell in that regard.
8 ALJ WOLFE: Mr. Campbell.
9 MR. CAMPBELL: Well, our only concern would be
10 if any of the questions are going to require Mr. Arndt
11 to refer to specifics in the confidential portion of the
12 testimony, and I don't know without hearing the
13 questions whether they are going to. So I think the
14 safe point would be to keep it confidential. That way
15 he has the freedom to refer to the confidential portion
16 of the testimony if he so desires.
17 The other way to do it would be to go on the
18 record, and then if he gets a question where he is going
19 to have to refer to the confidential portions, he would
20 have to say stop, I need to refer to confidential
21 portions, and then we go off the record at that point
22 for that period of time.
23 So we can do it either way. That's our only
24 concern, is if he wants to refer to them.
25 ALJ WOLFE: That was what I thought would

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1 probably -- would be the only reason that we would have
2 to go off the record in that case, too.

3 Mr. Robertson, are you aware of anything that
4 Mr. Arndt plans to say that refers to the confidential
5 portion of Mr. Jenkins' testimony?

6 MR. ROBERTSON: Not as of this juncture, Your
7 Honor. I just conferred with Mr. Arndt. He doesn't
8 believe he would have a need to do so. And we will
9 certainly endeavor to avoid crossing that bright line.

10 ALJ WOLFE: Okay.

11 MR. CAMPBELL: Your Honor, may I?

12 ALJ WOLFE: Yes.

13 MR. CAMPBELL: Just so it is clear, and I think
14 this is -- I trust both Mr. Robertson and Mr. Arndt on
15 this, because of the nature of cross-examination, we
16 will have to rely on Mr. Arndt to inform us before he
17 answers the question if he thinks he has to use
18 confidential information. We are pretty much dependent
19 on him under that scenario.

20 ALJ WOLFE: Mr. Robertson, you can counsel your
21 witness to do so.

22 MR. ROBERTSON: Yes. He is sitting right behind
23 me, Your Honor, so he understands Mr. Campbell's
24 concern, and I am sure that he will endeavor to comply
25 and avoid any problems in that regard.

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1 (Continuation of open hearing.)

2 ALJ WOLFE: Let's go back on the record.

3 Mr. Robertson, would you like to call your
4 witness?

5 MR. ROBERTSON: Yes. Thank you, Your Honor. At
6 this time the Anthem Community Council would like to
7 call to the witness stand Mr. Michael L. Arndt.

8 (Michael L. Arndt was duly sworn.)

9 MR. ROBERTSON: Your Honor, Mr. Arndt is going
10 to be sponsoring two exhibits, perhaps three. Two of
11 them have already been marked for identification. His
12 prepared direct testimony, which was filed with the
13 Commission on May 17, 2010 has been marked as Anthem
14 Exhibit 13 for identification. And the summary of his
15 direct testimony was filed with the Commission later
16 this week. I don't have the precise date in front of me
17 at the moment, but I believe within the last two days.
18 And that has been marked as Exhibit Anthem-14 for
19 identification.

20 And before I begin my direct examination of
21 Mr. Arndt, Your Honor, what I would like to do is
22 describe to you how I intend to proceed, if it is
23 acceptable with Your Honor, in light of the fact that it
24 is already 2:25 in the afternoon and it is my
25

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1 ALJ WOLFE: Okay. In the interest of making our
2 proceedings as public as possible, at this time the
3 hearing room will be open to the public, and the
4 confidential portion of the transcript in this
5 proceeding will come to a close.

6 In the event that Mr. Arndt feels it necessary
7 to refer to the specifically denoted confidential
8 information in Mr. Jenkins' testimony before answering
9 the question, he will so inform us so that we can close
10 the proceedings.

11 MR. CAMPBELL: Your Honor, the only other thing
12 as I listen to that, obviously the lawyers have to be
13 cognizant of that when they form their cross-examination
14 questions as well.

15 ALJ WOLFE: Yes.

16 Right now we will go off the record so that we
17 can turn on all the electronic equipment.

18 (End of confidential information.)

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1 understanding that the company would like to be able to
2 have Ms. Heppenstall testify today as well.

3 So against that background, if it is acceptable
4 to Your Honor -- and I have mentioned this to
5 Mr. Campbell -- what I would propose to do is have
6 Mr. Arndt summarize his prepared direct testimony to, in
7 addition, by way of a summary response respond to those
8 aspects of Mr. Jenkins' rejoinder testimony this morning
9 and Mr. Jenkins' cross-examination earlier today that
10 relate to the issues that Mr. Arndt is intending to
11 address.

12 And in addition, as part of establishing
13 Mr. Arndt's background for being qualified to comment
14 and testify upon FAS90 and 92, as a part of my
15 establishing his qualifications I will ask him a few
16 questions in that regard.

17 But I thought if we took his summary approach we
18 might be able to cover quite a bit otherwise what might
19 come up on cross-examination. And obviously the parties
20 and Your Honor might ask some questions they would like.

21 Is that a procedure that is acceptable to Your
22 Honor?

23 ALJ WOLFE: Yes.

24 MR. ROBERTSON: Thank you, appreciate that.
25

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1 MICHAEL L. ARNDT,
2 a witness on behalf of the Anthem Community Council,
3 having been previously duly sworn by the Certified
4 Reporter to speak the truth and nothing but the truth,
5 was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. ROBERTSON:

9 Q. Would you please state your name and business
10 address for the record.

11 A. My name is Michael L. Arndt. And my business
12 address is 3602 Southwest Zona Circle, Ankeny, Iowa.

13 Q. And where is Ankeny, Iowa, Mr. Arndt? Could you
14 just give sort of a frame of reference?

15 A. It is a suburb of Des Moines, Iowa.

16 Q. Are you the same Michael L. Arndt whose prepared
17 direct testimony has been marked as Anthem Exhibit 13
18 for identification and whose summary of direct testimony
19 has been marked as Anthem-14 for identification?

20 A. Yes.

21 Q. Did you prepare your prepared direct testimony,
22 which is Anthem-13?

23 A. Yes.

24 Q. If I were to ask you the questions set forth in
25 your prepared direct testimony at this time, would your

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1 answers be the same?

2 A. Yes.

3 Q. Did you also have an opportunity to review the
4 summary of your prepared direct testimony which has been
5 marked as Anthem Exhibit 14 for identification?

6 A. Yes.

7 Q. And do you believe that that summary is a
8 correct summary of your direct prepared testimony?

9 A. Yes.

10 Q. Mr. Arndt, at this time, I would like to refer
11 to Appendix A to your prepared direct testimony, which
12 is a two-page statement of education and experience.
13 And in particular what I would like to have you do, on
14 page 2, beginning on roughly line 13 and continuing
15 through line 21, you indicate as a part of your
16 background you have testified in more than 100 public
17 utility rate proceedings before the Federal Energy
18 Regulatory Commission and a number of the state
19 regulatory commissions that you enumerate on that part
20 of your background summary.

21 What I would like you to do in the interest of
22 efficiency today is to describe for Judge Wolfe and the
23 parties your particular regulatory background and your
24 testimonial background as it would relate to how you
25 acquired a knowledge of FAS92 and FAS90 and how they

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1 have been applied.

2 A. Okay.

3 Q. Now, before we get there I want to make one more
4 point for the record. Prior to your arriving in Arizona
5 for your testimony, we received a data request from the
6 company as to whether or not you had testified in any
7 proceedings where you were actually, you yourself,
8 interpreting FAS92 and FAS90 as you are being called
9 upon to do so today. And you had advised me that you
10 had not, correct?

11 A. Yes. As I recall, that data request
12 specifically referred to recommendations such as the
13 recommendation as Mr. Neidlinger had proposed in this
14 rate case.

15 Q. All right.

16 A. And -- excuse me.

17 Q. I am sorry. I wanted to clarify for the record
18 that your response was you had not previously testified
19 on this kind of issue.

20 But now as part of describing your background, I
21 would like you to explain how you became acquainted with
22 FAS90 and FAS90, how you acquired your understanding as
23 to how they have been interpreted and applied in the
24 past in regulatory proceedings.

25 A. Okay.

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1 Q. Please proceed.

2 A. I began testifying in 1975 as a staff witness
3 for the Iowa Commerce Commission, so I have been
4 testifying in electric, telephone, gas, and water
5 company cases for over 35 years.

6 In 1979 I went to work in Washington, D.C. for
7 the consulting firm of Hess & Lim, Incorporated and
8 continued testifying in rate cases on behalf of various
9 staff commissions throughout the country, on behalf of
10 corporations, and on behalf of municipal intervenors.

11 The FAS90 and FAS92 that is an issue in this
12 rate case, I was testifying in cases during that period,
13 when those -- when they were issued in 1986 and 1987.
14 And I am very familiar with the application of those FAS
15 standards as they apply to electric utility companies,
16 because at that time there were numerous nuclear power
17 plants going into service at that time with huge cost
18 overruns, rate shock applications. So commissions were
19 proposing various treatments to these which caused some
20 disallowances for nuclear power plant costs. And some,
21 there were actually even some abandonments that were
22 involved.

23 Involved in the review, prudence review of those
24 nuclear power plants, there were engineering reviews
25 that were conducted to determine whether or not the

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1 construction that was completed on these nuclear power
2 plants was completed in a timely fashion and whether or
3 not the, all the costs that were incurred were
4 reasonable and necessary. And as a result of those
5 engineering reviews, there were some disallowances for
6 ratemaking purposes, which result in the application of
7 FAS90 and FAS92 that I am familiar with.

8 I am not familiar with any electric -- or,
9 excuse me. I am not familiar with any water cases where
10 FAS90 or FAS92 was applied particularly and applicable
11 in this instance where it relates to refunds related to
12 advances in aid of construction. And that's the issue
13 that's applicable in this case.

14 Q. Let me stop you at this point. Do you have
15 anything else to add in terms of your background
16 experience in the regulatory setting with regard to an
17 understanding of FAS92 and FAS90 and how they have been
18 interpreted and applied? I am going to be moving to
19 having you summarize your prepared direct testimony in a
20 minute, but I wanted to be sure we completed that part
21 of your presentation first.

22 A. Yes. I would just in summary state that the
23 application of FAS90 and FAS92 that I am familiar with
24 is the application to electric utility companies and
25 nuclear power plants, and that I am not aware of

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1 M. Jenkins regarding the Anthem witness Dan Neidlinger's
2 ratable plant transfer plan.

3 I noted within my testimony that
4 Arizona-American Water Company is a wholly-owned
5 subsidiary of American Water Corporation or American
6 Water Works Company, Incorporated. American Water
7 parent company is the largest investor-owned electric or
8 water utility company in the United States, and is the
9 parent of 19 state water subsidiaries.

10 In 19 -- in 2009, American Water Corporation
11 reported revenues of \$2.45 billion and net plant of
12 11.5 billion.

13 Anthem witness Neidlinger addresses the issue of
14 rate shock in this case facing the Anthem district water
15 and wastewater customers, and I reviewed those documents
16 and I agree there is a significant issue of rate shock
17 in this case.

18 Mr. Neidlinger proposes to mitigate rate shock
19 by deferring the ratemaking recognition of the
20 \$20.2 million advances in aid of construction refunded
21 to Pulte Homes in March of 2008. Mr. Neidlinger
22 proposes a ratable transfer plan over a five-year period
23 from 2009 to 2013.

24 Company witness Jenkins opposes Neidlinger's
25 plan, arguing that it does not comply with the financial

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1 electric -- or any water cases where these standards
2 were applied to to adopt or reject any rate transfer
3 proposal such as the one involved in this case.

4 Q. Now -- I am sorry, I didn't mean to speak while
5 you were completing your response.

6 Subsequent to being retained by the Anthem
7 Community Council, did you do some research beyond your
8 own experience to see whether or not you could identify
9 any regulatory commission cases where FAS92 and FAS90
10 had been applied in the manner that the company is
11 proposing in this case?

12 A. Yes. I did some searches for any water utility
13 rate cases where FAS90 or FAS92 had been used as a basis
14 for disallowance of a ratable transfer of plant, plants
15 similar to the one in this case, and I was not able to
16 find anything.

17 Q. What was the nature of the research you
18 undertook in that regard?

19 A. I did an internet research.

20 Q. Okay. Let's move on now to your prepared direct
21 testimony which is set forth fully in Anthem Exhibit 13
22 and summarized in Anthem-14. Would you summarize the
23 principal features of that testimony, please.

24 A. Yes. The purpose of my testimony was to address
25 the concerns expressed by company witness James

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1 accounting standards for -- Statement of Financial
2 Accounting Standards No. 92, regulated enterprises
3 accounting for phase-in plans.

4 FAS92 was issued in 1987 to address the high
5 cost of electric utility plants at that time. And I am
6 not aware of any water cases or wastewater rate cases in
7 the United States in which FAS92 was used as a reason to
8 reject or not approve a ratable transfer plan proposed
9 by Mr. Neidlinger.

10 The second, Mr. Jenkins opposes Mr. Neidlinger's
11 plan arguing it would require reporting loss using
12 FAS90, regulated enterprises accounting for abandonment
13 and disallowances of plant costs. I point out that
14 FAS90 was issued in 1986 and addressed the abandonments
15 of plants and disallowances of costs of electric utility
16 plants. There is no abandonment of plant in this case,
17 and Mr. Neidlinger's plan does not propose any
18 disallowance of plant costs.

19 In addition, I am not aware of any water or
20 wastewater rate case in the United States in the past in
21 which FAS92 was used as a reason to reject or not
22 approve a ratable plant transfer plan proposed by
23 Mr. Neidlinger.

24 Also, the company notes that if the company
25 elects to report any loss for the adoption of

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1 Mr. Neidlinger's plan, it would be, it would be reported
2 in American Water Corporation's consolidated financial
3 statements, if an amount was determined to be material.

4 As I noted previously, the parent company's
5 revenues of 2.445 billion and the net plant of
6 10.5 billion would make it questionable whether or not
7 any amount that we reported would be material or not in
8 terms of the parent corporation's consolidated financial
9 statements.

10 Finally, my testimony notes that the rate shock
11 is an important concern given the economy, and
12 Mr. Neidlinger's plan is, in my opinion, a proper method
13 to address the issue of rate shock in this case.

14 MR. ROBERTSON: Your Honor, I wonder if at this
15 time I might approach the witness to give him a
16 document, and also pass out copies of a document to
17 other parties.

18 ALJ WOLFE: Yes.

19 MR. ROBERTSON: And I would request that this
20 particular document be marked as Anthem Exhibit 17 for
21 identification.

22 In response to the council's ninth set of data
23 requests, the company provided a copy of its Form 10-K
24 filing for the period ended December 31, 2008. And what
25 we have done is copied page 10 from that document, which

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1 and Arizona Water Company is just one of those 19
2 subsidiaries.

3 In the details of the listing of the states, the
4 top seven states are New Jersey, Pennsylvania, Illinois,
5 Missouri, Indiana, California, and West Virginia. The
6 two states of New Jersey-American Water Company and
7 Pennsylvania-American Water Company account for almost
8 50 percent of the parent company's total revenues. The
9 rest of the set, the total of the top five, top seven
10 companies account for 80.7 percent of the revenues.

11 Of the next seven states, below the first seven
12 states, Arizona is not included in those, that category
13 of states. Arizona falls in the category of the other,
14 which is the very bottom line, and is a very small
15 portion of the parent company's total revenues.

16 Q. Let me see if I can't straighten out the last
17 part of that response. Is it your testimony that for
18 the top seven, that the subtotal line item indicates
19 that they represent 80.7 percent of the total revenues
20 of American Water Company?

21 A. 80.7 percent of customers. They represent
22 83.3 percent of the total operating revenues.

23 Q. Okay. And then the other, which is the next
24 line item, represents the 16.7 percent of operating
25 revenues and 19.3 percent of total customers, correct?

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1 I believe is not in the nature of confidential
2 information since it is a form that is filed as a matter
3 of public record with the Securities and Exchange
4 Commission. And this is the 10-K for American Water
5 Company.

6 BY MR. ROBERTSON:

7 Q. Mr. Arndt, do you have a copy of page 10 of the
8 2008 10-K filing that was made by American Water
9 Company?

10 A. Yes, I do.

11 Q. I would like you to take a look at that page.
12 And this goes to your materiality observation a moment
13 ago as to whether or not the sort of loss contemplated
14 by Mr. Jenkins in his testimony, if the Neidlinger plan
15 were to be adopted, would be material to American Water
16 Company. And you expressed the opinion that you felt it
17 would not.

18 Could you, against the background of Anthem-17,
19 provide a little more context for that opinion upon your
20 part.

21 A. Yes. This document and the highlighted sections
22 provide the relative revenues and number of customers of
23 American Water Corporation's state subsidiaries. As I
24 noted in my testimony, the parent company is a wholly
25 owned 19 state subsidiaries within the United States,

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1 A. Correct.

2 Q. And if we look to the symbol on other, which
3 looks like a cross, and then we look below the line, we
4 see the symbol. And that indicates that there are a
5 number of state operations included within that other,
6 correct, of which Arizona is just one?

7 A. Yes. Arizona is one of 13 states that's in the
8 other category that accounts for 16.7 percent. So if
9 you assume that each of those states are approximately
10 equal, Arizona would account for approximately 1 percent
11 of the total parent company revenues.

12 Q. Okay. And against this background in the
13 overall financial circumstances of American Water
14 Company, you believe that if there were to be any sort
15 of a loss or a disallowance associated with adoption of
16 Mr. Neidlinger's proposal, it would not be material for
17 the parent company, is that correct?

18 A. That's correct.

19 Q. Okay. Let's proceed now to the second aspect of
20 the summary approach I suggested we would follow today.
21 And I would like you to address those aspects of
22 Mr. Jenkins' rejoinder testimony or his
23 cross-examination testimony that you particularly would
24 like to address, with the understanding that you will do
25 your very best not to reference any information he might

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1 have referred to that might fall into the nature of
2 confidentiality.
3 A. Okay. Mr. Jenkins in his oral testimony today,
4 rebutting the testimony that I filed, makes numerous
5 statements that the Anthem witness Neidlinger's proposal
6 does not allow for full cost recovery and would require
7 an immediate write-off. I would emphasize that he
8 admitted that that's his interpretation of the
9 accounting standards and requirements that are required.

10 I would note that this is a very unique case.
11 It involves advances in aid of construction of
12 \$20 million in which the company has not paid any
13 interest on. And I believe that the fact that the
14 company has paid no interest on these advances makes it
15 a proper and as a reason for the Commission not to allow
16 a return on any deferrals in this case as Mr. Neidlinger
17 has proposed. Since they paid no interest in the past
18 on these funds, I don't think, in terms of a matching
19 principle, I believe no return would be appropriate, it
20 would be an acceptable alternative.

21 Q. Now, when you say no return would be
22 appropriate, do you mean that within the context of
23 Mr. Neidlinger's proposal, that until the various
24 increments of plant were close to plant in service and
25 thereafter became the subject of a rate base

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1 there would be no assets or costs to offset the revenues
2 that would be recovered through regulatory actions in
3 the future. So there, in his terms, there would be sort
4 of an overrecovery over the first initial write-off
5 period.

6 That's all my summary.

7 Q. Now, does this aspect of your summary address
8 both Mr. Jenkins' rejoinder and his cross-examination on
9 points that you wanted to address?

10 A. Yes, I believe it does.

11 Q. Okay. And the prepared direct testimony that
12 you have previously submitted speaks to your thoughts at
13 the base level with regard to FAS90 and FAS92, what they
14 were intended for and whether or not they are applicable
15 to these fact circumstances, is that correct?

16 A. Yes.

17 MR. ROBERTSON: Your Honor, in the interest to
18 moving the proceeding along, I believe at this point I
19 will tender Mr. Arndt for cross-examination at this
20 time. I would like to move the admission of Anthem-14,
21 Anthem-15 -- no, I am sorry -- Anthem 13, 14 and 15, and
22 16 and 17.

23 ALJ WOLFE: Okay. I haven't seen a copy of
24 Anthem-16.

25 MR. ROBERTSON: Anthem-16 is going to be the

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1 determination?

2 A. Yes. I think we referred to it several times as
3 carrying costs. The fact they have not paid carrying
4 costs on these funds in the past would be appropriate
5 for no carrying costs for these costs in the future
6 until they are recognized in rate base, under
7 Mr. Neidlinger's proposal.

8 Second, I would note that this issue is further
9 complicated by the numerous legal issues involved in
10 this case, whether or not the company sought and
11 received appropriate regulatory approval for these
12 advances, and whether there was an economic feasibility
13 study performed to determine whether or not the refunds
14 of these amounts were appropriate or not.

15 Third, I would point out that if, if the company
16 does elect to make an immediate write-off for financial
17 reporting purposes, there are tax advantages to that
18 immediate write-off in the fact that they could take
19 immediate deduction for those amounts for tax purposes
20 on a consolidated financial or consolidated federal
21 income tax return that would represent a significant
22 benefit to the company.

23 And finally, Mr. Jenkins admitted in his
24 cross-examination that if the company does take an
25 immediate write-off of those assets, in future periods

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1 data request with the confidential information redacted.
2 If you would like me to hold off moving that until we
3 have actually physically produced it, I would be happy
4 to do so.

5 ALJ WOLFE: Yes, I would.

6 MR. ROBERTSON: Then I will limit my motion or
7 request at this time to Anthem-13, 14, 15 and 17.

8 ALJ WOLFE: Okay. And Anthem-15, there has been
9 a stipulation to Anthem-15, so it is admitted.

10 (Exhibit Anthem-15 was admitted into evidence.)

11 ALJ WOLFE: Is there any objection to Anthem 13,
12 14 or 17?

13 MR. HALLAM: No.

14 ALJ WOLFE: Anthem-13, 14 and 17 are admitted.

15 (Exhibits Anthem-13, Anthem-14, and Anthem-17
16 were admitted into evidence.)

17 MR. ROBERTSON: And I am sorry, I indicated that
18 Mr. Arndt is available for cross-examination.

19 ALJ WOLFE: Thank you.

20 Mr. Pozefsky, does RUCO have questions for
21 Mr. Arndt?

22 MR. POZEFSKY: We do.

23

24

25

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CROSS-EXAMINATION

1 BY MR. POZEFSKY:
2 Q. Good afternoon, Mr. Arndt.
3 A. Good afternoon.
4 Q. So it is your testimony that FAS92 does not
5 prevent the company from implementing Mr. Neidlinger's
6 proposed phase-in proposal?
7 A. No.
8 Q. How do you respond --
9 MR. ROBERTSON: Excuse me. I wonder if we might
10 have that last question and answer read back. I want to
11 be sure the witness answered the question the way
12 Mr. Pozefsky phrased it.
13 (The record was read by the reporter as
14 requested.)
15 MR. ROBERTSON: I was confused, Your Honor. I
16 think the import of the question required a yes response
17 because it was characterized the witness' testimony and
18 the witness responded no. But that's perhaps confusion
19 on my part. So I apologize for interrupting
20 Mr. Pozefsky's cross.
21 MR. POZEFSKY: No problem, Larry.
22 BY MR. POZEFSKY:
23 Q. Mr. Arndt, how do you respond, in fifth grade
24 English, to the company's contention that it is

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1 prohibits this Commission from adopting Mr. Neidlinger's
2 ratable plant transfer proposal.
3 Q. Well, Mr. Arndt, in your testimony, you state --
4 and I am on page 6 -- that SFAS92 does not address
5 refunds related to prior AIACs, correct?
6 A. Which line are you referring to?
7 Q. Page 6, line 8, 7 and 8.
8 A. That's correct. And I believe Mr. Jenkins
9 agreed to that this morning, that FAS90 or FAS92 makes
10 no reference to advances in aid of construction for
11 water utility companies.
12 Q. But could a broad reading of FAS90 or FAS92
13 support what the company is claiming?
14 A. Well, a broad reading could support that there
15 would be a need for some financial reporting statement
16 adjustment. But for ratemaking purposes, the Commission
17 has the authority in this jurisdiction to decide whether
18 or not to approve or reject Mr. Neidlinger's proposal.
19 And there is nothing that in either one of those FAS90
20 or 92 statements prohibits the Commission from doing
21 that. I think that's pretty obvious.
22 Q. So a decision by this Commission to approve the
23 phase-in proposal would not be in conflict of -- would
24 not conflict with the provisions of SFAS90 or 92, even
25 if given a broad reading; would that be a fair

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1 prohibited by FAS92 or, as you said in your testimony,
2 FAS90 from implementing the phase-in proposal?
3 MR. HALLAM: Your Honor, I think that misstates
4 the company's testimony. He is indicating that the
5 company is prohibited from doing that, and that's not
6 Mr. Jenkins' contention. His testimony goes to the
7 financial reporting impacts and financial impacts of
8 that plan.
9 ALJ WOLFE: Mr. Pozefsky, would you like to
10 rephrase your question?
11 MR. POZEFSKY: Maybe I could modify that portion
12 of the --
13 BY MR. POZEFSKY:
14 Q. I don't want to misstate the company's position,
15 but how do you respond in fifth grade English to the
16 company's rejection, if you will, or opposition to the
17 phase-in proposal?
18 A. My position is that the FAS standards that are
19 issued by the Financial Accounting Standards Board are
20 opinions from a nonprofit, private organization that
21 issues opinions as to the proper accounting for
22 financial reporting purposes.
23 For ratemaking purposes, the Commission in this
24 state has jurisdiction over what is done for regulatory
25 purposes. And there is nothing in FAS 90 or 92 that

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1 statement?
2 A. Well, the company has the election whether or
3 not to report a loss if a deferral plan such as proposed
4 by Anthem in this case is adopted by the Commission.
5 In my opinion, any adjustment would not be
6 material to the total parent company corporation
7 financial statements, and would be supported by a
8 footnote within the financial statements to explain the
9 reasons why the Commission made the decision to adopt
10 the ratable plant transfer plan and how the Commission
11 intends for those amounts to be recovered in the future.
12 And there is additional issues that I think
13 should also be included in the footnote, would be the
14 fact that -- and this also would be addressed by the
15 Commission regarding the legal issues question in this
16 case, whether or not the company sought appropriate
17 legal approval of these infrastructure agreements prior
18 to making the refunds.
19 Q. Finally, Mr. Arndt, the last area I would like
20 to touch upon, just so I can get a sense of where you
21 are coming from or where the council is, on page 10 of
22 your testimony there is a Q and A about additional
23 comment concerning the proposal -- I suspect that's
24 Mr. Neidlinger's proposal -- where you say the company's
25 20.2 million AIAC payments to Pulte Homes during the

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1 2008 test year in this case represents an abnormal and
 2 extraordinary event which needs to be addressed for
 3 ratemaking purposes.
 4 You would agree, would you not, Mr. Arndt, that
 5 advances themselves are not unusual or abnormal for a
 6 utility to receive?
 7 A. There are advances, but in this case, the
 8 advances, as pointed out by Mr. Neidlinger, are so huge
 9 and the legal basis of those advances are in question,
 10 it results in a form of rate shock in this case that in
 11 my opinion needs to be addressed by the Commission.
 12 Q. So when you say that in this case those advances
 13 are abnormal, what you are referring to is the amount of
 14 the advances; would that be fair to say?
 15 A. The amount, and also these are not events that
 16 occurred frequently.
 17 Q. Okay. And is that the basis for your statement
 18 that they represent an extraordinary event?
 19 A. Yes.
 20 MR. POZEFSKY: Thank you, sir. That's all I
 21 have.
 22 ALJ WOLFE: Ms. Scott.
 23 MS. SCOTT: Thank you.
 24
 25

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1 other things such as the consolidated federal income tax
 2 returns that are filed by the parent company.
 3 Q. Okay. And then I just wanted to get your
 4 opinion. As far as the write-off, who eventually
 5 determines whether there will be a write-off and in what
 6 amount?
 7 A. For financial reporting purposes, the company
 8 would make, in my opinion, the company would make that
 9 election whether or not they decided to make a
 10 write-off.
 11 Q. And if they had outside auditors, would it be
 12 the outside auditor, do you think, that would ultimately
 13 make that determination, or the company?
 14 A. It would be discussed with the auditors and I
 15 think it would probably be a joint decision.
 16 MS. SCOTT: Okay. That's all I have, Your
 17 Honor.
 18 Thank you, Mr. Arndt.
 19 ALJ WOLFE: Mr. Hallam.
 20 MR. HALLAM: Thank you, Judge.
 21

CROSS-EXAMINATION

22
 23 BY MR. HALLAM:
 24 Q. Good afternoon, Mr. Arndt.
 25 A. Good afternoon.

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CROSS-EXAMINATION

1
 2 BY MS. SCOTT:
 3 Q. Good afternoon, Mr. Arndt.
 4 A. Good afternoon.
 5 Q. I wanted to follow up with you on -- is it A-17,
 6 I believe? -- the exhibit that was just passed out. I
 7 think you indicated, did you not, that the amount at
 8 issue here is not material?
 9 A. On a total company consolidated basis, I do not
 10 believe that the amount would be material, given the
 11 fact that the company has total plant in excess of
 12 \$10.5 billion.
 13 Q. Okay. Are there accounting standards to
 14 determine materiality? And if so, could you enlighten
 15 us on that for purposes of the accounting standards that
 16 we are talking about?
 17 A. I think the standards that would apply in this
 18 case is whether or not the item would be material to
 19 investors in which this company relies on and to -- most
 20 of the, majority of the company stockholders in this
 21 case and most cases are the parent company. So the
 22 material standards of whether or not an issue is
 23 material or not would apply to several things. It could
 24 apply to the financial statements, consolidated
 25 financial statements issued by the parent company, and

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1 Q. I just wanted to go back for a second.
 2 Mr. Robertson was kind enough to talk -- have you speak
 3 a little about your experience, but I just wanted to
 4 clarify what your exact experience has been on this
 5 topic. And I think I you indicated -- and please
 6 correct me if I misstate this -- I think you indicated
 7 you had worked at the commission at the time when
 8 certain nuclear plants were being built and that you
 9 looked at certain disallowances. Is that a fair
 10 statement? Or if not please, if you could just explain
 11 for us exactly what your experience was at that time.
 12 A. Yes. I worked for the Iowa State Commerce
 13 Commission up until 1979. And after December of 1979 I
 14 moved to Washington, D.C. and worked for the consulting
 15 firm of Hess & Lim, Incorporated. And Hess & Lim,
 16 Incorporated's clients involved municipalities, various
 17 state commissions, corporations, so we had a variety of
 18 clients. And we testified and worked on cases
 19 throughout the country in just about every state in the
 20 United States.

21 So during the period when those two financial
 22 statements were issued, which was 1986 and 1987, I was
 23 an employee of Hess & Lim, Incorporated and we were
 24 representing clients in cases in which nuclear power
 25 plants were coming on line and in which the issue of

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1 extraordinary high costs, which is specified in FAS92,
2 was an issue.
3 Q. Okay. And did those cases that you have
4 testified in, did they involve phase-in plans that were
5 being proposed?
6 A. There was plans in which the nuclear power plant
7 was brought in over a period -- a point of time to avoid
8 rate shock.
9 Q. And in those cases you testified specifically as
10 to the application of FAS90 and FAS92?
11 A. Most of those cases in which I testified in
12 involved Texas utilities, and maybe some others, I don't
13 recall. But the plants, the abandonments, and the
14 deferrals and the disallowances had been determined in
15 separate proceedings, and we were involved in ratemaking
16 proceedings that occurred after the prudence reviews had
17 been conducted.
18 Q. Okay. I am not sure you have answered my
19 question. Did you specifically testify as to FAS90 and
20 FAS92?
21 A. I testified to the application, but I didn't
22 specifically -- I don't recall making specific
23 recommendations to any deferred plans, deferral plans.
24 Q. Okay. And am I correct, Mr. Arndt, that you are
25 a CPA?

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1 question. Ever served as an officer of a public
2 utility?
3 A. Not as a public utility.
4 Q. So have you ever been in a situation where you
5 have had to make a representation as to the accuracy of
6 financial statements for a public utility?
7 A. I have reviewed audit work papers and discussed
8 them with clients as to the application and revenue
9 requirement indications and rate cases, but I have not
10 advised public utilities as to the application of
11 accounting standards.
12 Q. Okay. And I guess, given that, it would be fair
13 to say that you haven't had to advise them as to FAS90
14 and FAS92?
15 A. Well, again, as I stated, we -- one of the
16 services provided by Hess & Lim was to prepare financial
17 statements for municipalities. And I don't recall
18 specifically at that time whether the issue of FAS90 and
19 FAS92 came up. It was a separate item.
20 Q. That's fair. Can you just describe for us
21 briefly in preparation of your testimony which documents
22 you reviewed?
23 A. I reviewed Mr. Neidlinger's testimony, which was
24 two sets of testimony that was filed in March 8th, 2010
25 and May 3rd, 2010. I reviewed Mr. Jenkins' testimony

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1 A. Yes.
2 Q. And I know you just spoke to working with public
3 utilities for ratemaking purposes, but have you ever
4 advised a public utility as to financial reporting with
5 regard to FAS90 and FAS92?
6 A. One of the services that Hess & Lim provided was
7 preparing financial statements for municipalities. And
8 we did prepare financial statements that were filed with
9 regulatory commissions. And I don't recall specifically
10 the issues of FAS90 or FAS92 coming up in those cases.
11 Q. Okay. So as far as you can recall is it fair to
12 say you don't recall any, any advisement by you as to
13 FAS90 and FAS92 in those matters?
14 A. Not in the preparation of those financial
15 statements.
16 Q. Okay.
17 A. Again, the FAS90 and FAS92 related to very large
18 electric utility companies with nuclear power plants
19 that came on line.
20 Q. Okay. And I take it from your, the description
21 of your experience, that you have never served as an
22 officer of any public company?
23 A. I was the president of Hess & Lim for a short
24 period, and Hess & Lim was a corporation.
25 Q. Let me rephrase that. That was a poorly worded

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1 that was filed on May 7th, 2010. I reviewed the
2 testimony of one of RUCO's witnesses that testified as
3 to Mr. Neidlinger's proposal. I reviewed the company's
4 data responses that were provided in the -- which was
5 just made an exhibit. And I reviewed other items
6 on-line such as Value Line applicable to the company,
7 and other information that was provided on-line at the
8 company's website.
9 Q. Okay. Did you also review the accounting
10 standards that are at issue here, FAS90 and FAS92?
11 A. I have reviewed those for years.
12 Q. Okay. Did you review the -- you mentioned in
13 your testimony that there has been a new codification of
14 those standards. Did you review the new codification?
15 A. Yes.
16 Q. You mentioned a second ago that you had reviewed
17 Mr. Neidlinger's testimony. And I believe on page 3 of
18 your testimony, you confirm that again. I apologize for
19 referencing page 3, because I am going to ask you to
20 look at page 4 now.
21 Starting at line 13, you discuss
22 Mr. Neidlinger's proposal. And then actually at line
23 15, you indicate that Mr. Neidlinger proposes that the
24 deferred amounts be transferred under plant in service
25 rather than over the five-year period of 2009 through

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1 2013. Do you see that statement?
2 A. Yes.
3 Q. You indicated you reviewed Mr. Neidlinger's
4 proposal. Do you know if his proposal provides, or
5 recommends, I should say, any guarantee of recovery of
6 those future amounts for the company?
7 A. Well, the guarantee would be provided by the
8 Commission to the ultimate determination they make on
9 what to do with this plan. I don't believe that in his
10 proposal specifically that he required -- that he
11 recommended an implementation of rate increases each
12 year through tariff provisions like Mr. Jenkins
13 mentioned this morning.
14 Q. Okay. So is it fair to say that under his
15 proposal the company would be required to come back in
16 for a future rate case to recover those amounts?
17 A. I believe that's part of his recommendation, but
18 the Commission could make a different determination how
19 to recognize those deferrals.
20 Q. Certainly. I am asking you about his proposal.
21 Is it fair his proposal for the company is for come back
22 in for future rate cases?
23 A. That's my understanding.
24 Q. And does his proposal recommend that the company
25 recover carrying costs over those time periods?

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1 A. I believe that the company not only has an
2 obligation to maintain that plant under the fact that
3 they are required to provide safe and reliable service
4 to its customers, and I believe also that the company
5 has a benefit, extreme benefit to them to continue to
6 maintain that plant since they are continuing to recover
7 revenues from those customers and providing service.
8 Q. Okay. If I could ask you, turn to page 6 of
9 your testimony. You have indicated that you have
10 experience in FAS92 and relied on that experience in
11 making your recommendations.
12 Starting at line, I guess it is line 4 and a
13 half, your answer to answer 13, you indicated that FASB,
14 SFAS92 was issued in 19 -- or in August 1987, and
15 relates to phase-in plans concerning plant completed
16 before January 1, 1988, and plants on which substantial
17 physical construction had been performed before
18 January 1, 1988.
19 Is it your testimony -- you have heard
20 Mr. Jenkins testify today. Is it your testimony that
21 that is the only application for FAS92?
22 A. In my opinion that was the purpose of FAS92, to
23 address the issue of electric utility plants at that
24 time and the high cost of completed plants.
25 Mr. Jenkins makes an interpretation that this

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1 A. No. And I stated previously that I think that
2 the -- I haven't addressed this with him specifically,
3 but it is my understanding that one of the reasons that
4 no carrying costs be allowed is the fact that these
5 advances in aid of construction have been to the
6 company's benefit for several years with no interest
7 charges.
8 Q. Okay. You have indicated that you have had a
9 lot of experience in ratemaking over the years. What
10 would be your understanding of how the, if this plant
11 was part as Mr. Neidlinger recommends, how would the
12 company report that on its books? Would it be plant
13 held for future use?
14 A. For financial reporting purposes, the company
15 would make the determination of how to report that for
16 financial reporting purposes. I believe for regulatory
17 reporting purposes, Mr. Neidlinger recommended that the
18 plant be included in some, some form of a
19 contra-account.
20 Q. So by contra-account, is that fair to say plant
21 held for future use?
22 A. That's one option.
23 Q. And if it is held that way, would it be your
24 opinion that the company would have any obligation to
25 maintain that plant?

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1 should be applied to advances in aid of construction in
2 this case. And I take issue with that because in this
3 rate case there are several unique issues in this case
4 that do not necessarily make FAS92 applicable, including
5 the fact of the legal issues, whether or not the company
6 sought and received appropriate regulatory approval for
7 the infrastructure agreement; the fact that the advances
8 in aid of construction are, were no interest loans in
9 effect to the company, and which the company benefited
10 significantly over the years; and also there are issues,
11 tax benefits, the tax benefits that I mentioned
12 previously.
13 Q. Certainly. We have heard that testimony. But I
14 specifically just wanted to confirm that your testimony
15 is that FAS92 does not apply to plant constructed after
16 1988.
17 A. I do not believe that in this case this issue
18 relates to a refund applicable to advances in aid of
19 construction. It doesn't relate to plant that's been
20 abandoned. It doesn't relate to plant disallowed or
21 doesn't relate to plant that was constructed during this
22 period so I don't think it applies.
23 Q. Okay. Putting aside this case, in general, does
24 FAS92 apply to plant constructed after 1988?
25 A. Well, an interpretation could be that to the

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1 extent plant was constructed after that period that
2 would not apply.
3 MR. HALLAM: Okay. Your Honor, if I could
4 approach?
5 ALJ WOLFE: Yes.
6 BY MR. HALLAM:
7 Q. Mr. Arndt, you should now have what has been
8 marked as Exhibit A-46. Do you have that with you?
9 A. Yes.
10 Q. Okay. And is that document the Statement of
11 Financial Accounting Standards No. 92?
12 A. Yes.
13 Q. The one we have been discussing?
14 A. Yes.
15 Q. Okay. If I could ask you to turn to the third
16 page of that document, at the bottom of that page it
17 references FAS92-2?
18 A. Which paragraph?
19 Q. It is the second paragraph of that page. Are
20 you there? Just let me know when you are there.
21 A. Okay, begins FASB statement No. 90?
22 Q. No. Perhaps I gave you the wrong document. Do
23 you have FAS92 in front of you?
24 A. Yes. Are you referring to the page number at
25 the bottom that says FAS92 dash --

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1 future recovery by regulatory -- regulator under the
2 plan for ratemaking purposes shall be capitalized for
3 general purpose financial reporting purposes therein
4 referred to as financial reporting.
5 Q. Okay. Based on your reading of these two
6 paragraphs, do you think it is fair to say, and I
7 understand you haven't had a chance on the stand to read
8 the entire standard, but do you believe these references
9 and standards seem to indicate that plant construction
10 completed after 1988 is also subject to these standards?
11 A. Well, the standards, to the extent that they
12 apply to a water company, and an issue such as this
13 advance in aid of construction would apply for financial
14 reporting purposes, but not for financial regulatory
15 purposes.
16 Q. Okay. Moving to that, you indicated earlier and
17 you have just indicated again that you are not aware of
18 these standards being applied in the water utility area,
19 is that fair?
20 A. Yes.
21 Q. And I think you stated earlier that you had done
22 some research and were not able to locate any commission
23 decision or commission matter in which these issues were
24 addressed in the water context, is that fair?
25 A. Yes. And during cross-examination today I think

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1 Q. 2.
2 A. -- 3?
3 Q. Dash 2. Sorry, it is confusing. It is the
4 third page what you have, but it is marked page 2.
5 A. Okay, I have that.
6 Q. Okay. And the second paragraph of that page, do
7 you see that?
8 A. Yes.
9 Q. And could you read for us the first sentence of
10 that paragraph.
11 A. The statement is effective for fiscal years
12 beginning after December 15, 1987 and applies to
13 existing and future phase-in plans.
14 Q. Okay. If I could also ask you to turn to page
15 what is marked at the bottom as FAS92-4.
16 A. Okay.
17 Q. And there is a paragraph number 4 on the left
18 column. Do you see that?
19 A. Yes.
20 Q. And if you wouldn't mind, could you read that
21 paragraph for us.
22 A. If a phase-in plan is ordered by a regulator in
23 conjunction with plant in which no substantial physical
24 construction had been performed before January 1st,
25 1988, none of the allowable costs that are deferred for

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1 Mr. Jenkins thought that he was aware of one or two
2 cases, which he agreed to provide --
3 Q. Okay.
4 A. -- orders relating to.
5 Q. That is true, he did indicate that.
6 So other than Mr. Jenkins' testimony, are you
7 aware of any other water cases? And I think you
8 indicated that you have done some internet searches to
9 try and locate those.
10 A. Yes. I am not aware of any. I am not aware of
11 the two cases, the one case or two cases that he
12 mentioned.
13 MR. HALLAM: Your Honor, if I could approach.
14 BY MR. HALLAM:
15 Q. Mr. Arndt, you should now have in front of you
16 what has been marked as Exhibit A-47. Do you have that
17 document?
18 A. Yes.
19 Q. And looking at the first page, there is a --
20 well, under the reference to public utility report, slip
21 copy, there is an indication of the case name. And I
22 will just read that. It is New Jersey-American Water
23 Company, Inc. Do you see that?
24 A. Yes.
25 Q. And obviously by its name that is a water

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1 company, is that fair?
 2 A. Yes.
 3 Q. And if you also look down a few lines below, it
 4 indicates that the date of this decision is 1996. Do
 5 you see that?
 6 A. Yes.
 7 Q. If I could ask you to turn to page 8 of that
 8 decision.
 9 A. Yes.
 10 Q. And with your indulgence, your voice may be
 11 getting tired so I am going to read you a few sections
 12 while you read along. Or if you like, I could have you
 13 read it first.
 14 A. Which paragraphs are you referring to?
 15 Q. This would be the paragraph on the right column,
 16 the first full paragraph that starts the company. Do
 17 you see that paragraph?
 18 A. Yes.
 19 Q. Okay. It indicates that the company
 20 subsequently retained outside expertise to review
 21 various alternatives, including a phase-in approach for
 22 the project cost. Based on that review the company
 23 determined that a phase-in approach would create
 24 unacceptable consequences in financial reporting for the
 25 company.

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1 A. I don't recall that he testified to that
 2 specifically, but it has been a long time.
 3 Q. Okay. Certainly.
 4 If I could ask you then to turn to page 9 of
 5 that same case, and there is a paragraph once again on
 6 the right column that starts with a star 11. And here
 7 it indicates:
 8 The board, after review of the entire record
 9 herein, finds that the full revenue requirement
 10 attributable to the tri-county project should be
 11 recognized for rate purposes with no phase-in and
 12 concurs with the ALJ's initial decision on this issue.
 13 We are concerned that any phase-in plan would not only
 14 result in the deferral of real earnings but also could
 15 result in the inability of the company to recognize for
 16 financial reporting purposes any revenue deferred as
 17 part of the phase-in. The company has stated that if
 18 the board were to accept a phase-in plan, there would be
 19 an immediate write-off required of the deferrals related
 20 to the phase-in plan. This would require the company to
 21 recognize a loss in any period full recovery is not
 22 provided.
 23 Do you see those sentences, I take it?
 24 A. Yes. And again, this does not apply, on my
 25 reading of this, it does not apply to advances in aid of

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1 Do you see those two sentences?
 2 A. Yes.
 3 Q. Okay. And then going on it indicates the
 4 company's witness, Michael J. Hamilton, testified that
 5 the statement on Financial Accounting Standard No. 92,
 6 SFAS No. 92, does not prohibit the use of a rate
 7 phase-in of project costs but it does restrict how the
 8 utility may book phased-in deferred costs for financial
 9 reporting purposes. Under SFAS92 even with board
 10 approval the company stated it would be prohibited from
 11 booking any deferred costs for financial reporting
 12 purposes.
 13 Do you see those sentences as well?
 14 A. Yes.
 15 Q. Is it fair to say that, and understanding that
 16 you haven't had a chance to review the whole case, but
 17 at least this paragraph indicates that FAS92 was at
 18 issue in this case?
 19 A. Yes. And it relates to the financial reporting
 20 purposes, what I mentioned previously, that the FAS
 21 standards apply to financial reporting purposes, but the
 22 commission can make a determination for regulatory
 23 purposes of what to do.
 24 Q. Right. And I believe Mr. Jenkins testified to
 25 that fact today as well, isn't that correct?

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1 construction and it applies to financial reporting
 2 purposes rather than stating any prohibition for rate
 3 regulatory purposes.
 4 Q. Understood. But in this case the Commission,
 5 relying on the company's testimony regarding FAS92,
 6 appears to have determined that the phase-in was not
 7 appropriate. Would you agree?
 8 A. In this case.
 9 Q. Okay.
 10 A. I don't know what all the circumstances were and
 11 I don't know whether there were legal issues similar to
 12 the legal issues that were involved in this case
 13 concerning an infrastructure agreement, and I don't know
 14 whether advances in aid of construction were involved at
 15 all.
 16 Q. Okay. That's fair.
 17 Your testimony -- let me take you to page 8 of
 18 your testimony. And there once again you discuss some
 19 provisions of FAS90 that refer to electric utility, the
 20 electric utility industry. Do you see these statements?
 21 A. Yes.
 22 Q. And is it your testimony that FAS90 also only
 23 applies to the electric industry?
 24 A. My testimony is that FAS90, which was issued in
 25 1986, was issued for the purposes to deal with the

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1 abandonments and disallowances of completed plants
2 related to electric utility companies.
3 And in this case we do not have an electric
4 utility company, we don't have any abandonments, and we
5 don't have any disallowance of costs.
6 Q. All right. So in this proceeding, it is your
7 testimony that FAS90 does not apply to regulated
8 utilities as a whole, but simply only applies to the
9 electric industry?
10 A. No, I didn't say that. I said that the -- I do
11 not believe that the FAS90 applied to the circumstances
12 that exist in this case.
13 Q. So it is only as relates to this case that you
14 believe FAS doesn't apply?
15 A. It could relate to other cases, too. It would
16 have to be evaluated on an individual company basis.
17 Q. Okay. Do you think it would be fair, if FAS92
18 were to apply outside of the electric industry, that
19 FAS90 might also apply?
20 A. The company could make an election to account
21 for certain items for financial reporting purposes in
22 certain ways based on FAS90 or FAS92. The company would
23 be the one to make that election. But FAS90 or FAS92
24 does not prohibit the plan that was proposed by the City
25 of Anthem in this case.

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1 not be material.
2 Q. I am sorry. Maybe the question was poorly
3 worded. Have you in your professional experience had
4 the opportunity to make a determination on behalf of a
5 public utility as to materiality?
6 A. Of whether advising a utility whether or not to
7 include something in the financial statement for
8 materiality?
9 Q. Yes.
10 A. Again, one of our services we provided was
11 preparing financial statements for municipalities --
12 Q. Okay.
13 A. -- utility companies, and you make a
14 determination of materiality in those cases.
15 Q. Okay. So in your opinion, it is not appropriate
16 to examine the materiality as it relates to
17 Arizona-American Water Company?
18 A. Well, you could examine the materiality as a --
19 in terms of the Arizona-American Water Company financial
20 statements. But I think it is the determining factor of
21 whether or not to include and report the item in
22 consolidated financial statements and consolidated
23 federal income tax returns which are filed with the
24 federal government. The determination would be made on
25 a consolidated basis.

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1 Q. Okay. Moving to the next page, page 9, starting
2 at line 19, you discuss revenue figures for American
3 Water. Do you see those figures?
4 A. Yes.
5 Q. And earlier in your testimony you also discussed
6 some figures that were found in the company's 10-K. Do
7 you recall that?
8 A. Yes.
9 Q. And is it fair to say that your testimony on
10 these issues, and I think you discussed materiality, as
11 focused at the American Water, the parent company level?
12 A. Well, going back to one of the earlier questions
13 on determination of materiality, I think the
14 determination of materiality on a company which is a
15 wholly-owned subsidiary of the largest water utility in
16 the United States, that determination of materiality of
17 whether or not something would be reported in the
18 consolidated financial statements would be based on how
19 the issue addresses that in terms of materiality to the
20 consolidated financial statements in the parent
21 company's financial reports.
22 Q. Okay. And have you had the opportunity to make
23 a determination of materiality on behalf of the public
24 utility?
25 A. In my opinion, on a consolidated basis, it would

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1 Q. Okay. But let me just try to get to the
2 relevance of your discussion of materiality.
3 A. Okay.
4 Q. Is it your opinion that because this is not
5 material, that FAS90 and FAS92 would not apply?
6 A. No. I stated several reasons why FAS90 and 92
7 does not apply in this case, and I don't, I don't think
8 materiality was one of the reasons. The materiality is
9 whether or not the company would report this in its
10 financial reporting purposes to its stockholders.
11 And in terms of materiality, for example, if I
12 was an investor, I would buy stock in the parent
13 company, and in making a determination whether or not to
14 buy stock in the parent company, the financial
15 statements that are issued, their primary concern to
16 investors would be the consolidated returns, not an
17 individual state which is one of 19 states that the
18 parent company owns, and is one of the smallest state
19 utilities within that group of subsidiaries under the
20 parent.
21 Q. Okay. I think you answered this before with a
22 question from Ms. Scott, but let me just confirm. Who
23 is it that will determine the financial reporting,
24 assuming the Commission were to approve this type of
25 phase-in plan? Is it the company that would determine

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1 the financial reporting impact of that plan?
2 A. Yes, I believe that, it is my understanding that
3 the company has the responsibility on how they report
4 things to the financial community for financial
5 reporting purposes.

6 Q. And the company will also have a responsibility,
7 is it not true, to determine how it will treat that
8 phase-in plan for purposes of financial reporting for
9 Arizona-American Water Company?

10 A. Yes. And they would include within those
11 financial statements the reasons supporting the
12 Commission's basis for any adjustments they adopt that
13 the company felt was material enough to report within
14 its financial statements.

15 Q. Okay. If I could ask you to turn to the bottom
16 of page 9, and then we will move to page 10, moving to
17 your point about the type of disclosure you would advise
18 the company to make.

19 You explained, just starting at the very last
20 word on page 9 and then moving to page 10, that the
21 notes would explain the contemplated deferred ratemaking
22 recognition of certain water and wastewater net plant
23 costs associated with the 2008 Pulte refund and inform
24 investors that these costs would be recovered in future
25 rate cases involving the company. Do you see that

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1 notes.

2 Q. Okay. And I think you -- well, let me just
3 confirm again that you said you have advised companies
4 as to financial reporting and possibly notes to place in
5 financial statements.

6 A. Yes.

7 Q. Is that a yes? Okay.

8 And isn't it true that typically companies use
9 footnotes in their financial reporting to address
10 material events?

11 A. Yes. But that goes back to the materiality
12 issue, whether or not the company would even determine
13 it would be appropriate to disclose this item in their
14 consolidated financial.

15 Q. It is your testimony the company ought to use a
16 note to explain this event, is that not true?

17 A. No. I believe my testimony is if the company
18 made a determination, first of all, that they elected to
19 write, make any loss, any accounting adjustment for
20 financial reporting purposes to report a loss related to
21 this item; second, that they would make a determination
22 whether or not it was material, whether or not to
23 disclose it in financial statements; and, third, if they
24 did make the determination to disclose on financial
25 statements that the financial note fully disclose the

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1 testimony?

2 A. Yes.

3 Q. Just starting with one term in that statement,
4 you indicate that the company ought to inform investors
5 that these costs would be recovered. Do you think the
6 company could take the position that these costs would
7 be recovered?

8 A. Well, I haven't seen the Commission order
9 approving the deferral plan recommended by
10 Mr. Neidlinger, but I would assume that the Commission
11 order would contain language that these costs be
12 recovered in future ratemaking proceedings. And also it
13 is my understanding that the Commission would fully
14 explain the reasons for their decision.

15 Q. Okay. So if the company wasn't certain of the
16 future recovery in a future rate case, do you think this
17 would be an appropriate note in the company to include?

18 A. They could fashion the note however they
19 determined was appropriate. But in my opinion if the
20 Commission stated within their order that these costs
21 would be recovered in future ratemaking proceedings and
22 that the plan was approved for this particular case for
23 the circumstances that exist in this case, and the
24 circumstances were detailed within the Commission's
25 order, that that should be disclosed in the financial

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1 Commission's reasoning for making their decision. And
2 as I stated, there is numerous issues that need to be
3 addressed in this case regarding this item, including
4 the legal issues of whether or not the appropriate
5 regulatory approval was approved.

6 Q. Okay. But as you just indicated, once again it
7 will be the company's determination as to the financial
8 reporting for this item?

9 A. The company has the ultimate responsibility in
10 the financial reporting. I don't think that the
11 Commission is obligated to tell the company how to
12 report things for financial reporting purposes.

13 MR. HALLAM: Okay. Your Honor, I have no
14 further questions for Mr. Arndt.

15 EXAMINATION

16 BY ALJ WOLFE:

17 Q. Good afternoon, Mr. Arndt.

18 A. Hi.

19 Q. The Commission has to make a determination as to
20 whether to accept the Neidlinger proposal or a
21 modification of it. Is it your opinion that the
22 Commission should ignore whether the company will find
23 it necessary to recognize losses for financial reporting
24 purposes?
25

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1 A. I don't think that that should be a major
2 determination within the Commission's opinion, because
3 there are so many issues involved in this case and such
4 a unique circumstance that is presented in this case
5 that I believe the Commission should do what they feel
6 is right, and that the financial reporting purposes is a
7 result what the Commission feels is right, the right
8 determination of this issue.

9 Q. So is your answer that the Commission should
10 consider it?

11 A. I don't think that the Commission should -- I
12 mean it could be a factor to be considered, but I don't
13 think I would give it major consideration, because as
14 the company pointed out, that if there was a write-off
15 in the first year, it would be offset in future years
16 with overrecovery, given all circumstances remaining the
17 same, because if the company took the extreme position
18 that these assets should be written off in the future,
19 there would be revenues generated from these assets
20 which still exist for ratemaking purposes in which the
21 company would report revenues of which there are no
22 costs associated since they wrote them off in the first
23 year.

24 ALJ WOLFE: Do you have redirect? And do you
25 have a lot? We are coming on break time.

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1 you like to call your next witness, Mr. Hallam?

2 MR. HALLAM: Thank you, Judge. The company
3 would call Constance Heppenstall.

4
5 CONSTANCE HEPPENSTALL,
6 a witness on behalf of the Applicant, having been first
7 duly sworn by the Certified Reporter to speak the truth
8 and nothing but the truth, was examined and testified as
9 follows:

10
11 DIRECT EXAMINATION

12 BY MR. HALLAM:

13 Q. Good afternoon, Ms. Heppenstall.

14 A. Good afternoon.

15 Q. Thank you for your patience.

16 If you could, provide your name and business
17 address for the record.

18 A. Constance E. Heppenstall, 207 Senate Avenue,
19 Camp Hill, Pennsylvania.

20 Q. And by whom are you employed?

21 A. I am employed by Gannett Fleming, Inc.

22 Q. And what is your general position at Gannett
23 Fleming, Inc.?

24 A. I am a rate analyst at Gannett Fleming.

25 Q. And as part of this proceeding -- well, let me

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1 MR. ROBERTSON: That's a two-part question. May
2 I briefly confer with my co-counsel? Because we may
3 have none.

4 ALJ WOLFE: Okay.

5 MR. HALLAM: Before we -- I apologize. I
6 realized I have not moved Exhibit A-46 and A-47, and I
7 would like to do so at this time.

8 ALJ WOLFE: Is there any objection to A-46 or
9 A-47?

10 MR. ROBERTSON: No objection.

11 ALJ WOLFE: A-46 and A-47 are admitted.

12 (Exhibits A-46 and A-47 were admitted into
13 evidence.)

14 MR. ROBERTSON: And I will be just one moment.
15 (Brief pause.)

16 MR. ROBERTSON: Your Honor, I am pleased to
17 report we have no redirect.

18 ALJ WOLFE: Thank you for your testimony. You
19 are excused as a witness.

20 THE WITNESS: Thank you.

21 ALJ WOLFE: And we will take our afternoon break
22 and come back here in 15 minutes.

23 (A recess ensued from 3:45 p.m. to 3:58 p.m.)

24 ALJ WOLFE: Let's go back on the record.

25 And returning to the company's witnesses, would

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1 back up.

2 Do you have in front of you two exhibits that
3 have been marked Exhibit A-41 and Exhibit A-42?

4 A. I do.

5 Q. And are those exhibits -- A-41, I believe, is
6 your rebuttal to Staff rate design testimony, is that
7 correct?

8 A. Correct.

9 Q. And A-42 would be your rebuttal to intervenor
10 rate design testimony, is that correct?

11 A. That's correct.

12 Q. And starting with Exhibit A-41, was that
13 testimony prepared by you or under your direction and
14 supervision?

15 A. It was.

16 Q. And do you have any corrections to make to that
17 testimony at this time?

18 A. No, I do not.

19 Q. Okay. And with regard to Exhibit A-42, was that
20 testimony prepared by you or under your direction and
21 supervision?

22 A. Yes, it was.

23 Q. And do you have any corrections to make to
24 Exhibit A-42 at this time?

25 A. I do not.

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1 Q. And do you adopt Exhibits A-41 and A-42 as your
2 rebuttal testimony in this proceeding?
3 A. Yes, I do.
4 MR. HALLAM: Your Honor, at this time I would
5 move for admission of Exhibits A-41 and A-42.
6 ALJ WOLFE: Is there any objection to A-41 or
7 A-42?
8 (No response.)
9 ALJ WOLFE: A-41 and A-42 are admitted.
10 (Exhibits A-41 and A-42 were admitted into
11 evidence.)
12 MR. ROBERTSON: Your Honor, might I inquire
13 through you of Mr. Hallam with reference to that A-42,
14 does that include the rebuttal exhibits which appear to
15 be attached to that testimony, CEH-1, and I believe
16 there is -- and CEH-2, are they all intended to be part
17 of A-42, or are they going to be additional exhibits?
18 MR. HALLAM: They will be part of A-42.
19 MR. ROBERTSON: Thank you.
20 ALJ WOLFE: Mr. Magruder.
21 MR. MAGRUDER: This is just a query, but there
22 has been a CD-ROM software program that's been used
23 during this, these proceedings. Should it be admitted
24 as an exhibit?
25 ALJ WOLFE: I don't know what you are referring

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1 commercial and residential revenue.
2 I have since discussed this with Mr. Magruder,
3 and we have discovered where the glitch was. He was
4 just showing apparently step one of the -- because step
5 three shows multiple steps, he was just showing the step
6 one of it. And we have since resolved the issue.
7 MR. HALLAM: Okay. And at this time
8 Ms. Heppenstall is available for cross-examination,
9 Judge.
10 ALJ WOLFE: Mr. Robertson, does the council have
11 questions for this witness?
12 MR. ROBERTSON: A few, Your Honor.
13
14 CROSS-EXAMINATION
15 BY MR. ROBERTSON:
16 Q. Good afternoon, Ms. Heppenstall.
17 A. Good afternoon.
18 Q. My questions are going to be addressed
19 primarily, if not exclusively, to Exhibit A-42. Do you
20 have that in front of you?
21 A. I do.
22 Q. On page 1 of your prepared testimony, starting
23 at line 17 and continuing on to line 22, you discuss the
24 difference between Version 3 and Version 4 of the water
25 and wastewater rate consolidation models, do you not?

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1 to, Mr. Magruder.
2 MR. MAGRUDER: It is the model that we have
3 talked about that she wrote.
4 ALJ WOLFE: If you want to provide it as an
5 exhibit you're certainly welcome to.
6 MR. MAGRUDER: No. No, Your Honor.
7 ALJ WOLFE: That is a very good question, but I
8 haven't -- I don't really know that much about it yet.
9 Maybe we will find out more when we hear from
10 Ms. Heppenstall. Maybe you can ask some questions about
11 it.
12 MR. MAGRUDER: Okay. Thank you, okay.
13 BY MR. HALLAM:
14 Q. Ms. Heppenstall, did you have an opportunity to
15 review the model prepared by Mr. Magruder?
16 A. Yes, I did.
17 Q. And could you provide us your comments on his,
18 at least his initial model that was provided in this
19 proceeding.
20 A. Yes. Mr. Magruder, unfortunately, was not able
21 to attend the training session for Version 2 of this
22 Excel spreadsheet model, and was using a Version 3. And
23 to make -- in any case, we put in his, his rate design.
24 We came up about 953,000 too much revenue for the
25 company. In addition, there was a larger shift between

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1 A. Yes.
2 Q. Could you describe for the record what is
3 Version 3, and then subsequently describe what is
4 Version 4, so that somebody reading just the transcript
5 might be able to know what we are talking about.
6 A. That would be fine. If you don't mind, I would
7 like to start out with Version 1 and 2 as well.
8 Q. I think that would be very helpful.
9 A. Great. Thank you.
10 If, in fact -- back in, I think, December I was
11 asked to create a rate consolidation model for all the
12 water and sewer districts of the company. In this, this
13 is a -- explains -- it is fairly complicated. I was
14 looking at it even this morning.
15 The current first block for each district, there
16 are four district first blocks, meaning, you know, there
17 are 3,000 blocks in that first, or 4,000, or et cetera.
18 So all the blocks are different pretty much between all
19 the districts. And the rates are all different and the
20 customer charges are all different. So I was charged to
21 bring a model in that would create one rate design that
22 would then be applied to all districts, both water and
23 sewer.
24 Version 1 was presented as a prototype, I
25 believe, on a conference call which I believe was just

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1 with Staff, but I am not quite sure. And it was
2 discussed that added flexibility needed to be made to
3 that model so that more options of different blocks
4 could be added. That became Version 2. Version 2 was
5 then distributed at a work session where there was
6 training on how to use this, this model.

7 This model consists of various Excel
8 spreadsheets that all need to be opened at once. For
9 example, if -- and it is, it is designed to incorporate
10 as many different blocking as a user would want.
11 However, I did indicate if a block is not, you know, is
12 not in there, please call me, because you will get an
13 error message, you know, if you put I want 750,000 as a
14 block, it may not work in this, so call me and I am very
15 comfortable to change that and get it back to you within
16 a day. It is that kind of thing that we went over in
17 the training sessions, the pitfalls as well as how much
18 flexibility.

19 As an outcome of that meeting, it was asked of
20 me to create a stepped version so that Version 2 just
21 created one movement. You move from your -- the
22 consolidated, the nonconsolidated rates, which I call --
23 and which are the rates in this case as well as the
24 agreed to, rates agreed to in the previous case, right
25 to consolidated rates. And that's a pretty drastic move

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1 our part.

2 Then we were asked in a DR to create a five-step
3 model. And in that model we were requested to do equal
4 revenue changes between each step. So that was -- we
5 created two more steps in that, and that is Version 4,
6 two more steps. And we modified how we did those steps
7 as best we could in equal revenue, equal revenue steps.

8 The other modification to that one in Version 3,
9 I did not move private fire at nonpotable rates on those
10 percentages. I just went right to 100 percent. So
11 those were not phased in. The DR asked me to phase in
12 nonpotable rates, which I did, with the exception of
13 Anthem because I felt it would have been too much of an
14 up and down and not a good exercise.

15 Q. You mention that Version 4 was developed in
16 response to a data request. Do you recall if that was a
17 data request that Anthem submitted to the company?

18 A. I believe it was.

19 Q. Okay. Now, have you at this point completely
20 described the changes in input assumptions or the
21 differences in input assumptions that you made between
22 Version 3 and Version 4? I just want to be sure we have
23 covered that before we move on to my next set of
24 questions.

25 A. Great. Thank you. No. There were a couple

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1 for some communities. So we were asked to see what a
2 step would look like. And we decided at that time a
3 three-step, Version 3 would then be a three-step move.
4 And that is what I created, again with some more
5 training as to how to use that.

6 And that -- when we were charged with that, that
7 became a very complicated issue. Because as I said,
8 every district has its own rate design. How do you
9 merge them, how do you merge them toward each other.

10 And in discussions, again at Fleming, we decided
11 that we would create a rate design based on Version 2
12 that would move all at once and then say take those
13 rates and apply a percentage to them.

14 For example, Mohave would only get, say,
15 60 percent of those rates, irregardless what their rates
16 are now, they would get 60 percent of the consolidated
17 rates. And that's how we moved them in steps based on
18 that, you know, initial percentage.

19 And I based that initial percentage a little bit
20 on judgment, knowing that we just had some rate changes
21 and anticipated some more, and then each step after that
22 was purely an equal step. Or for some cases, if we were
23 close, if you were at 95 percent of the rate, of the
24 consolidated rate, we would move you to 100 in the
25 second step. So it was a little bit of a judgment on

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1 other minor corrections that I made. I was advised by
2 Staff that the model had incorporated some minor
3 differences in exact, in present rates. They were off.
4 And I made those corrections as well. And there was a
5 labeling issue of a rate tariff in Sun City as well.

6 Q. Now, you have been in the hearing room
7 throughout the hearings this week, have you not?

8 A. Except for this morning, yes.

9 Q. Okay. You were here at the time that Chairman
10 Mayes requested that some additional modeling be done
11 which would exclude Sun City, is that correct?

12 A. That's correct.

13 Q. And you were also here when I requested that
14 some modeling be done, additional modeling with
15 additional input assumptions that would include Sun
16 City, correct?

17 A. I believe -- I think I was a little confused as
18 to that request. But I think if you could even repeat
19 that... Like I say, I have been working on those models
20 this morning.

21 Q. Actually, I was going to move to that and ask
22 you, where you started working on the additional models,
23 if you have been requested, and perhaps you could
24 describe the input assumptions that you have been asked
25 to include, and we can see if any may have been left out

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1 just listening to your response.
2 A. Yes. I was working on those this morning, and I
3 worked on them yesterday morning before hearings. What
4 I have done is a model that excludes Sun City, however,
5 keeps the five-eighths and one-inch meter size the same,
6 make them different, and for each those options,
7 three-year and five-year phase-ins.

8 Then I did the same analysis for excluding Sun
9 City as well as Sun City West, not individually,
10 excluding Sun City West, for, say, five-eighths inch and
11 one-inch meter, different rates for five-eighths and
12 one-inch meters and three years and five years.

13 I was also working with the wastewater side
14 excluding Sun City and excluding Sun City West,
15 three-year phase-in, five-year phase-in, and also
16 looking at the five-eighths inch, one-inch issue.

17 Q. And the only part missing, so to speak, from my
18 perspective would be going back to my request earlier
19 this week that you do one with all of those additional
20 assumptions you have mentioned with regard to meter
21 sizes, what is included, what is not, in three years and
22 five years, but do it company-wide, include Sun City and
23 Sun City West.

24 A. Would I be correct in saying that two of those
25 options have been done, in that Version 4 and Version 3

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1 will -- would you anticipate those model results would
2 be available either by next Tuesday afternoon or before
3 next Friday at the latest?

4 A. I would hope they would be, yes.

5 Q. Okay. Let's go back to your prepared testimony,
6 again, page 1 of 2, and I am looking at Exhibit A-42.
7 At lines 21 and 22, you indicate that Version 4 varies
8 the percentage of consolidated rates by district so that
9 each district has an equivalent dollar increase in each
10 step. Could you be a little more specific as to exactly
11 what you mean there, and perhaps you could give us an
12 example.

13 A. And what I should say is increase or decrease.
14 That was, that was left out of there, because obviously
15 if you are going to have an increase in some and you
16 want to keep your revenue requirement the same, some are
17 going to have to decrease and some are going to have to
18 increase. It is just the way it works.

19 For example, say Paradise Valley, for example,
20 if the total increase that they would need in their one
21 district to come to these consolidated rates was, say,
22 you know, a million dollars, that's just an example -- I
23 am pulling it out of my head, so please, you know -- if
24 I were doing a five-step change in rates, the idea would
25 have to be, would be that in each step that would move

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1 have the three and five steps company-wide with the
2 five-eighths inch meter equal to the one-inch meter?
3 Would I be correct that two of those options that are
4 completed, the differences would be then pulling apart
5 the five-eighths inch and the one-inch?

6 Q. Listening to you, I believe you are correct.

7 MS. DWORKIN: Yes, she is.

8 MR. ROBERTSON: My co-counsel concurs you are
9 correct.

10 THE WITNESS: Thank you.

11 BY MR. ROBERTSON:

12 Q. When do you anticipate that those models will be
13 run? And have you discussed with your colleagues at the
14 company and Mr. Hallam and/or Mr. Campbell how the
15 results of those models might find their way into this
16 proceeding in this evidentiary record?

17 A. I don't think that has been determined yet to my
18 knowledge. I have what I call the bones in good shape
19 for those options. I am not for these other two we just
20 discussed. So I think we are well on our way to having
21 that fairly quickly.

22 Now, I travel tonight into tomorrow, so it is
23 going -- tomorrow is going to be a short day.

24 Q. Assuming that this hearing carries over into
25 next week -- and the odds at this point would suggest it

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1 closer to those rates by \$200,000 for five years.

2 In order for that to happen, somebody else has
3 to, they need to raise, and then somebody else would
4 come the other direction, would go down. So it kind of
5 moves as a step that way.

6 Does that help?

7 Q. I think so.

8 How many rate consolidation models have you had
9 occasion to design over the years?

10 A. For something this diverse and complicated, this
11 is the first one. I have never been asked to do this.
12 However, as my job as a rate analyst I work with other
13 companies who are, who are under single tariff pricing
14 who may have a purchase of another water company. And
15 part of my job is to bring them into, you know,
16 whatever, zone one or whatever the, you know, the
17 overall single tariff pricing is, and to analyze, you
18 know, how that comes into the fold, so to speak.

19 Q. Let me ask you whether or not you have an
20 opinion. If one of the concerns of the Commission would
21 be if it decides that it is very seriously considering
22 adopting consolidation for Arizona-American Water
23 Company, and for purposes of my question let's assume
24 company-wide consolidation, if one of the concerns is
25 mitigation of the changes in rates that are going to

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1 occur in different districts vis-à-vis what those rates
 2 would be were stand-alone rates continued, do you
 3 believe the three-year version is more appropriate or
 4 the five-year version would be more appropriate for
 5 mitigation purposes?
 6 A. You know, I think we have seen both. I really
 7 don't have a judgment on that.
 8 Q. Okay. Do you anticipate at this point or do you
 9 know at this point, when the results of the additional
 10 modeling scenarios that you are currently working on are
 11 complete, are available, whether you would be returning
 12 as a witness to provide testimony in connection with
 13 explaining those results?
 14 A. Are you asking if I would be coming back as a
 15 witness to explain those results?
 16 Q. Yes.
 17 A. I don't have plans at this time.
 18 Q. Okay. Do you know how the company anticipates
 19 presenting the results of those different additional
 20 modeling endeavors?
 21 A. I do not.
 22 MR. ROBERTSON: Okay. That's all I have. Thank
 23 you and have a safe trip home.
 24 THE WITNESS: Thanks.
 25 ALJ WOLFE: Mr. Magruder.

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1 Anthem district were the company's rebuttal revenue
 2 requirements.
 3 Q. It is the company's rebuttal revenue
 4 requirements?
 5 A. That is correct.
 6 Q. Okay. What exceptions exist in the model?
 7 A. I believe my testimony indicates certain rate
 8 zones or certain tariff groups that were excluded.
 9 Would you like me to read those?
 10 Q. I think it is important for the record that they
 11 be there.
 12 A. In the water rate consolidation the -- let me be
 13 specific. They were excluded for rate consolidation.
 14 Their rates would remain either where they are or where
 15 they will be in the case: C2M3 Arizona Water contract,
 16 C5M1 Agua Fria - OWU PI Surprise, A5M1 Sun City public
 17 interruptible - Peoria, E7M2 Anthem wholesale (Phoenix)
 18 OWU, and apartment classes in Mohave and Havasu.
 19 In the wastewater districts: A2MSP Sun City
 20 sewer Paradise Park I/U, E5M2 Anthem wholesale (Phoenix)
 21 OWU, and P7A1 Mohave effluent -- sewer effluent sales.
 22 Q. In your opinion -- it sounded like you had a lot
 23 of different rate categories you just mentioned.
 24 A. Yes.
 25 Q. About what percentage of the total revenue is

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1 CROSS-EXAMINATION
 2 BY MR. MAGRUDER:
 3 Q. Good morning, Ms. Heppenstall.
 4 A. Good morning.
 5 Q. Good afternoon.
 6 A. Yes.
 7 Q. I am Marshall Magruder and you are Ms. Constance
 8 Heppenstall. I have got a couple questions.
 9 A. Okay.
 10 Q. What does the company model Version 4 use for
 11 total revenue, what are the sources?
 12 A. It is, the total revenue is the revenue that was
 13 approved in the previous case for those, those districts
 14 that have current approved revenue requirements as well
 15 as the company's rebuttal revenue requirement.
 16 Q. So it is the company's rebuttal revenue?
 17 A. Sorry. For Anthem and Sun City.
 18 Q. Okay. If there is minor changes made before the
 19 case is over, is it easy to change the total revenue
 20 number?
 21 A. Yes, it is.
 22 Q. What revenue requirement did you use for the
 23 Anthem district? In particular, does it include the
 24 Neidlinger proposal?
 25 A. I said revenue requirements I used for the

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1 probably being accepted in your present model?
 2 A. I really hadn't done that analysis.
 3 Q. Okay. About how many revenue classes or
 4 categories are you looking at a total model?
 5 A. I couldn't tell you, but I have never counted
 6 them up. Let's say there is 10 per each meter size per
 7 each residential, and for commercial there is quite a
 8 few.
 9 Q. Quite a few. And these were exceptions because
 10 they were unique, is that correct?
 11 A. These were exceptions decided upon by the
 12 company.
 13 Q. By the company. Can you use this model for
 14 sensitivity analysis?
 15 A. In what sense?
 16 Q. Control one variable and see what it does across
 17 the board? For example, the fixed charge for five
 18 and -- five-eighths and three-quarter inch, change it
 19 from \$10 to 15 and 20 and to see what its impacts are?
 20 A. Yes. That's the point of the model, yes, sir.
 21 Q. Okay. I would like to have you look at your
 22 exhibits in your rebuttal testimony, if you don't mind.
 23 A. They are both called rebuttal testimony.
 24 Q. In your second rebuttal, which I believe is
 25 Exhibit A-42.

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1 A. Great. Yes.
2 Q. On Exhibit CEH-1, page 1, and I think it is
3 important that I am going to ask you how we read this
4 page so we understand how to look at your results, in
5 this example I see under Sun City there are five steps,
6 is that correct?
7 A. That is correct.
8 Q. And in step one what does that 73 percent
9 indicate in that first column, first line?
10 A. As I indicated, in order to do a way of doing
11 stepped rates, we determined that a percentage of the
12 consolidated rate would be used. So that 73 percent is
13 a percentage of the final consolidated rate, our goal
14 that we are heading toward, which would be in step five
15 where you can see in Sun City we are at 100 percent.
16 So in this example, which is purely as an
17 example, Sun City would move from 73 percent of the
18 targeted consolidated rates to 80 percent to 87 percent
19 to 93 percent to 100 percent.
20 Q. Okay. So it will have about a shift of about
21 27 percent --
22 A. That's correct.
23 Q. -- during the course of the five phases. And
24 the steps are shown there. And that is reflected in all
25 of the numbers in the various columns, for each

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1 A. It will increase by 36 percent.
2 Q. 36 percent. Okay. And Havasu is going to go
3 down maybe 27 percent?
4 A. That's correct.
5 Q. An increase of 8 percent for Paradise Valley?
6 A. That's correct. Now, that is based on the
7 consolidated, yes, on the consolidate rates.
8 Q. On the consolidated five-step program?
9 A. That's correct.
10 Q. In your experience testifying before or working
11 with other rate cases, do these rate changes seem to be
12 extraordinarily large, from your viewpoint?
13 A. On some, yes, and -- yes.
14 Q. The increases, do they seem to be -- have you
15 tried to reduce the amount of increases as you worked
16 through the model?
17 A. Well, actually, you know, I should hesitate that
18 I am a modeler, I am not the company. I am not making
19 rate design decisions here. I am creating a model to
20 use to facilitate that.
21 Q. Did you do the input data or did the
22 company -- or did somebody else do the input data?
23 A. I put the input data physically with how I was
24 advised by the company.
25 Q. But advised by the company?

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1 different step goes up that percentage?
2 A. Except --
3 Q. Under Sun City?
4 A. Except for private fire --
5 Q. Okay.
6 A. -- which I discussed before. They were, they
7 were brought all the way to the rate right away.
8 Q. Okay. And the customer charge right now in step
9 one is \$12.46, and it ends up at \$16.97, is that
10 correct?
11 A. In this model, that is correct.
12 Q. Okay. And for Sun City West we see it is going
13 to decrease about 12 percent. Would you agree with
14 that?
15 A. Yes, I would.
16 Q. And on the next two pages after we would see
17 Agua Fria. And it is going to decrease about 5 percent,
18 is that correct?
19 A. That's correct.
20 Q. And Anthem will decrease about what percent?
21 A. 108 percent.
22 Q. Pretty large decrease. The next one in Tubac,
23 it is going to decrease about what percent?
24 A. 51 percent.
25 Q. Okay. And Mohave is going to --

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1 A. Yes.
2 Q. Okay. And continuing in your exhibit there is a
3 second -- there is the water -- excuse me. There is
4 another part on page 9, and it talks about commercial
5 OPA turf rates and blocks, is that correct?
6 A. That is correct.
7 Q. And it is in the same format as we have just
8 looked at for each of the water districts, is that
9 correct?
10 A. Yes.
11 Q. And would it have the same percentage changes
12 for each water district for those rates?
13 A. It should, yes.
14 Q. Okay. Could you define OPA and turf as part of
15 this, what they mean?
16 A. These are other public authority. And OPA and
17 turf, these are turf customers and these are -- I am not
18 familiar with those customers. This is just terminology
19 by the company.
20 Q. Okay. Would it be possible to make a special
21 rate category for resorts or golf courses similar to
22 this?
23 A. That would be up to the company.
24 Q. Okay. But it is not insurmountable and too hard
25 to do?

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1 A. Oh, in my model?
 2 Q. Yes.
 3 A. No.
 4 Q. Okay. And then we continue with one last
 5 exhibit, CEH-2. And what is that exhibit for?
 6 A. That is similar to CEH-1. It is showing
 7 wastewater rates.
 8 Q. Okay. And does it use the same percentages of
 9 change that you used in the --
 10 A. No, it does not. That's a totally different
 11 system.
 12 Q. Totally different system, okay.
 13 A. Or different rates.
 14 Q. So if we look at Sun City, then we are going to
 15 see about a 27 percent increase for them in wastewater?
 16 A. I am looking on page 1 of CEH-2 --
 17 Q. Yes.
 18 A. -- and I see a 37 percent.
 19 Q. 37 percent? Excuse me.
 20 A. Okay.
 21 Q. My error.
 22 And a slight decrease for Sun City West of about
 23 7 percent?
 24 A. I think an increase of 7 percent.
 25 Q. 7 percent, okay. And a pretty significant

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1 MR. CAMPBELL: Your Honor, I am not sure -- I
 2 don't believe it is an appropriate question for this
 3 witness. He has had plenty of opportunities to ask
 4 questions of three witnesses to determine the company's
 5 position. Ms. Heppenstall is here to talk about the
 6 model.
 7 MR. MAGRUDER: Okay. I have read through your
 8 model. I like your model. And in this intervenor's
 9 viewpoint, model 4, Version 4 rate structure in five
 10 steps, I would like to have on the record that this
 11 intervenor would be satisfied if that was implemented in
 12 this case. And I consider that those rates are fair and
 13 reasonable. Even though I have my own set, I considered
 14 yours as acceptable, same thing for wastewater. I
 15 consider, I would support those rates, too.
 16 And with that, I have no more questions. Thank
 17 you.
 18 THE WITNESS: Thank you.
 19 ALJ WOLFE: Mr. Pozefsky.
 20
 21 CROSS-EXAMINATION
 22 BY MR. POZEFSKY:
 23 Q. Good morning -- good afternoon.
 24 Ms. Heppenstall, you are a rate analyst, is that
 25 correct?

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1 decrease for the combined Agua Fria/Anthem wastewater
 2 district?
 3 A. That is correct.
 4 Q. And a de -- let's see. It is a decrease for
 5 that and an increase for Mohave?
 6 A. No, decrease for Mohave as well.
 7 Q. Excuse me. I agree, decrease for them, too.
 8 Okay.
 9 So those are the changes that you recommend or
 10 that are in the present Version 4 of the model?
 11 A. That is correct.
 12 Q. And do they have the company's sanction?
 13 A. I am not sure these steps do, because I was
 14 asked very specifically to do it by revenue. There is
 15 only one way to do that. So the revenue should be
 16 very -- the rates should be very similar to what we had
 17 in Version 3, which were approved by the company, yes.
 18 But the steps were done purely to keep the revenue the
 19 same by --
 20 Q. To keep the same. And how close are you with
 21 respect to revenue being the same?
 22 A. A couple thousand dollars.
 23 Q. And how can I determine if the company would
 24 consider this their rate submittal for the consolidated
 25 rates?

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1 A. Yes, I am.
 2 Q. Okay. You were asked to come up with a
 3 consolidation proposal in this case?
 4 A. I consolidation model.
 5 Q. Consolidation model. And in fact you have come
 6 up with a consolidation model with four different
 7 versions?
 8 A. That's correct.
 9 Q. Hypothetically, let's just assume that
 10 consolidation is approved. Can you explain which
 11 revenue requirement would be applied to the Mohave
 12 district under each version of the company's
 13 consolidation model?
 14 A. The revenue requirements should be the revenue
 15 requirement approved in the last case for the water, and
 16 I believe the sewer is part of this case.
 17 Q. And I believe in response to Mr. Magruder, you
 18 said for the Anthem water district the revenue
 19 requirement that you used would be the recommendation in
 20 the company's rebuttal, is that correct?
 21 A. That's correct.
 22 Q. And if I gave you the same scenario but this
 23 time asked you which test year did you apply, would your
 24 answer for the Mohave be the test year in the last rate
 25 case, 2007, for the water?

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1 A. For the water, that would be correct.
 2 Q. In 2008, for the wastewater and for the Anthem?
 3 A. To water or waste -- for Anthem it would be the
 4 most recent case company rebuttal.
 5 Q. Okay. And if I asked you the same scenario, but
 6 this time with fair value rate base and fair value rate
 7 of return applied, would your answer be the same?
 8 A. Yes.
 9 Q. So you are using two different revenue
 10 requirements for each version and two different test
 11 years for each version in your consolidation proposal,
 12 correct?
 13 A. I am, yes, that is correct.
 14 Q. Have you ever proposed a consolidated rate
 15 design based on two different test years?
 16 A. My -- I don't propose rate designs, really.
 17 Actually it is Paul Herbert who really does that for our
 18 company. So no, I have never done that. I do a rate
 19 consolidation model.
 20 Q. Do you know, has Mr. Herbert ever done that?
 21 A. I don't know.
 22 Q. Same thing, same response if I asked you whether
 23 or not you proposed a consolidated rate design based on
 24 two different revenue requirements?
 25 A. I don't propose rate design.

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1 as authorized in the previous decision in your
 2 consolidation model?
 3 A. The total revenue requirement is calculated
 4 using the revenue requirement from each district in
 5 previous cases, as well as the company's rebuttal
 6 revenue requirement in this case, for a total revenue
 7 requirement within each district the revenue
 8 requirement -- our goal was to create one revenue
 9 requirement.
 10 Q. Using the revenue requirement recommended or
 11 proposed in this case with the revenue requirement that
 12 was authorized in the last case, correct?
 13 A. Correct, in total.
 14 Q. What weighted average cost of capital did you
 15 use in Anthem and Sun City? And was it the same ones
 16 that were authorized in the last decision?
 17 A. I am not involved with that.
 18 Q. Who would be? Would that be your cost of
 19 capital?
 20 A. I believe it would be Mr. Broderick would know
 21 that.
 22 MR. POZEFSKY: Okay. Thank you,
 23 Ms. Heppenstall. That's all I have.
 24 THE WITNESS: Thank you.
 25 ALJ WOLFE: Does Staff have questions for this

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1 Q. Okay. But you wouldn't know if Mr. Herbert did,
 2 correct?
 3 A. I would not know.
 4 Q. You are aware as a rate analyst in Arizona, when
 5 the company files a rate application, it is also to be
 6 based on a test year, is that correct?
 7 MR. HALLAM: Your Honor, I would just object to
 8 Ms. Heppenstall is not a rate analyst in Arizona. So to
 9 the extent the question assumes it, it is inappropriate.
 10 BY MR. POZEFSKY:
 11 Q. Well, let me lay a little foundation. You did
 12 respond when I asked you whether or not you were a rate
 13 analyst. You are a rate analyst, correct?
 14 A. Yes, I am.
 15 Q. Are you familiar with rate applications here in
 16 Arizona?
 17 A. I participated as an aide to Mr. Herbert in the
 18 last case.
 19 Q. Okay. So you are aware, then, when a company
 20 files a rate case in Arizona, that basically the company
 21 chooses a test year?
 22 A. Yes.
 23 Q. Okay. And -- okay.
 24 Finally, Ms. Heppenstall, does a revenue
 25 requirement for each individual district remain the same

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1 witness?
 2 MS. SCOTT: I do. I will try and finish,
 3 though, by 5:00. No, I don't think I am going -- I
 4 don't think I am going to go that long.
 5 ALJ WOLFE: You can take as long as you need to.
 6
 7 CROSS-EXAMINATION
 8 BY MS. SCOTT:
 9 Q. Good afternoon, Ms. Heppenstall.
 10 A. Good afternoon.
 11 Q. I guess I would like to start by following up on
 12 the line of questions that Mr. Pozefsky just asked you,
 13 because I am trying to comprehend how the model handles
 14 certain things. And, you know, you are aware that we
 15 are dealing with a rate order for some of the districts
 16 that was issued in December of 2009, correct?
 17 A. Correct.
 18 Q. And did you review that Commission order?
 19 A. Not in great detail, no.
 20 Q. Okay. I want to -- do you have RUCO-1?
 21 A. I don't.
 22 Q. RUCO-1, the exhibit?
 23 A. I don't think I do.
 24 ALJ WOLFE: Let's go off the record and locate
 25 it.

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1 (Brief pause.)
2 ALJ WOLFE: We are back on the record. The
3 witness has a copy of RUCO-1.
4 BY MS. SCOTT:
5 Q. Okay. And RUCO-1 is the Commission's Decision
6 No. 71410 in Docket No. 08-0227, correct?
7 A. Subject to check. I am just seeing this.
8 Q. Okay. If you look at the caption of the case,
9 it shows you the various districts that were involved in
10 that case, correct?
11 A. Correct.
12 Q. And they are Agua Fria, Havasu water, Agua Fria
13 water, I am sorry, Paradise Valley water, Sun City West
14 water and Tubac water, correct?
15 A. Yes.
16 Q. And then Mohave wastewater?
17 A. Yes.
18 Q. Okay. So let's just take one of those. Let's
19 take Sun City West water. Do you know whether in
20 Decision No. 71410, do you know whether there was a
21 distinct revenue requirement determined for Sun City
22 West water?
23 A. I imagine there was.
24 Q. Okay. And is that what you used for purposes of
25 your model?

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1 revenue neutral means, my goal is to be revenue neutral
2 in total.
3 Q. And that's what I wanted to get to next.
4 A. Okay.
5 Q. So your goal is not with respect to each
6 district in the model maintaining revenue neutrality,
7 but your goal for purposes of the model was to use all
8 of the various, for instance, water districts in
9 Decision No. 71410, and your revenue neutrality
10 determination was based upon the total, is that correct?
11 A. Including the company revenue requirements in
12 this case for Anthem and Sun City, and looking at it as
13 a whole, as a starting point, because it was
14 company-wide.
15 Q. Okay. So -- I see. Okay. So let me just
16 summarize my understanding now. I think what you just
17 said was that for purposes of implementing the revenue
18 neutrality requirement in Decision No. 71410, you took
19 the total revenue requirement for all of the districts,
20 for instance the water districts in this case, the
21 original decision, and then what you believe may be
22 approved in this case, and for those purposes you used
23 the company's rebuttal amount --
24 A. Correct.
25 Q. -- correct?

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1 A. What I used was what the company supplied as the
2 billing determinants used in that case multiplied by the
3 rates. I kind of came at it from another direction.
4 What I needed to know was what was the approved usage by
5 each customer class, and what were the rates that were
6 approved in that case. And that's what I used to input
7 into my model, so that I could then apply consolidated
8 rates to those billing determinants.
9 Q. Okay. And would you look on page 76 of Decision
10 71410.
11 A. Yes.
12 Q. Would you look at paragraph 13.
13 A. Yes.
14 Q. And would you agree that paragraph 13 talks in
15 terms of a revenue neutral change?
16 A. Yes.
17 Q. How did the model ensure that the changes were
18 revenue neutral?
19 A. What I -- we took what the approved rates were
20 from this case, applied them to billing determinants
21 that were used to determine the revenue requirements
22 which I assumed would produce the correct revenue
23 requirements as approved by this case.
24 I added -- when you say net revenue neutral, and
25 I read there was some discussion in this case what

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1 And the combination of those two you implemented
2 throughout all of the districts based upon different
3 billing determinants and --
4 A. Right. What I -- then I said, okay, here is the
5 number we need to get to through looking at the last
6 case and this case. And it is in the 70 million range.
7 Here is the number I need to get to.
8 Then you set up, I set up an assumptions
9 page that said, okay, what rates based on, you know,
10 company's guidance, you know, we could figure out what
11 rates, if applied to all districts using each district's
12 individual billing determinants for each different rate
13 zone, what rates will create that. And that's the
14 process.
15 Q. So what rates, if applied to each individual
16 district, would come up with the cumulative revenue
17 requirement?
18 A. That's correct, with -- and adjusting each
19 district's blocks to the same blocking as well.
20 Q. Okay. And again, and I am just, I am just a
21 lawyer so this is more difficult, I think, for me to
22 sort through than someone as yourself. With respect
23 then to each district, how did you determine how much to
24 allocate to each district?
25 A. That you take -- you know, we developed a rate

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1 design that would somewhat stay -- well, the company
2 developed a rate design that would produce these, the
3 overall revenue requirement, without going too much --
4 the company didn't want to go too much out of the bounds
5 as to the current structure of rates.

6 We added more blocks, however, more usage
7 blocks, tried to keep commercial/residential consumption
8 rates the same or similar. They had the same customer
9 charge, commercial and residential.

10 Then at that point, when you -- I wish I could
11 show the model, because I do show you that for each
12 meter size, say for a five-eighths inch, I have a
13 calculation of what those rates would produce by each
14 district. And that's -- it is not that, you know, how
15 much I determined would be attributed to each district.
16 It is what falls out of the model once you apply these
17 rates.

18 You say, okay, the five-eighths inch customers
19 in Havasu, these rates would produce this much, and
20 that's what you see going into the consolidated rate
21 Havasu column. And that's the way I was able to see,
22 you know, were we able to see what the revenue impact is
23 of those rates.

24 Q. Okay.

25 A. And that was sort of the purpose of the model.

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1 see it, is that what you are referring to?

2 MS. SCOTT: I think that that might be
3 beneficial for people. I don't know. I see a couple
4 people shaking their heads yes. I don't know if the
5 company would be willing to do that. But I just offer
6 that.

7 ALJ WOLFE: Mr. Hallam.

8 MR. HALLAM: Certainly, Judge. Having discussed
9 it with my client, I am told that there are other
10 members of the company that would be happy to do that
11 and more than qualified to do that. So certainly I
12 guess we would have to clarify what the appropriate
13 forum would be for that. But we certainly understand
14 the desire for that information and we could walk
15 through the results with individuals that are local to
16 the company.

17 ALJ WOLFE: I certainly agree that the
18 Commission would benefit from having that information in
19 order to inform its decision, how it works. And I think
20 that many of the intervenors would also -- who aren't
21 here today -- would also benefit from seeing how it
22 would work.

23 So I would ask the company to work on that. And
24 maybe we can set a date, even after the evidentiary
25 hearing dates that we have so far. I think it might be

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1 It was also to see the individual impact on these
2 districts.

3 Q. As far as the commodity rates, how did you
4 determine what commodity rates to use or what the
5 breakdowns would be there?

6 A. Well, that was really the company's decision.

7 Q. Okay. Let's see. I think I have a few more
8 questions.

9 This is just a question on my part following up
10 on, I believe it was, Mr. Robertson's question.

11 And maybe, Your Honor, the company could think
12 about this. If Ms. Heppenstall comes back to go over
13 the model runs, I am wondering if perhaps she could walk
14 through the model for the benefit of all parties here.
15 And I am only suggesting that because she thought it
16 might -- I heard her say at one point that she thought
17 it might be helpful if we all could see, you know, how
18 her model was structured.

19 ALJ WOLFE: Are you talking about something that
20 would be similar to the training that has been talked
21 about, referred to in this proceeding?

22 MS. SCOTT: I don't think it would be that
23 extensive, no. I think if --

24 ALJ WOLFE: But are you talking about like an
25 Excel spreadsheet being presented so that everyone could

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1 extending. And we can talk about that more maybe
2 tomorrow, whenever we have more time.

3 MR. HALLAM: Certainly.

4 ALJ WOLFE: I think it would be a good idea. So
5 I am glad the company would agree to that. Thank you.

6 MS. SCOTT: I just have one or two more
7 questions.

8 BY MS. SCOTT:

9 Q. Just as a very general matter, since you were
10 the modeler in this case, do you know offhand how much
11 the -- what percentage of the revenue, overall revenue
12 requirement the fixed charges were designed to generate?

13 A. The way I developed the model was to show as an
14 example of what the fixed charge would generate purely
15 looking at residential. I did an analysis as to it
16 would, it would generate roughly 40 percent, was what my
17 goal was. I think I did a quick -- I can't remember
18 what my analysis, where the company is now, but it
19 seemed to me it was around that amount.

20 Q. And that would be for each district?

21 A. That was what my goal was.

22 Q. Overall?

23 A. Well, I was looking, right, just at consolidated
24 rates, yes.

25 MS. SCOTT: Okay. Your Honor, I think that's

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1 all I have for now. Thank you.
2 ALJ WOLFE: Thank you.
3
4 EXAMINATION
5 BY ALJ WOLFE:
6 Q. Good afternoon, Ms. Heppenstall. Thank you for
7 sitting through our proceedings so many days.
8 A. It has been interesting.
9 Q. I just had a follow-up question to what
10 Mr. Hallam asked you. He asked you if you had a chance
11 to review the Magruder model, and you said that you had.
12 A. Let me -- I reviewed what was in Mr. Magruder's
13 testimony and took his billing, his rate design and
14 input it, put it in my model. So I did not look at his
15 model, just to be clear. I looked at his rate design,
16 because I did not have access to his model, and put it
17 actually in the Version 2 model.
18 Q. Would you be able to put it in the Version 4
19 model as well? How difficult would that be?
20 A. That would not be a problem.
21 Q. And does the model have a proof of revenues
22 function?
23 A. Yes, it does. It is just looking at two columns
24 and making sure they add.
25 Q. Okay. And so that's how you found out that

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1 ALJ WOLFE: Do you have any redirect,
2 Mr. Hallam?
3 MR. HALLAM: Just one very simple question,
4 Judge.
5
6 REDIRECT EXAMINATION
7 BY MR. HALLAM:
8 Q. Ms. Heppenstall, I believe earlier you indicated
9 that the Mohave wastewater district was in this case.
10 Isn't it true that the Mohave wastewater district was in
11 the last rate case?
12 A. That's true. I had it backwards.
13 MR. HALLAM: That's all I had, Judge.
14 ALJ WOLFE: Thank you very much for your
15 testimony.
16 THE WITNESS: Thank you.
17 ALJ WOLFE: You are excused as a witness.
18 So tomorrow morning we will start off with Desi
19 Howe, Daniel Kelly, and Rodney Moore.
20 Are there any other procedural issues we need to
21 talk about today?
22 MS. SCOTT: Your Honor, I was wondering if it
23 would be possible for Mr. Becker to go on Tuesday of
24 next week. He was scheduled for today.
25 ALJ WOLFE: Oh, I am sorry. I didn't mean to

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1 there was just a little bit overage of revenue?
2 A. That's correct.
3 Q. Would you be able to, using your model, to find
4 out what the percentage of revenue is in the fixed
5 charges in your model as well?
6 A. I don't have that calculation done right now. I
7 could. It would take -- I would need to do -- I could
8 do that.
9 Q. I really appreciate it. I know I am giving you
10 a lot of homework, but I would appreciate that being
11 done, because if there is interest in adoption of that,
12 of those tiers by the Commission, we would want to know
13 whether it would yield the revenues that the company
14 would be entitled to, and how much of the fixed charges
15 would be in the residential.
16 A. Are we still talking about Mr. Magruder's
17 model --
18 Q. Yes.
19 A. -- or my model?
20 Q. No, in your model. I am pretty sure you looked
21 at that pretty closely, but I am just saying if there is
22 an interest in the tier structure in the Magruder
23 proposal, we would like to know whether it would
24 actually be workable.
25 A. Thank you. Sure.

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1 miss that. Yes, Tuesday. I don't know. Let's look at
2 who else I have on Tuesday.
3 MR. HALLAM: Neidlinger, I believe.
4 ALJ WOLFE: Mr. Neidlinger will be testifying
5 Tuesday at the beginning.
6 MS. DWORKIN: Yes, at 1:00.
7 ALJ WOLFE: So Mr. Becker would come on after
8 Mr. Neidlinger.
9 MS. SCOTT: Okay, thank you.
10 ALJ WOLFE: Anything else?
11 MR. POZEFSKY: What about business casual
12 tomorrow?
13 ALJ WOLFE: Right. You can come with no ties if
14 you like.
15 And if anyone is listening who didn't hear
16 earlier about we are not meeting here on Monday, it is
17 on the Commission's hearing calendar, after tomorrow, we
18 will be reconvening on Tuesday at 1:00 p.m.
19 MR. HALLAM: Judge, we would plan to bring
20 Mr. Crooks and Mr. Gross in tomorrow if time allows, and
21 I hope it will.
22 ALJ WOLFE: I hope so, too.
23 Mr. Robertson.
24 MR. ROBERTSON: Your Honor, I think Mr. Hallam
25 may have responded to what I was about to inquire.

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1 After we get through Mr. Howe and Mr. Kelly and
2 Mr. Crooks, who would be the additional witnesses? Is
3 Mr. Hallam suggesting that Mr. Gross would be our next
4 witness?
5 ALJ WOLFE: Yes.
6 MR. ROBERTSON: Assuming we get through
7 Mr. Gross, I neglected to bring my list of witnesses,
8 who would be the next witness on Your Honor's list
9 tomorrow?
10 ALJ WOLFE: Mr. Hansen isn't available tomorrow,
11 so it looks like it would be Mr. Magruder.
12 MR. ROBERTSON: Mr. Magruder, okay.
13 ALJ WOLFE: And then Mr. Woods and then
14 Ms. Jerich. And Mr. Moore is testifying tomorrow as
15 well.
16 MR. ROBERTSON: That's right.
17 ALJ WOLFE: And then Mr. Rigsby would be
18 following Ms. Jerich, and then the Staff witnesses.
19 MR. ROBERTSON: Thank you.
20 ALJ WOLFE: Is that clear for everyone?
21 MR. ROBERTSON: Yes, it is very clear.
22 ALJ WOLFE: Thank you very much. Have a good
23 evening.
24 (The hearing recessed at 4:59 p.m.)
25

1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA) ss.
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6
7 I, COLETTE E. ROSS, Certified Reporter
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