



0000155375

BEFORE THE ARIZONA CORPORATION COMMISSION
RECEIVED

COMMISSIONERS

BOB STUMP—Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

Arizona Corporation Commission

DOCKETED

AUG 15 2014

2014 AUG 15 P 4:46

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY 

ORIGINAL

IN THE MATTER OF THE APPLICATION
OF ARIZONA WATER COMPANY TO
EXTEND ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY IN CASA
GRANDE, PINAL COUNTY, ARIZONA.

DOCKET NO. W-01445A-03-0559
RESPONSE TO ARIZONA WATER
COMPANY'S MOTION TO STRIKE
THE PRE-FILED TESTIMONY OF
ERNEST G. JOHNSON

Brownstein Hyatt Farber Schreck, LLP
One East Washington, Suite 2400
Phoenix, AZ 85004

On July 18, 2014, Cornman Tweedy 560, LLC (“Cornman Tweedy”) filed the Rebuttal Testimony of Ernest G. Johnson, Sr. (Remand Proceeding II). On July 29, 2014, Arizona Water Company (“AWC”) filed a Motion to Strike Pre-filed Rebuttal Testimony of Ernest G. Johnson and to Preclude His Testimony at Hearing (“Motion to Strike”). Thereafter, AWC took the deposition of Mr. Johnson on August 7, 2014, and on August 11, 2014, filed a supplement (“Supplement”) to its Motion to Strike. A copy of the transcript from Mr. Johnson’s deposition is attached hereto as Attachment 1.

In its Motion to Strike, AWC asserts that “Mr. Johnson’s testimony is inadmissible because Mr. Johnson was employed in supervisory and management roles by the Arizona Corporation Commission (“Commission”) during the pendency of the present proceedings,” and that “Mr. Johnson’s involvement as a witness in a proceeding that he previously participated in and supervised for the Commission is improper and should not be permitted.”¹ AWC further asserts in its Supplement that Mr. Johnson “neither sought nor obtained written authorization of the Commission to appear as a witness in this proceeding,”² which AWC asserts is required under Arizona Administrative Code (“A.A.C.”) R14-3-104(G). Additionally, AWC asserts in its Motion to Strike that “Mr. Johnson’s testimony should be excluded because it consists of

¹ Motion to Strike at page 1, lines 18-20 and 25-26.

² Supplement at page 1, lines 16-17.

1 nothing more than legal conclusions, not facts, and addresses issues that have already been
2 decided by the Commission and the Hearing Division.”³

3 The Motion to Strike should be denied because the assertions of AWC are without merit.
4 First, Mr. Johnson’s participation as a witness in this case is clearly permissible under A.R.S.
5 § 38-504, the controlling statute with respect to limitations on the employment activities of
6 former government employees in the State of Arizona. Second, Mr. Johnson’s participation in
7 this proceeding is likewise permitted under A.A.C. R14-3-104(G) because Mr. Johnson did not
8 take “an active part in the investigation or preparation” of this case as a representative of the
9 Commission and AWC has presented no credible evidence to the contrary. Third, the opinions
10 proffered by Mr. Johnson are not “legal conclusions” but are analyses and opinions presented
11 from a regulatory policy perspective based upon his 25 years as a utility regulator. Fourth, any
12 criticism regarding the content of Mr. Johnson’s pre-filed testimony (including assertions that he
13 has addressed issues which have already been decided by the Commission) goes to the weight of
14 that testimony and not its admissibility. Finally, motions to strike are disfavored by the
15 Commission which acts as an administrative body and not as a court of law. For all of these
16 reasons, Cornman Tweedy requests that the Commission deny the Motion to Strike.

17 LEGAL ANALYSIS

18 1. Under A.R.S. § 38-504(A), a Former Commission Employee May Appear As a
19 Witness Once Twelve Months Have Elapsed from the End of His or Her
20 Employment at the Commission.

21 The statutes which apply to the activities of former government employees are set forth
22 in Title 38, Article 8 (Conflict of Interest of Officers and Employees), of the Arizona Revised
23 Statutes. Specifically, A.R.S. § 38-504(A) states as follows:

24 A public officer or employee shall not represent another person for compensation
25 before a public agency by which the officer or employee is or was employed
26 within the preceding twelve months or on which the officer or employee serves or
27 served within the preceding twelve months concerning any matter with which the
28 officer or employee was directly concerned and in which the officer or employee
personally participated during the officer's or employee's employment or service

³ *Id.* at page 1, line 27 to page 2, line 1.

1 by a substantial and material exercise of administrative discretion. (emphasis
2 added).⁴

3 Mr. Johnson's employment with the Commission officially ended on February 8, 2013,
4 although the last day he was physically present at the Commission was the last business day in
5 December 2012.⁵ Thus, under A.R.S. § 38-504(A), the limitation on Mr. Johnson's ability to
6 participate as a witness in cases before the Commission ended at the latest on February 8, 2014.
7 Counsel for Cornman Tweedy did not contact Mr. Johnson regarding his potential services as a
8 witness in this case until sometime in June 2014,⁶ after AWC filed the testimony of witnesses
9 Paul Walker and Rita Maguire on May 30, 2014. Mr. Johnson's rebuttal testimony in this
10 docket was thereafter researched and prepared in June and July and filed with Docket Control on
11 July 18, 2014.⁷ Because Mr. Johnson's participation in this case commenced after February 8,
12 2014, there can be no violation of A.R.S. § 38-504(A).

13 There is a long list of employees⁸ who have left their employment with the Commission
14 and then represented regulated utilities before the Commission as either employees or

15 ⁴ It is clear that A.R.S. § 38-504(A) applies to former employees of the Commission, including Mr.
16 Johnson. The applicability of Title 38, Article 8, is set forth in A.R.S. § 38-501 which states as follows:

17 38-501. Application of article

18 A. This article shall apply to all public officers and employees of incorporated cities or
19 towns, of political subdivisions and of the state and any of its departments, commissions,
20 agencies, bodies or boards.

21 B. Notwithstanding the provisions of any other law, or the provisions of any charter or
22 ordinance of any incorporated city or town to the contrary, the provisions of this article
23 shall be exclusively applicable to all officers and employees of every incorporated city or
24 town or political subdivision or the state and any of its departments, commissions,
25 agencies, bodies or boards and shall supersede the provisions of any other such law,
26 charter provision or ordinance.

27 C. Other prohibitions in the state statutes against any specific conflict of interests shall be
28 in addition to this article if consistent with the intent and provisions of this article.
(emphasis added)

⁵ Deposition of Ernest Johnson at page 20, lines 13-25 and page 109, lines 5-12.

⁶ *Id.* at page 117, lines 10-25.

⁷ *Id.* at pages 119-121.

⁸ Former Commission employees who have subsequently represented regulated entities or state agencies before the Commission include, but are not limited to, Andy Bettwy, Patrick Black, Beth Ann Burns, Brad Carroll, Carl Dabelstein, Matt Derr, Mark Dinunzio, Phil Dion, Giancarlo Estrada, Jim Fisher, Dick Foreman, Jason Gellman, Garry Hays, Gary Horton, Cheryl Hubbard, Alex Igwe, Jodi Jerich, Keith

1 consultants, including AWC witness Paul Walker. In fact, Mr. Walker was the policy advisor to
2 Commissioner Marc Spitzer⁹ from January 2001 to May 2004, at the very time the Commission
3 considered and approved Decision 66893 in this docket at the March 30 and 31, 2004 Open
4 Meeting. Thus, if there is any issue with Mr. Johnson appearing as a witness for Cornman
5 Tweedy in this docket based upon A.R.S. § 38-504(A), the same issue exists with regard to Mr.
6 Walker's appearance on behalf of AWC. Of course, there is no issue because both of these
7 former Commission employees are outside the 12-month restriction imposed under the statute.

8 AWC argues that Mr. Johnson's testimony in this docket is inadmissible because he was
9 "employed in supervisory and management roles by the ... Commission ... during the pendency
10 of the present proceedings."¹⁰ However, this argument fails for at least two reasons. First,
11 A.R.S. § 38-504(A) applies only to matters where the former employee "was directly concerned
12 and ... personally participated ... by a substantial and material exercise of administrative
13 discretion" during the twelve months preceding that employee's representation of another person
14 for compensation before the public agency.¹¹ In other words, once a former employee is outside
15 of the twelve month restrictive period, that employee may represent another before the former
16 employer even in matters where the employee personally participated by a substantial and
17 material exercise of administrative discretion without violating A.R.S. § 38-504(A). Second,
18 even if Mr. Johnson was within the twelve month restrictive period following his employment
19 with the Commission (which is clearly not the case), AWC has failed to present any evidence
20 that Mr. Johnson "personally participated [in the Cornman Tweedy docket] by a substantial and
21 material exercise of administrative discretion." In fact, a reading of the transcript from Mr.
22 Johnson's deposition clearly shows otherwise. The title of Director of the Utilities Division or

23
24 Layton, Commissioner Kris Mayes, Brian McNeil, Robert Metli, Dean Miller, Jeff Michlik, Tom
25 Mumaw, Karen Nally, Joel Reiker, Bill Rigsby, Matt Rowell, Sonn Rowell, Kimberly Ruht, Randy
26 Sable, Tim Sabo, Deborah Scott, Commissioner Marc Spitzer, John Thornton, Paul Walker, John
27 Wallace and Gary Yaquinto. This list includes two former commissioners, three former chief hearing
28 officers and two former hearing officers, two former executive directors, three former utilities division
directors (not including Mr. Johnson), eleven former policy advisors, seven former staff attorneys, and
eleven former staff members.

⁹ <http://www.linkedin.com/pub/paul-walker/16/721/5a9>.

¹⁰ Motion to Strike at page 1, lines 18-20.

¹¹ A.R.S. § 38-504(A).

1 Executive Director, in and of itself, does not prove a “substantial and material exercise of
2 administrative discretion.”

3 Mr. Johnson has fully complied with A.R.S. § 38-504(A) and the statute provides no
4 basis to exclude him as a witness in this case.

5 **2. A.A.C. R14-3-104(G) Does Not Preclude Mr. Johnson from Acting as a Witness in**
6 **this Proceeding Because He Did Not Take an “Active Part in the Investigation or**
7 **Preparation” of the Case.**

8 AWC asserts that Mr. Johnson may not participate as a witness in this proceeding
9 pursuant to A.A.C. R14-3-104(G) because “he neither sought nor obtained written authorization
10 of the Commission to appear as a witness in this proceeding.”¹² Mr. Johnson did not seek
11 written authorization to appear as a witness in this case because such authorization is not
12 required under the rule based upon the facts and circumstances of this case.

13 A.A.C. R14-3-104(G) states as follows:

14 Former employees. No former employee of the Commission shall appear at any
15 time after severing his employment with the Commission as a witness on behalf
16 of other parties in a formal proceeding wherein he previously took an active part
17 in the investigation or preparation as a representative of the Commission, except
18 with the written permission of the Commission.

19 AWC’s assertion that Mr. Johnson must obtain written authorization from the
20 Commission to appear as a witness in this case completely ignores the critical fact that he did
21 not take “an active part in the investigation or preparation as a representative of the
22 Commission” either as the director of the Utilities Division or as the Executive Director. In Mr.
23 Johnson’s four-hour deposition, counsel for AWC methodically worked his way through a tall
24 stack of Utilities Division filings, correspondence, recommended opinions and orders, and
25 decisions in this docket, asking detailed questions about each document. Additionally, AWC
26 asked extensive questions regarding Mr. Johnson’s interactions and communications with Staff
27 members assigned to this case, the Legal Division, the Hearing Division and the Commissioners.
28 After all of this, the deposition transcript shows that Mr. Johnson has not taken “an active part in
the investigation or preparation” of this case within the meaning of A.A.C. R14-3-104(G), and
AWC has not presented any credible evidence to the contrary in its Motion to Strike. Because

¹² Supplement at page 1, lines 16-17.

1 the deposition transcript is lengthy, attached hereto as Attachment 2 are relevant excerpts from
2 the deposition which demonstrate that Mr. Johnson did not take an active part in the
3 investigation or preparation of this case at any time while employed at the Commission.

4 While Mr. Johnson certainly served as the Utilities Division Director and then as
5 Executive Director during the pendency of this proceeding, merely holding those positions does
6 not establish that he took “an active part in the investigation or preparation as a representative of
7 the Commission” in this case. To the contrary, the record in this case as supplemented by the
8 August 6, 2014, deposition makes clear that Mr. Johnson did not take an active part in the
9 investigation or preparation of this case. Thus, AWC’s assertion that Mr. Johnson must obtain
10 written permission from the Commission pursuant to A.A.C. R14-3-104(G) to appear as a
11 witness in this case is without any merit. However, if the Commission has any concerns which
12 may lead it to conclude otherwise, then Cornman Tweedy would request an opportunity for Mr.
13 Johnson to request and obtain permission to appear as a witness before rendering a ruling on the
14 Motion to Strike.

15 Finally, Cornman Tweedy would note that AWC witness Paul Walker was the policy
16 advisor to Chairman Marc Spitzer at the time the Commission considered and then approved
17 Decision 66893 in 2004. Unlike Mr. Johnson, Mr. Walker was actually a “commission
18 employee involved in the decision-making process” and subject to A.A.C. R14-3-113 regarding
19 unauthorized communications. As an employee involved in the decision-making process (as the
20 policy advisor to Commissioner Spitzer), that Mr. Walker did take “an active part in the
21 investigation or preparation [of this case] as a representative of the Commission.”

22 **3. Application of Arizona and Oklahoma Ethical Rules.**

23 Mr. Johnson is an attorney who is an active member in good standing of the State Bar
24 Association of Oklahoma.¹³ Mr. Johnson is not admitted to practice law in the State of Arizona
25 and has never applied for admission to the State Bar of Arizona.¹⁴ In its Motion to Strike, AWC
26 references Rules ER 1.11 and ER 3.7 of the Arizona Rules of Professional Conduct, as well as

27
28 ¹³ Deposition of Ernest Johnson at page 21, lines 9-18.

¹⁴ *Id.* at lines 23-25

1 the analogous provisions of the Oklahoma Rules of Professional Conduct, and suggests Mr.
2 Johnson is somehow acting as a legal advocate in these proceedings in contravention of these
3 rules.¹⁵ Cornman Tweedy strongly disagrees.

4 Mr. Johnson has not been retained to act as legal counsel to Cornman Tweedy in this
5 case and there is no evidence to the contrary. Cornman Tweedy is represented by legal counsel
6 undersigned and Mr. Johnson has been retained as a policy witness to address the policy issues
7 raised in this case such as, for example, “whether a public service corporation, like Arizona
8 Water, in this water challenged area and under the circumstances presented in this case, is
9 providing reasonable service if it is not able or not willing to provide integrated water and
10 wastewater service.”¹⁶ While it is not clear that the Arizona Rules of Professional Conduct
11 apply to Mr. Johnson under the facts and circumstances of this case, assuming for the sake of
12 argument that they do apply, the rules cited by AWC clearly do not preclude him from appearing
13 as a witness in this case.¹⁷

14 ER 1.11(a) and (b) of the Arizona Rules of Professional Conduct state as follows:

15 (a) Except as law may otherwise expressly permit, a lawyer shall not represent a
16 private client in connection with a matter in which the lawyer participated
17 personally and substantially as a public officer or employee, unless the
18 appropriate government agency gives its informed consent, confirmed in writing,
to the representation. No lawyer in a firm with which that lawyer is associated
may knowingly undertake or continue representation in such a matter unless:

19 (1) the disqualified lawyer is screened from any participation in the matter
20 and is apportioned no part of the fee therefrom; and

21 (2) written notice is promptly given to the appropriate government agency
22 to enable it to ascertain compliance with the provisions of this Rule.

23 (b) Except as law may otherwise expressly permit, a lawyer having information
24 that the lawyer knows is confidential government information about a person
25 acquired when the lawyer was a public officer or employee, may not represent a
private client whose interests are adverse to that person in a matter in which the

26 ¹⁵ Motion to Dismiss at page 6.

27 ¹⁶ Procedural Order dated February 10, 2011, at page 2, lines 6-10.

28 ¹⁷ As noted by AWC in its Motion to Strike, Rules 1.11 and 3.7 of the Oklahoma Rules of Professional
Conduct are substantially similar ER 1.11 and ER 3.7 of the Arizona Rules of Professional Conduct. For
the sake of brevity, Cornman Tweedy will focus its analysis on the Arizona rules but the analysis applies
equally to the Oklahoma rules.

1 information could be used to the material disadvantage of that person. A firm
2 with which that lawyer is associated may undertake or continue representation in
3 the matter only if the disqualified lawyer is screened from any participation in the
4 matter and is apportioned no part of the fee therefrom. (emphasis added)

5 ER 1.11(a) cannot apply in this case for at least two reasons. First, there is no evidence
6 that Mr. Johnson previously “participated personally and substantially” in the case. In fact, the
7 evidence is to the contrary. Second, Mr. Johnson is not acting in the capacity of an attorney for
8 Cornman Tweedy but as a policy witness. Thus, he is not “representing a private client” within
9 the meaning of ER 1.11(a). However, even if Mr. Johnson were deemed to be “representing a
10 private client” within the meaning of ER 1.11(a), such representation would be permissible
11 under the rule “if the appropriate government agency gives its informed consent, confirmed in
12 writing, to the representation.” Thus, if the Commission believes that Mr. Johnson is
13 “representing a private client” by virtue of his appearance as a witness for Cornman Tweedy,
14 then Cornman Tweedy would request an opportunity for Mr. Johnson to request and obtain
15 permission to appear as a witness before rendering a ruling on the Motion to Strike.

16 ER 1.11(b) pertains to disclosure of “confidential government information.” As used in
17 the rule, “confidential government information” means information “which has been obtained
18 under governmental authority and which, at the time this Rule is applied, the government is
19 prohibited by law from disclosing to the public or has a legal privilege not to disclose, and
20 which is not otherwise available to the public.”¹⁸ There has been no assertion or evidence
21 presented that Mr. Johnson has confidential government information within the meaning of ER
22 1.11. Thus, ER 1.11(b) is not applicable in this case.

23 ER 1.11(c) does not apply because it pertains to current service as a public officer or
24 employee, and Mr. Johnson is a former employee of the Commission.

25 ER 3.7 of the Arizona Rules of Professional Conduct states as follows:

26 (a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be
27 a necessary witness unless:

(1) the testimony relates to an uncontested issue;

28 ¹⁸ Arizona Rules of Professional Conduct, ER 1.11(e).

1 (2) the testimony relates to the nature and value of legal services rendered
2 in the case; or

3 (3) disqualification of the lawyer would work substantial hardship on the
4 client.

5 (b) A lawyer may act as advocate in a trial in which another lawyer in the
6 lawyer's firm is likely to be called as a witness unless precluded from doing so by
7 ER 1.7 or ER 1.9.

8 Clearly, ER 3.7 does not apply to the facts of this case. The rule pertains only to a
9 lawyer who is acting as an "advocate" for a client and who may be called as a witness in the
10 case. The purpose of the rule is to limit the actions of a trial attorney who might be a "necessary
11 witness," not the actions of an attorney who is not representing a party to the proceeding but
12 who may be called to testify as a witness. In no event will Mr. Johnson simultaneously serve as
13 lawyer to Cornman Tweedy and witness in this case, which is the circumstance ER 3.7 is
14 intended to prohibit. Thus, there is no basis under ER 3.7 to exclude Mr. Johnson as a witness.

15 AWC asserts that Mr. Johnson should not be "permitted to represent Cornman Tweedy
16 or provide legal argument in this case."¹⁹ First, Mr. Johnson is not representing Cornman
17 Tweedy in this case any more than Rita Maguire, a licensed attorney, is representing AWC by
18 appearing as an expert witness. Second, Mr. Johnson is not providing legal argument or
19 asserting legal opinions in this case, a point he make clear at his deposition when he stated: "Let
20 me state affirmatively that I am not here ... testifying as a legal expert on anything."²⁰

21 In its Motion to Strike, AWC cites *Pinal Creek Group v. Newmont Mining Corp.* 352 F.
22 Supp. 2d 1037, 1042-45 (D. Ariz. 2005) as a case where the expert testimony of a law professor
23 was excluded because the professor's reports read like legal briefs.²¹ However, Mr. Johnson's
24 prefiled testimony in this case cannot fairly be described as reading like a legal brief. Certainly,
25 Mr. Johnson's testimony reads no more like a legal brief than the testimony of AWC witness
26 Rita Maguire.

27 ¹⁹ Motion to Strike at page 7, lines 25-27.

28 ²⁰ Deposition of Ernest Johnson at page 48, lines 1-2.

²¹ Motion to Strike at page 6, footnote 2.

1 **4. Motions to Strike are Disfavored by the Commission.**

2 This is the second motion to strike the testimony of Cornman Tweedy witnesses filed by
3 AWC in this docket. On February 7, 2008, AWC filed a motion to strike substantial portions of
4 the pre-filed testimony and exhibits of Cornman Tweedy witness Jim Poulos and all of the pre-
5 filed testimony of witnesses Dr. Fred Goldman and Paul Hendricks.²² Utilities Division Staff
6 opposed AWC's motion to strike, correctly observing the Commission's tradition against
7 excluding pre-filed testimony:

8 In response to AWC's Motion to Strike, Staff believes it would be inappropriate
9 to grant such motion. Traditionally, the Commission offers an opportunity for all
10 parties to present such evidence as they believe relevant and helpful to their
11 respective positions. The Commission specifically desired that the remand
12 proceeding be "broad in scope so that the Commission may develop a record to
13 consider the overall public interest underlying service to the Cornman property
14 that is included in the extension area granted by Decision No. 66893." *Decision*
15 *No. 69722 at 20.* Further, Staff believes that Cornman should have an
16 opportunity to present the case they believe expresses their position on the merits
17 of the proceeding.

18 To the extent that the legal issues that govern the nature of this proceeding may
19 have the effect of focusing the factual inquiry, Cornman should have an
20 opportunity to demonstrate that their pre-filed testimony is relevant and addresses
21 these legal issues. Indeed, it is difficult to conclude that the testimony Cornman
22 provided is precluded by the nature of the legal standard governing this matter
23 when the applicable legal issues are still being briefed. It would thus be
24 premature to grant the Motion to Strike.²³

25 In denying AWC's motion to strike, the administrative law judge ruled appropriately as
26 follows:

27 At this juncture of the proceeding we do not believe it is in the interest of justice
28 or in the spirit of Decision No. 69722 to pre-judge the relevancy of the Cornman
pre-filed testimony. We have not yet had the opportunity for cross examination
or post-hearing briefs. We believe that Cornman should have the opportunity to
develop its factual and legal positions, and we deny the Motion to Strike at this
time. As this is an administrative proceeding, the Administrative Law Judge and
Commissioners are able to reserve judgment on the relevance of the evidence

²² Arizona Water Company's Motion to Strike Cornman Tweedy's Irrelevant Testimony and Exhibits (Docket W-01445A-03-0559) dated February 7, 2008.

²³ Staff's Pre-Hearing Brief and Response to Arizona Water Company's Motion to Strike (Docket W-01445A-03-0559) dated February 15, 2008, at page 4, lines 13-27 (emphasis added).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

until the record is more fully developed, and give all evidence the weight they find appropriate.²⁴

The denial of AWC’s earlier motion to strike is consistent with Commission rulings on other motions to strike. For example, in Docket E-03964A-06-0168, *In the Matter of the Application of Sempra Energy Solutions LLC for a Certificate of Convenience and Necessity for Competitive Retail Electric Service*, Sempra Energy Solutions LLC (“Sempra”) filed a motion to strike the pre-filed testimony of three witnesses. However, in a procedural order dated December 20, 2007, the ALJ rejected Sempra’s arguments and denied the motion to strike, reasoning as follows:

Far from being “irrelevant,” facts pertaining to the public interest in regard to the grant of a CC&N in this proceeding are very likely to be relevant, material and appropriate. The parties may differ in their opinion of whether certain individual facts actually pertain to the public interest, but at this juncture of the proceeding, it is inappropriate to strike the entirety of a witness’ prefiled testimony simply because its scope exceeds the narrow criteria that an applicant wishes the Commission to consider. As Sempra states in its argument, the Commission, in its consideration of Sempra’s application under current authorities, is “fully capable of delineating its oversight role of both determining and applying the relevant constitutional, statutory and regulatory criteria to Sempra.” ...

Precluding a party from presenting facts regarding the public interest implications of granting a CC&N to an applicant runs counter to the purpose of an administrative proceeding such as this one and could deprive the Commission of information helpful to its determination.²⁵

Cornman Tweedy should have the opportunity to present the case it believes best expresses its positions on the issues in this proceeding, and the Commission will benefit from a robust and complete record in this case upon which a decision may be based. The administrative law judge and the commissioners are experienced in weighing the evidence presented and applying the relevant constitutional, statutory and regulatory criteria in this case. Thus, AWC’s attempts to exclude the testimony of Mr. Johnson should be rejected.

AWC asserts that “[t]ribunals have the inherent power to disqualify experts to protect the integrity of the process and to promote public confidence in the legal system,” citing a federal

²⁴ Procedural Order Ruling on Motion to Strike Testimony (Docket W-01445A-03-0559) dated September 5, 2008, at page 9, lines 19-25 (emphasis added).
²⁵ Procedural Order (Docket No. E-03964A-06-0 168) dated December 20, 2007 at pages 8-9 (emphasis added).

1 district court case.²⁶ However, it is important to bear in mind that the Commission is an
2 administrative agency which differs markedly from a court of law. While the Commission
3 conducts hearings, which look in some ways like cases tried in courts of law, the proceedings
4 are administrative in nature. Thus, the trier of fact is not a jury but an administrative law judge
5 (with a law degree) who is knowledgeable in the relevant administrative law. Thus, latitude is
6 given to parties to present the case they believe best expresses their position on the issues in the
7 proceeding. As noted by the Commission in the *Sempra* case cited above, excluding witnesses
8 runs counter to the purpose of an administrative proceeding and could deprive the Commission
9 of information helpful to its determinations in the case.

10 AWC asserts that Mr. Johnson's testimony "consists solely of legal conclusions not
11 facts."²⁷ However, that assertion is simply not borne out by a review of the testimony, which is
12 directly responsive to specific statements and opinions expressed by AWC witnesses Paul
13 Walker and Rita Maguire. AWC further asserts that "Judge Nodes has previously determined,
14 in a recommended opinion and order signed by Mr. Johnson, that most of Mr. Johnson's current
15 conclusory opinions are incorrect."²⁸ However, the administrative law judge in this case has
16 previously rejected AWC's assertions regarding the dispositive effect of a recommended opinion
17 and order, as evidenced by the following excerpt from a prior procedural conference:

18 Judge Nodes: Now, Mr. Hirsch, what I want to ask you is: Given that the ROO
19 is simply a recommendation at a given point in time, why should
20 the Commission not be able to hear additional testimony on the
21 issues that were specifically remanded in Decision 69722 even,
22 you know - - and before we get to the very specific language that
23 was the subject of the remand, as Mr. Crockett points out, a
24 recommended order is just that. It is a recommendation, no
25 different than if Staff makes a recommendation to the
26 Commissioners, who are free to accept, reject, amend a
27 recommendation, recommended order at any time. So given that
28 there hasn't been a Commission vote one way or the other on this
recommended order that has now been filed almost a year ago,
why doesn't 69722 still stand as the operative decision until a
future decision is ultimately rendered by the Commission? And if
that is the case, why should we not allow additional testimony

²⁶ Motion to Dismiss at 5, lines 5-6.

²⁷ *Id.* at 9, lines 11-12.

²⁸ *Id.* at 10, lines 10-12.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

evidence on the specific remanded issues that actually never went to hearing by agreement of the parties as you know? If you could, answer that.²⁹

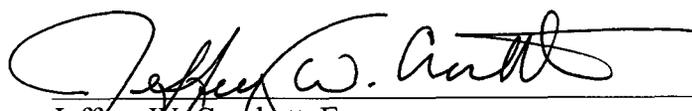
Mr. Johnson's testimony is responsive to the testimony previously filed by AWC witnesses Paul Walker and Rita Maguire. The testimony is consistent with the scope of this proceeding as set forth in Decision 69722. AWC has failed to provide a valid basis for excluding Mr. Johnson's testimony, and its Motion to Strike should therefore be denied.

CONCLUSION

Decision 69722 ordered a remand "broad in scope so that the Commission may develop a record to consider the overall public interest underlying service to the Cornman property...." With over 25 years of regulatory policy experience, Mr. Johnson's testimony will certainly add important facts, analysis, perspective and insight to the issues raised by this case. AWC has failed to articulate any valid basis for granting its Motion to Strike. Specifically, AWC has failed to demonstrate that Mr. Johnson's appearance in this case is precluded by A.R.S. § 38-504, A.A.C. R14-3-104(G), the Arizona or Oklahoma Rules of Professional Conduct, or any other relevant authority. Motions to strike witnesses from proceedings are disfavored by the Commission, and any objections that AWC may have regarding the scope or relevancy of anything contained in Mr. Johnson's testimony can be properly addressed at the hearing, where all evidence will be given the weight deemed appropriate. For all of the reasons set forth herein, Cornman Tweedy requests that the Commission deny AWC's Motion to Strike the Pre-Filed Rebuttal Testimony of Ernest G. Johnson and to Preclude his Testimony at Hearing.

DATED this 15th day of August, 2014.

BROWNSTEIN HYATT FARBER SCHRECK LLP



Jeffrey W. Crockett, Esq.
One East Washington Street, Suite 2400
Phoenix, Arizona 85004
Attorneys for Cornman Tweedy 560, LLC

²⁹ Reporter's Transcript of Proceedings in Docket W-01445A-03-0559, Procedural Conference held October 17, 2001, at pages 24-25.

Brownstein Hyatt Farber Schreck, LLP
One East Washington, Suite 2400
Phoenix, AZ 85004

1 ORIGINAL and thirteen (13) copies of the foregoing
2 filed this 15th day of August, 2014, with:

3 Docket Control
4 ARIZONA CORPORATION COMMISSION
5 1200 West Washington Street
6 Phoenix, Arizona 85007

7 COPY of the foregoing hand-delivered
8 this 15th day of August, 2014, to:

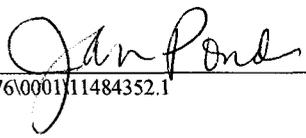
9 Dwight D. Nodes, Assistant Chief Administrative Law Judge
10 Hearing Division
11 ARIZONA CORPORATION COMMISSION
12 1200 West Washington Street
13 Phoenix, Arizona 85007

14 Janice Alward, Chief Counsel
15 Legal Division
16 ARIZONA CORPORATION COMMISSION
17 1200 West Washington Street
18 Phoenix, Arizona 85007

19 Steve Olea, Director
20 Utilities Division
21 ARIZONA CORPORATION COMMISSION
22 1200 West Washington Street
23 Phoenix, Arizona 85007

24 COPY of the foregoing sent via e-mail and
25 hand-delivered this 15th day of August, 2014, to:

26 Steven A. Hirsch, Esq.
27 Stanley B. Lutz, Esq.
28 BRYAN CAVE, LLP
Two North Central Avenue, Suite 2200
Phoenix, Arizona 85004-4406


014776000111484352.1

ATTACHMENT 1

Transcript of the Testimony of **Ernest Johnson**

Date: August 6, 2014

Case: In re Arizona Water Company

PREPARED BY:

AZ Litigation Support, LLC

1 East Washington Street

Suite 500

Phoenix, Az 85004

Phone: 480-481-0649

Email: Info@CourtReportersaz.com

www.CourtReportersAz.com

Page 1

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE)
 APPLICATION OF ARIZONA WATER) Docket No. W-01445A-03-0559
 COMPANY TO EXTEND ITS)
 CERTIFICATE OF CONVENIENCE AND)
 NECESSITY IN CASA GRANDE,)
 PINAL COUNTY, ARIZONA,)
)
)

THE DEPOSITION OF ERNEST G. JOHNSON, SR., ESQ.

Phoenix, Arizona
 August 6, 2014
 9:28 a.m.

(Copy)
 PREPARED FOR: REPORTED BY:
 CORPORATION COMMISSION Az Litigation Support, LLC
 Marty Herder, CCR
 Certified Court Reporter
 CCR No. 50162

© Az Litigation Support, LLC (480)481-0649
 www.CourtReportersAz.com

Page 2

I N D E X

1
 2 Examination By: Page:
 3 Mr. Hirsch 4
 4
 5
 6
 7
 8 E X H I B I T S
 9 No. 1 Cover sheet of the Notice of Filing
 Testimony and attachment two 19
 10
 11 No. 2 Section of the Arizona Administrative Code 142
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 3

1 THE DEPOSITION OF ERNEST G. JOHNSON, SR., ESQ.,
 2 Taken at 9:28 a.m., on August 6, 2014, at the Law Offices of
 3 BRYAN CAVE LLP, Two North Central Avenue, Suite 2200,
 4 Phoenix, Arizona, 85004, before Marty Herder, Certified
 5 Court Reporter, pursuant to the Rules of Civil Procedure.
 6
 7 COUNSEL APPEARING:
 8 For Arizona Water Company:
 9 BRYAN CAVE LLP
 BY: Steven A. Hirsch, Esq.
 10 Two North Central Avenue, Suite 2200
 Phoenix, Arizona 85004
 11
 12 ARIZONA WATER COMPANY, GENERAL COUNSEL
 BY: Robert Spear, Esq.
 13 3805 North Black Canyon Highway
 Phoenix, Arizona 85015
 14
 15 For Conman Tweedy 560, LLC:
 16 BROWNSTEIN HYATT FARBER SCHRECK LLP
 BY: Jeffrey W. Crockett, Esq.
 17 One East Washington Street, Suite 2400
 Phoenix, Arizona 85004
 18
 19 For the Robson Communities, Inc.:
 20 ROBSON COMMUNITIES, INC., VICE PRESIDENT AND GENERAL COUNSEL
 BY: Peter M. Gerstman, Esq.
 21 9532 East Riggs Road
 Sun Lakes, Arizona 85248
 22
 23
 24 Also present: William Garfield
 25

Page 4

Phoenix, Arizona
 August 6, 2014
 9:28 a.m.

ERNEST G. JOHNSON, SR., ESQ.,
 called as a witness herein, having been first duly sworn,
 was examined and testified as follows:

E X A M I N A T I O N

BY MR. HIRSCH:

10 Q. Would you give us your full name for the record,
 11 please.
 12 A. Ernest Gene Johnson, Sr.
 13 Q. Now, in your testimony you gave an address. Is
 14 that your residence address or business address?
 15 A. That would be my residence address, but I have a
 16 business address.
 17 Q. Give us that, please.
 18 A. P.O. Box 12376, Chandler, Arizona, 85248.
 19 Q. Now, does your consulting business have a separate
 20 business address or do you operate out of that home address
 21 physically?
 22 A. Physically I'm in the home address.
 23 Q. And has that always been where -- is it pronounced
 24 Strategis?
 25 A. Strategis.

Page 5

1 Q. Has that been always where that's been located?
 2 A. Yes.
 3 Q. Have you had your deposition taken before, sir?
 4 A. Maybe 20 years ago.
 5 Q. What generally did that relate to?
 6 A. It related to a personnel matter, promotion
 7 matter.
 8 Q. Labor and employment issue?
 9 A. Labor and employment, yes.
 10 Q. Did it arise out of your work at the Arizona
 11 Corporation Commission or before that?
 12 A. Before that.
 13 Q. While you've lived and worked in Arizona, I take
 14 it you haven't had the occasion to go through this procedure
 15 of a deposition; is that correct?
 16 A. Correct.
 17 Q. You're doing a good job so far, but as you
 18 probably have been advised, our court reporter can't take
 19 down a nod of the head or a verbal indication that's other
 20 than a word very well, so please do answer audibly so that
 21 the record is clear.
 22 Do you understand that?
 23 A. Yes.
 24 Q. And another phenomena that sometimes happens in
 25 these proceedings is much like we would be interacting

Page 7

1 A. Subject to me asking you for clarification.
 2 Q. Right. Very good. Thank you.
 3 Do you have written authorization from the Arizona
 4 Corporation Commission for your assignment for Corman
 5 Tweedy in this case?
 6 A. No.
 7 Q. Have you sought such authorization?
 8 A. No.
 9 Q. What did you do to prepare for today's deposition?
 10 A. I need clarification of the question. That's
 11 pretty broad.
 12 Q. All right.
 13 When did you learn that we wished to take your
 14 deposition in these proceedings?
 15 A. I don't recall the exact date.
 16 Q. The record would show that the initial deposition
 17 was noticed and docketed, I believe, on Friday, July 25th.
 18 Does that sound about right?
 19 A. I think that's what the docket reflects.
 20 Q. So because of the pendency of the hearing, we're
 21 in a bit of a compressed time frame.
 22 You generally remember it was on the order of
 23 within a week, ten days, that you knew you were going to be
 24 deposited here? Maybe closer to two weeks?
 25 A. I need you to repeat the question.

Page 6

1 outside of this more formal context. There's sometimes a
 2 propensity to jump in and start answering a question before
 3 I've finished it.
 4 So please wait until I finish my question before
 5 you answer. Okay?
 6 A. Yes.
 7 Q. Is there any reason today, Mr. Johnson, medically
 8 or otherwise, you feel you have any reason not to give me
 9 full and truthful answers today?
 10 A. No.
 11 Q. You know that you've been placed under oath and,
 12 although we're in an office in a relatively informal setting
 13 here, that your answers are under oath and are being given
 14 subject to the penalties of perjury.
 15 A. Yes.
 16 Q. I'll try to make my questions clear, but sometimes
 17 I fail in that regard. So can you feel free to ask me to
 18 restate the question, if you don't understand it?
 19 A. Was that a question?
 20 Q. Yes.
 21 A. I will feel free to ask you to restate the
 22 question if I do not understand it.
 23 Q. Thank you.
 24 And, in turn, if you answer my question, may I
 25 assume that you understood what I was asking you?

Page 8

1 Q. Would you agree with me that you first learned you
 2 were going to be deposed on or after July 25th, 2014?
 3 A. Yes.
 4 Q. What steps did you take -- what did you do when
 5 you heard that information?
 6 A. When you say what did I do in terms of -- I don't
 7 understand the question.
 8 Q. I guess on a spectrum of doing nothing and showing
 9 up here today, or starting to look through papers, perhaps
 10 meet with Mr. Gerstman, meet with Mr. Crockett, consult
 11 others, and prepare for the deposition, where on that
 12 spectrum are you in terms of what you did in between the
 13 time you learned that you were going to be deposed and the
 14 deposition today to prepare for the deposition?
 15 A. I spoke with Mr. Crockett.
 16 Q. Did you reread your testimony?
 17 A. Yes.
 18 Q. Did you talk with anyone else other than
 19 Mr. Crockett for purposes of preparing for today?
 20 A. Mr. Gerstman, I talked with him this morning.
 21 In terms of preparing for this deposition, I don't
 22 recall talking with anyone else.
 23 Q. That's fair.
 24 When did you have your discussions with
 25 Mr. Crockett regarding the deposition?

Page 9

1 A. I think Mr. Crockett phoned me. I think he had
 2 been on vacation, and then sometime after his return he
 3 phoned me.
 4 Q. And what did he impart or say to you about the
 5 deposition?
 6 A. That I had been noticed for deposition.
 7 Q. How many times did you talk with him leading up to
 8 today?
 9 A. I don't recall.
 10 Q. We're talking about a time frame of, you know,
 11 approximately a week and a half. You just do not recall how
 12 many times you talked with him? Was it one or ten or
 13 somewhere in between?
 14 A. I don't recall.
 15 Q. Did you meet face to face with Mr. Crockett at any
 16 time before I saw you out in our lobby this morning?
 17 A. Yes.
 18 Q. When was that?
 19 A. On -- yesterday.
 20 Q. So in between the time he phoned you with news
 21 that your deposition was going to be taken and today you had
 22 one meeting with him; is that accurate?
 23 A. I think the question was did I have one
 24 face-to-face meeting?
 25 Q. Yes.

Page 11

1 MR. HIRSCH: I don't want to argue it on the
 2 record. Are you contending Ernest Johnson is your client?
 3 MR. CROCKETT: No, but I'm contending that there
 4 are things that may pertain to case strategy that were
 5 discussed in that meeting that I think are covered under the
 6 attorney-client work-product privilege.
 7 MR. HIRSCH: All right.
 8 MR. CROCKETT: I don't object to him discussing
 9 the types of things that we did to prepare. But in terms of
 10 discussing the substance of what was discussed between us, I
 11 think that's protected, is it not?
 12 MR. HIRSCH: I think once you talk to an expert,
 13 if he's independent, that there's no longer any work-product
 14 privilege. That would be our position, but I'll continue
 15 with a Q and A issue.
 16 I don't think there's any attorney-client issue
 17 involved if he's not your client or not, you know, an
 18 employee of Robson or Cornman Tweedy or something.
 19 But on the work product issue, you know, that's a
 20 subject of a lot of legal scholarship. But let's go, if we
 21 can, on a question and answer basis.
 22 We reserve our position that it's not work
 23 product.
 24 BY MR. HIRSCH:
 25 Q. What were you told you might be asked about in

Page 10

1 A. That was the question?
 2 Q. Yes.
 3 A. And I've had one face-to-face meeting with
 4 Mr. Crockett that I recall.
 5 Q. Where was that held?
 6 A. In his office.
 7 Q. When was it?
 8 A. I think you asked me that question already. I
 9 think I said yesterday.
 10 Q. Okay. I apologize if I did that.
 11 But, we'll put that down as being yesterday.
 12 How long did the meeting take?
 13 A. I will need to calculate that, because it was
 14 interrupted. I had an appointment. So I'm going to say
 15 maybe five, six hours.
 16 Q. Okay.
 17 And was Mr. Gerstman present at the meeting?
 18 A. No, sir.
 19 Q. Was anyone else present?
 20 A. No, sir.
 21 Q. And what did you cover with Mr. Crockett in that
 22 five to six hours?
 23 MR. CROCKETT: I'm going to object to the extent
 24 that that calls for disclosure of attorney-client protected
 25 information.

Page 12

1 this proceeding?
 2 A. Anything that was in my testimony.
 3 Q. All right.
 4 Did you discuss your potential answers to my
 5 questions that might relate to what's in your testimony?
 6 A. We talked about a number of issues, and it may be
 7 possible we talked about that as well.
 8 Q. Have you read a copy of the motion to exclude your
 9 testimony and you from being a witness in this proceeding?
 10 A. Yes.
 11 Q. And have you had any input to Mr. Crockett on his
 12 client's response to that motion?
 13 A. I don't understand the question.
 14 Q. Have you had any communications with Mr. Crockett
 15 about a response to that motion?
 16 A. I've not asked Mr. Crockett how he would be
 17 responding to that motion.
 18 Q. Did you provide him any information regarding the
 19 motion or any of your observations concerning the motion?
 20 A. I may have provided him something regarding the
 21 role of the executive director.
 22 Q. All right. That's obviously going to be a
 23 question I get into a little later.
 24 Yesterday we focused on that meeting. Did you
 25 tell him about the role of the executive director?

Page 13

1 A. No.
 2 Q. I'm asking you what did you tell him?
 3 A. I'm sorry, I don't understand your question.
 4 Q. You just said you told Mr. Crockett some things
 5 about your role as the executive character. So I'm asking
 6 you what did you tell him.
 7 A. I did not speak with Mr. Crockett on yesterday
 8 regarding my role as executive director. I don't think
 9 that's the question you posed to me.
 10 Q. I guess we'll break it down that specifically,
 11 Mr. Johnson. We'll be here a long time today, but let's
 12 proceed. We'll take the time it takes.
 13 Did the issue of your role as executive director
 14 come up yesterday? Yes or no.
 15 A. Did it come up yesterday is the question?
 16 Q. Yes.
 17 A. It may have.
 18 Q. Okay. What do you recall saying to Mr. Crockett
 19 yesterday about your role as executive director?
 20 A. I don't recall saying anything yesterday regarding
 21 my role as executive director.
 22 Q. Now, I took it from your answer that you've had
 23 some discussions with Mr. Crockett in a different setting
 24 about the motion, I'll use the shorthand, motion to exclude
 25 testimony.

Page 15

1 executive director is defined by statute.
 2 Q. Anything else you recall you told him?
 3 A. That was pretty much my focus would have been on
 4 what's the role of the executive director.
 5 Q. Did you have any discussions with him about the
 6 role of the director of the utility's division?
 7 A. I don't know. I don't know.
 8 Q. Since you knew you were going to be deposed, how
 9 many conversations, telephonic or face to face or text or
 10 otherwise, any communications, have you had with Peter
 11 Gerstman?
 12 A. Regarding?
 13 Q. Regarding anything.
 14 A. I first met Peter Gerstman this morning. I've
 15 never had a telephone conversation with Peter Gerstman.
 16 Q. Was your first meeting with him this morning in
 17 our lobby when he arrived for the deposition?
 18 A. I think within the last half hour was the first
 19 time I met Mr. Gerstman.
 20 Q. Have you had any discussions with Mr. Gerstman
 21 related to your testimony in this proceeding?
 22 A. I think the only conversation that we had would
 23 have been as we walked over here this morning.
 24 Q. And what was the nature of that conversation?
 25 A. That we were going to have a deposition on this

Page 14

1 Is that correct?
 2 A. I have spoken to Mr. Crockett about the motion to
 3 exclude testimony.
 4 Q. How many times?
 5 A. I don't recall.
 6 Q. Do you recall over what time frames?
 7 A. I'm not sure I understand your question.
 8 Q. Do you recall generally the range of dates that
 9 you have spoken with Mr. Crockett about the motion to
 10 exclude?
 11 A. I think the time frame would have been after he
 12 returned from his vacation.
 13 Q. So in the last week or so, plus or minus.
 14 A. I think that's correct.
 15 Q. And so now let's expand the question to include
 16 telephone conversations with Mr. Crockett.
 17 What have you told him about the motion to exclude
 18 in your comments thereon?
 19 A. That I have read the motion to exclude, that I did
 20 not agree with the motion to exclude. I think that's
 21 basically what I shared with him.
 22 Q. Did you give him any grounds or disagreement with
 23 the motion?
 24 A. I think the only thing that I may have, along
 25 those lines, is apprise him or remind him that the role of

Page 16

1 morning, and basically I was going to be asked about my
 2 testimony and the things that I said in my testimony.
 3 Q. I'm trying to get back to this five or six hours
 4 yesterday.
 5 Was it a factor of going page by page through your
 6 testimony and talking about anticipated questions, or was it
 7 talking about the legal issues in the case, or Arizona Water
 8 policy? Or did you talk about Ms. McGuire's testimony or
 9 Mr. Walker's testimony? What happened over that five or
 10 six hours?
 11 A. The focus was my testimony.
 12 Q. And was it -- did you have a dialogue over what
 13 questions might be asked and what answers might be given?
 14 A. We -- as I recall the discussion, it was largely a
 15 page-by-page review of my testimony.
 16 Q. Did Mr. Crockett provide you yesterday with the
 17 Cornman Tweedy view of the law that applies to this case?
 18 A. I don't think so.
 19 Q. Did you have any discussion yesterday concerning
 20 Cornman Tweedy's legal assertions that they've made in this
 21 proceeding?
 22 A. Could you repeat the question?
 23 Q. Did you have any discussion yesterday concerning
 24 the legal positions Cornman Tweedy has taken in this
 25 proceeding?

Page 17

1 A. I don't know how to respond to that question,
 2 other than to say that I'm aware of what's in the docket.
 3 Q. That's from your review of the docket when you
 4 were initially retained.
 5 A. Yes.
 6 Q. And did you have discussions with Mr. Crockett
 7 yesterday about those legal positions, the pros and cons of
 8 each party's position for example?
 9 A. I don't think we discussed the pros and cons of
 10 each party's position.
 11 Q. Did you have any discussion regarding the legal
 12 positions of the parties?
 13 A. As I recall the discussion, the focus was on my
 14 testimony.
 15 Q. Have you testified as an expert witness before
 16 this proceeding?
 17 A. No, sir.
 18 Q. After you left the Arizona Corporation Commission
 19 and set up Strategis, then I take it you've not had occasion
 20 yet to present expert testimony in any form.
 21 A. Correct.
 22 Q. Have you had occasion to present expert opinions
 23 in writing, say in a report or a letter, other than in the
 24 testimony format?
 25 A. No, sir.

Page 19

1 Commission before that, did you ever get retained as an
 2 expert for any purpose other than what your job duties were?
 3 A. No.
 4 Q. Sometimes a circumstance will arise where an
 5 agency official will be retained and be given permission to
 6 testify. And I am just clarifying that that didn't happen
 7 with you while you were in public service; right?
 8 A. I was not retained as an expert while in public
 9 service.
 10 Q. Okay. Thank you.
 11 I'm going to ask just a couple of clarifying
 12 questions concerning your background from your testimony.
 13 Let's go ahead and mark this.
 14 (Deposition Exhibit No. 1 was marked for
 15 identification by the reporter.)
 16 BY MR. HIRSCH:
 17 Q. Mr. Johnson, we're showing you Deposition
 18 Exhibit 1, which is the cover sheet of the Notice of Filing
 19 Testimony, but then just including attachment two.
 20 Can you generally look at that and confirm that it
 21 appears to be, subject to Xeroxing accuracy, your rebuttal
 22 testimony in this proceeding?
 23 A. This appears to be the expert testimony -- excuse
 24 me, my testimony filed in this proceeding.
 25 Q. I'm just going to ask for a couple of clarifying

Page 18

1 Q. So is it correct to say that this is your initial
 2 appearance as an expert witness?
 3 A. Yes, sir.
 4 Q. That goes not only for the Arizona Corporation
 5 Commission but any agency or court or adjudicative body of
 6 any nature anywhere.
 7 A. I'm not sure of that question.
 8 Q. Let's focus on the date from early 2013 forward,
 9 after you left the Commission.
 10 Have you appeared professionally to give opinions
 11 before any agency, city council -- I'm trying to keep it as
 12 broad as possible -- any body or entity for purposes of
 13 giving expert testimony or opinions?
 14 A. I have not been retained for expert testimony
 15 prior to this engagement.
 16 Q. All right. And that was another question I was
 17 going to ask.
 18 On the Strategis website there's a section what
 19 services does Strategis provide.
 20 The fifth bullet point is expert testimony.
 21 So I'm taking this is the first such assignment
 22 you've had in your career.
 23 A. Yes, sir.
 24 Q. While you were in your public career, either at
 25 the Arizona Corporation Commission or the Oklahoma

Page 20

1 questions.
 2 If you go to the bottom of Page 1 of your
 3 testimony, Page 1, Exhibit 1, there the question and answer
 4 begin on Line 18, there's a reference to your employment
 5 until early 2013 at the Commission.
 6 Do you see that?
 7 A. Correct.
 8 Q. But then in the next line it talks about you held
 9 the title of executive director until the end of 2012.
 10 I wanted to ask a question about whether there was
 11 a gap in there, if you held some other title after you were
 12 executive director.
 13 Did your executive directorship end at the
 14 calendar year end of 2012?
 15 A. Yes.
 16 Q. And then when did you leave the Commission?
 17 A. I left -- physically left the Commission the last
 18 business day in 2012, and have not returned to the
 19 Commission. There was a transition between the replacement,
 20 my replacement, and myself. And I was held over. I don't
 21 know in what capacity. Just to be there to assist that
 22 person during their transition.
 23 Q. So that's when you say until early 2013 there was
 24 some transitional period where that was your role.
 25 A. Yes, sir.

Page 21

1 Q. Approximately how long did that take?
 2 A. I'm guessing six weeks.
 3 Q. Did you stay on the payroll of the Commission
 4 during that time?
 5 A. I did.
 6 Q. A follow-up question regarding a question and
 7 answer on Page 2 in the middle of the page that relates to
 8 educational background and other professional experience.
 9 Are you a member of the bar of any state
 10 currently?
 11 A. Yes.
 12 Q. And which state or states are those?
 13 A. The state of Oklahoma.
 14 Q. And when did you become admitted to that bar?
 15 A. 1983.
 16 Q. And have you kept that license active since that
 17 date to present?
 18 A. Yes.
 19 Q. And are you in good standing with that bar?
 20 A. Yes.
 21 Q. Have you ever sat for the Arizona Bar exam?
 22 A. I've never sat for the Arizona Bar.
 23 Q. Have you ever moved -- applied for admission by
 24 motion?
 25 A. No.

Page 23

1 I'm sorry, sir.
 2 My question was in October of 2001 when you came
 3 to Arizona did you immediately join as utilities division
 4 director?
 5 A. Yes.
 6 Q. And there wasn't any interim step or training
 7 step.
 8 A. There was no interim or training step.
 9 Q. And who did you replace, if you know?
 10 A. I don't recall. There was an interim prior to my
 11 getting there, but I'm not sure which one it was.
 12 Q. And how would you describe your duties as
 13 utilities division director when you started in 2001?
 14 A. Could you clarify the question?
 15 Q. I don't know that I can.
 16 I don't want to suggest the answer.
 17 What did you do as utilities division director?
 18 What were your responsibilities or the scope of your work?
 19 A. One of my main duties when I joined the Commission
 20 was to engage in team building. The division, as explained
 21 to me, the division needed to be built along the lines of a
 22 cooperative teamwork environment, where people would be
 23 supportive of one another and putting forward the best
 24 product possible. The product being basically the
 25 recommendations to the decision makers at the Commission.

Page 22

1 Q. Do you hold any other professional degrees, other
 2 than the J.D.?
 3 A. Could you elaborate?
 4 Q. Yeah.
 5 Do you have any other professional degrees? I
 6 can't pretend to run every one through, but let me ask it,
 7 engineering, accounting, do you have any other post-graduate
 8 degrees of any nature?
 9 A. No.
 10 Q. What was your undergraduate degree in?
 11 A. It was in journalism.
 12 Q. So was mine.
 13 What led you to move from Oklahoma to Arizona?
 14 A. I was recruited.
 15 Q. To join the Arizona Corporation Commission staff
 16 as utilities director?
 17 A. Yes, sir.
 18 Q. Now, so you arrived in Arizona and started as --
 19 initially as acting utilities director in 1993?
 20 A. No.
 21 That would not be correct.
 22 Q. Well, I need some clarification then. We're still
 23 on Page 2, Line 13.
 24 It says in 1993 I was named acting utilities --
 25 I'm confused between Oklahoma and Arizona.

Page 24

1 Q. And was this part of what was imparted to you when
 2 you were recruited?
 3 A. Yes.
 4 Q. And who did the recruitment?
 5 A. Brian McNeil.
 6 Q. So as executive director, your understanding was
 7 he was charged with that mission.
 8 A. Yes.
 9 Q. And what steps did you take to accomplish that
 10 goal?
 11 A. Upon arrival I made it a point to personally go
 12 around and meet and greet each employee, and to then begin
 13 to explain as the opportunity arised my basic viewpoint on
 14 how we could work successfully together.
 15 I met with senior management.
 16 I made myself generally available.
 17 I communicated what I would say would be my vision
 18 for the division.
 19 Q. Did your initial steps when you arrived include
 20 meeting with other division heads as well?
 21 A. I would have been introduced to other division
 22 heads during that time period.
 23 Q. What about the commissioners themselves?
 24 A. I would have been introduced to commissioners.
 25 Q. Do you recall at that time frame approximately how

1 many employees the utilities division staff had?

2 A. The staff was largely depleted in terms of
3 numbers.

4 I don't have an exact reference. At best I can
5 give you a ballpark.

6 Q. That's fine.

7 A. I think the numbers were in the forties, in terms
8 of total number of employees.

9 Q. And I take it one of your duties as the director
10 was to oversee those employees and be their report.

11 A. I had ultimate responsibility for the division. I
12 did not manage each individual.

13 Q. Was it part of your mission to augment those
14 numbers or deal with the depletion of the numbers?

15 A. Yes.

16 Q. Were you specifically given a mission or a task to
17 hire additional staff?

18 A. Could you repeat that question?

19 Q. How did you deal -- what was your plan for dealing
20 with augmenting the depletion of the employees within the
21 division which you encountered when you arrived?

22 A. As I recall, it was first to figure out could I.
23 I think that was the initial concern. And was there a
24 budget in place to support it. And what was the -- what
25 were the limitations in terms of recruitment.

1 Q. And as the months unfolded, can you describe, were
2 you given some budget, were you allowed to hire more
3 utilities division staff?

4 A. I don't remember details, but, yes, in general I
5 was authorized to increase the staff level.

6 Q. Now, as you settled into the position here, can
7 you describe your role in terms of, as to contested matters
8 before the hearing division, your role on case management,
9 if you will, from the utilities division director's
10 position?

11 A. I'm not sure I understand that question.

12 Q. What role did you play as director of the
13 utilities division on contested issues that the division had
14 an interest in?

15 A. In this case or in general?

16 Q. I'm talking generally now.

17 A. I don't know that I had a defined role.

18 Q. Was there a delineation as to when or a policy as
19 to when you would personally get actively involved and when
20 you wouldn't, or was it a case-by-case approach, or what?

21 A. Case by case.

22 Q. What were some of the factors that governed your
23 involvement?

24 A. As I recall, it would depend upon whether there
25 was a need, or whether or not other staff could handle those

1 matters.

2 Q. Let's try to give it a little more focus, because
3 Cornman, what we now know as Cornman Tweedy, started a
4 little differently in 2003 with an application for a
5 certificate extension. You indicated you reviewed the
6 docket. You're generally aware of what I'm talking about.

7 A. Yes, sir.

8 Q. All right.

9 In fact, we had a discussion off record that we
10 won't purport to mark every one of these unless -- because
11 they're right from the docket, unless we need to.

12 So I'm going to give you a copy of the company's
13 initial application, which shows on its face docketed
14 August 12, 2003.

15 First, let me ask you, do you have any independent
16 recollection of this application when it was filed?

17 A. Absent the docket, no.

18 Q. Let's try to focus around the -- I realize you
19 can't do a specific slice of time, but by August of 2003,
20 you would have been director of the utilities division for
21 just short of two years, right?

22 A. Yes.

23 Q. How would a -- let me ask this.

24 How would an application to extend an existing CCN
25 be handled from the utilities division perspective at that

1 point in time?

2 A. Generally after this, after filing the docket, the
3 docket would transmit at least one or more copies to
4 division, as I recall. It would go to a secretary within
5 the division.

6 It would be parceled out to whoever was needed.
7 And it just depends on what type matter was involved as to
8 who got the information.

9 Q. All right.

10 Did -- would such matters come to your personal
11 attention as director at that time?

12 A. Would -- what such matters?

13 Q. A matter like the application that Arizona Water
14 Company applied for, the extension that Arizona Water
15 Company applied for in August of 2003 that we have before
16 us.

17 A. I don't recall seeing this matter during the time
18 that it was filed.

19 Q. During that general time frame, we'll get back to
20 this particular docket in a minute, but what was your
21 general day-to-day interaction with, say, the hearing
22 division, the director of the hearing division, or any of
23 the ALJs?

24 A. I did not have -- during the time period you're
25 talking about here?

Page 29

1 Q. Yes.

2 A. I would not have any regular routine interaction

3 with the chief hearing officer or ALJ.

4 Q. Under what circumstances would you have such

5 interactions?

6 A. In the hallway. Potentially if -- I don't

7 remember if there was a staff meeting.

8 Maybe if there was an open meeting.

9 That would probably -- maybe in the parking lot.

10 But that's all I recall.

11 Q. Let me ask the same question as to this general

12 time frame, August of 2003, in terms of interaction with the

13 legal division. What would your -- as director, what would

14 your typical interaction be, if any, with the legal

15 division?

16 A. In 2003?

17 Q. Yes.

18 A. I would have periodic interaction with the legal

19 division, depending on what the issue was, what was going

20 on.

21 Q. It was accurate to say that the legal division

22 served as the utility division's lawyer for purposes of

23 contested matters of the Commission.

24 A. I don't know that I would parcel their

25 responsibilities.

Page 31

1 A. Yes.

2 Q. So when your division needed a lawyer to respond

3 to pleadings and contested matters, you went to Mr. Kempley,

4 but you didn't have control over who he assigned it to.

5 A. I never went to Mr. Kempley asking for a lawyer.

6 Mr. Kempley would make the decision relative to who would be

7 assigned to a given matter.

8 Q. Seeing Mr. Kempley's name, does that bring to mind

9 the type of interactions that you would have with him at

10 that point in time?

11 A. Not particularly.

12 Q. Were there any other outside lawyers or law firms

13 you retained to represent the utilities division at that

14 time, other than Mr. Kempley and his lawyers?

15 A. I don't know. You're saying 2003. I don't know

16 if there were outside, because that would not be my function

17 or responsibility.

18 Q. Are you aware of any outside counsel that ever

19 made filings on behalf of the utilities division during your

20 tenure as utilities division director?

21 A. I don't know.

22 Q. Are you aware of any instance other than the

23 Commission's lawyers through the legal division making

24 filings for the Commission?

25 A. I don't know.

Page 30

1 I think they would be best able to describe how

2 they viewed their responsibilities.

3 Q. When you as utilities division director were

4 taking a position on a docketed contested matter, who served

5 as your lawyers at the -- in the docketed Commission

6 proceeding?

7 A. The division had access to lawyers in the office

8 of general counsel, subject, as I recall, to that decision

9 being made by the chief counsel, as to who would be -- I had

10 no control over that person, so whoever the chief counsel or

11 his directive would make available to division.

12 Q. Right.

13 When you say office of general counsel, that's the

14 chief of the legal division of the Commission; is that

15 accurate?

16 A. There is a section within the Commission, within

17 the Arizona Corporation Commission, and it is known as the

18 office of general counsel.

19 Q. I want to make sure we're talking about the same

20 thing.

21 If you look at Page 3 of the application that's

22 before you, dated August 12th, of 2003, you'll see that the

23 general counsel signed it and a cc to Christopher Kempley,

24 chief general counsel. Is that the chief counsel that

25 you're talking about as of that point in time?

Page 32

1 Q. I want to make sure that that answer is clear.

2 You don't know or you don't recall any such instances?

3 A. I don't know.

4 Q. As the years expanded then, beyond 2003, did your

5 duties as utility division director, specifically focused on

6 contested cases, such as certificate proceeding like the one

7 that brings us here today, did it change at all or did it

8 remain the same?

9 A. I'm not sure I understand the question.

10 Q. You've described generally what your role was and

11 how case intake would occur and assignment by the secretary

12 generally as of August of 2003.

13 Did your role change between 2003 and when you

14 became executive director in that regard?

15 A. I don't recall.

16 Q. Did you ever testify as utilities division

17 director in contested proceedings of the Commission?

18 A. Yes.

19 Q. What would determine when you testified and when

20 someone else in the utilities division testified?

21 A. Probably perceived need.

22 Q. Was there a particular area or policy category

23 that you would say I'll handle that, and then another one

24 that you would say let's have someone else handle it? What

25 went into the decision of who testified?

Page 33

1 A. A number of factors would come into who would
2 testify.

3 As I recall, it was not routine for the director
4 of the utility division to offer testimony. There were
5 other folks who would work the cases and who were more
6 intimately familiar with the facts of those cases and who
7 were better positioned to present the staff position
8 relative to those matters.

9 Q. What would lead to you personally giving testimony
10 during those years?

11 A. If there were some significant policy matter that
12 needed to be addressed or expressed on behalf of the
13 Commission -- on behalf of the division.

14 Q. Let's get back to -- well, let me ask this
15 question in terms of interaction. You were recruited by and
16 then when you were in place you reported directly to the
17 executive director of the Commission; is that correct?

18 A. Yes, sir.

19 Q. And that was Mr. McNeil until you replaced him.

20 A. No, that would not be accurate.

21 Q. Tell us the executive directors you served under.

22 A. I served under Mr. Brian McNeil, and I think there
23 were a couple of interims, or some sort of acting, during
24 certain periods when he was performing his military service.

25 Q. I appreciate that clarification.

Page 35

1 Q. Well, I wasn't intending to, nor was I aware that
2 I did.

3 I'm asking at any time while you reported to
4 Mr. McNeil did you have any discussions with him about a
5 pending case?

6 A. I'm not sure.

7 Q. You don't recall any particular instance of a rate
8 case that had a lot of public interest or a high number of
9 citizens participating that you talked with him before an
10 open meeting?

11 A. Is it possible? It's possible.
12 I don't recall is my answer.

13 Q. Same question as to commissioners. Would your
14 role as utilities division director during those years
15 entail meetings, discussions with individual commissioners
16 at any time?

17 A. I'm sure that there were meetings with
18 commissioners during that time period.

19 Q. Was there a regular routine set of meetings or
20 were they ad hoc?

21 A. It depended upon the commissioner.

22 Q. What would be the sort of nature of things that a
23 commissioner would call upon you to visit with them on?

24 A. Generally, kind of what's going on in the
25 division.

Page 34

1 Other than those acting or interims, were there
2 any other full-time, permanent executive director that you
3 served under before you assumed the role?

4 A. I don't believe so.

5 Q. What was the nature of your interaction with the
6 executive director during those years while you were
7 director of the utilities division?

8 A. Could you repeat the question?

9 Q. What was the nature of your interaction? How
10 often and what would be discussed?

11 A. I was an employee of that individual and was at
12 that individual's beck and call in general.

13 Q. Would you talk about Commission policy issues with
14 the executive director?

15 A. I don't recall.

16 Q. Would you talk about any particular pending cases
17 that involved the utility division with the executive
18 director during those years?

19 A. I don't recall.

20 Q. You don't recall ever having a discussion with
21 Mr. McNeil about a pending case.

22 A. I just -- my answer to your question is I don't
23 recall.

24 I think you just changed the question, but the
25 court reporter can...

Page 36

1 What's happening in uncontested matters.
2 Maybe about rule makings or some other
3 non-judicative function.

4 Q. And was there any such discussion on adjudicative
5 matters?

6 A. Not that I recall.

7 Q. And why was that?

8 A. Because that would happen with the hearing
9 division.

10 Q. During your years as utility division director on
11 contested matters that were over at the hearing division,
12 would you have discussions with the hearing division about
13 the pending matters?

14 A. No.

15 Q. Your interaction with them was solely through
16 submitted testimony and as a participant in the proceeding.

17 A. I respected then and I do now the role and
18 responsibility they had, and to retain -- remain their
19 independence.

20 So I don't recall having conversations with the
21 hearing division regarding pending matters.

22 Q. All right. We can put this application aside.
23 I'm next going to show everybody a couple of
24 letters that are from the docket regarding sufficiency in
25 that matter, that I think we can make pretty quick work of

Page 37

1 here.

2 The docket shows us that in this proceeding now

3 known as the Cornman Tweedy proceeding there was a letter

4 dated August 21, 2003, docketed on that date from a Jim

5 Fischer to Mr. Geake who was then vice president, general

6 counsel of Arizona Water Company concerning the application

7 we just looked at.

8 Now, would you have had any involvement,

9 Mr. Johnson -- do you remember having any involvement in

10 terms of the sufficiency phase of this initial application

11 in this proceeding?

12 A. I wouldn't be involved.

13 Q. Who was Jim Fischer?

14 A. He was a former commission employee.

15 Q. He was in the utilities division; correct?

16 A. Yes, sir.

17 Q. Where did he fit in the alignment of folks in

18 terms of reporting to you?

19 A. Mr. Fischer was not a direct report to me.

20 I think he would have been three or four levels

21 away from reporting to me.

22 Q. Looking at the August 21, 2003, letter, I take it

23 it's your testimony that you don't recall having any

24 personal involvement on the determination of the sufficiency

25 of Arizona Water Company's initial application in this

Page 39

1 judge.

2 Q. Another relative matter in the docket dated

3 January 9th, 2004, was the staff report concerning this

4 particular application.

5 I've put that before you.

6 Now, this shows that the staff report was sent to

7 docket control from you; correct?

8 A. The from is from Ernest G. Johnson.

9 Q. All right. And do those appear to be your

10 initials on the document?

11 A. Yes.

12 Q. Do you recall, sitting here today, more than

13 ten years later, I grant you, having had any involvement or

14 input in this report?

15 A. As a matter of practice, I wouldn't have been

16 involved in this report.

17 Q. And why do you say that?

18 A. Because it's my understanding it was a routine

19 extension request, and it was not my practice to get

20 involved in regular routine matters.

21 Q. Do you recall having any discussions with

22 Mr. Fischer concerning the findings that he was putting in

23 to the report on behalf of staff?

24 A. I don't recall.

25 Q. Same question as to any discussions with Dorothy

Page 38

1 matter.

2 A. No, I don't recall that.

3 Q. Next, I'll hand you the determination of

4 sufficiency dated November 25, 2003, another letter from

5 Mr. Fischer.

6 Do you recall having any involvement in the

7 finding of sufficiency regarding Arizona Water Company's

8 application in this proceeding?

9 A. No, sir.

10 Q. Now, there's a cc there to docket control. Do you

11 see that?

12 A. Yes, sir.

13 Q. You would have had access to that, would you not,

14 to the docket in this proceeding?

15 A. I guess. Every person in Arizona would have

16 access to the docket.

17 Q. And Del Smith, do you know why he would have been

18 copied on this?

19 A. Yes, sir.

20 Q. Why is that?

21 A. Because he was the engineering manager.

22 Q. And Brian Bozzo, what was his role?

23 A. He would be the compliance manager.

24 Q. And Lyn Farmer?

25 A. She would have been the chief administrative law

Page 40

1 Hains, the utilities engineer on the report.

2 A. I don't recall.

3 Q. What significance does your initial have on the

4 cover sheet of the staff report?

5 A. It's simply that a duty of the division director

6 when I came there was to sign the transmittal cover sheet.

7 And that continued -- that practice was in place before I

8 got there. It continued while I was there. And I think it

9 even continues today.

10 Q. Did that indicate approval by the director of the

11 staff report for purposes of docketing?

12 A. It indicated simply transmittal.

13 Q. So it did not indicate approval of what was

14 contained in the staff report that you were signing.

15 A. The document itself does not indicate -- the

16 transmittal cover sheet does not indicate approval.

17 Q. Was there ever a circumstance where you ended up

18 not approving what a staff report that you had initialed

19 stated?

20 A. I'm going to need you to repeat that question.

21 Q. Was there ever a circumstance during your term as

22 utilities division director where you ended up later

23 withdrawing approval or not approving a staff report that

24 you had initialed?

25 A. I don't recall.

Page 41

1 Q. In this particular report, I won't dwell on it,
 2 but if we look at the executive summary, three pages down,
 3 four pages down, there's certain findings that are in the
 4 docket, and in particular in the fourth paragraph a finding
 5 that the combined systems would have adequate production and
 6 storage capacity to serve the existing and proposed area
 7 customers.
 8 Do you see that?
 9 A. No, I don't.
 10 Q. It's the last sentence in the fourth paragraph
 11 under the executive summary.
 12 A. Okay. Could you read the language you're
 13 referring to?
 14 Q. I'll just, now that your eyes are on it, I'll just
 15 ask you to read that and tell us whether you had any
 16 specific role in that conclusion of staff that was being
 17 submitted.
 18 A. No.
 19 Q. That would have been up to engineering or others
 20 within your division.
 21 A. That would have been a responsibility of others
 22 within the division, yes.
 23 Q. Did you ever upon being presented a staff report
 24 refuse to initial it during your tenure?
 25 A. I don't recall.

Page 43

1 I'll hand you the March 12, 2004, ROO as to the
 2 initial application.
 3 This shows -- it's dated, for the record,
 4 March 12, 2004.
 5 It shows a copy going to you as director of the
 6 utilities division on Page 8.
 7 Do you recall receiving and reviewing this ROO,
 8 R-O-O, concerning the company's application for extension?
 9 A. No. But that wouldn't be unusual.
 10 Q. What was your typical role in terms of reviewing
 11 ROOs?
 12 A. This would come up from a docket brought by a
 13 secretary, given to the secretary, and the secretary would
 14 make a distribution, and this probably would have gone on to
 15 Steve Olea, Jim Fischer, and I think Dorothy. So those are
 16 the people that generally would have gotten something like
 17 this.
 18 The reason for that is because we had tons and
 19 tons of information that would come through the division.
 20 If I wasn't working on the matter, then why would
 21 I get it?
 22 Q. So you don't recall having any substantive
 23 involvement or input in terms of the utilities division's
 24 view of this proposed recommended order and opinion;
 25 correct?

Page 42

1 Q. Do you recall any instance where you sent a
 2 finished staff report back to the author and asked them to
 3 revise or alter or amend any proposed finding of the
 4 division?
 5 A. By the time I got the staff report, it had gone
 6 through several levels of review and revision, which I think
 7 is still the practice today.
 8 So most of those issues would have been addressed
 9 by others before it even got to my attention.
 10 MR. CROCKETT: Steve, we've been at this about an
 11 hour. When it's appropriate, maybe we can just take a quick
 12 break.
 13 MR. HIRSCH: Now is as good a time as any, so
 14 that's fine.
 15 We'll take about a five- or ten-minute break here,
 16 Mr. Johnson.
 17 (Brief recess taken.)
 18 BY MR. HIRSCH:
 19 Q. Sometimes, Mr. Johnson, during a break a
 20 recollection will flow back into the person testifying.
 21 Do you have any expansions or additions to any of
 22 the answers you've given so far in this deposition?
 23 A. No, sir.
 24 Q. Let's move on. We're going to chronologically go
 25 through as we've been doing the Cornman Tweedy docket.

Page 44

1 A. As I understand this case from looking at the
 2 docket, this would have been treated like a routine CC&N
 3 application, application for an extension.
 4 And as a consequence, there would be no need for
 5 me to be consulted regarding a routine matter.
 6 Q. Do you recall whether or not the utilities
 7 division filed any exceptions to the ROO?
 8 A. I don't think the docket reflects there were any
 9 exceptions filed.
 10 Q. Next we'll go to the first decision in the case,
 11 which is 66893 on April 6, 2004. Which I've passed around
 12 to everybody.
 13 Do you have any personal recollection of reviewing
 14 the decision which shows you as a recipient on Page 8 when
 15 it was issued?
 16 A. No.
 17 Q. Let's move forward to approximately a year later,
 18 and review the March 30th, 2005, request for additional time
 19 to comply with filing requirement.
 20 When the company docketed this request, you were
 21 shown as a recipient on Page 2.
 22 Do you remember having reviewed this or taken any
 23 action on it?
 24 A. No, I do not.
 25 Q. Would you typically at that time frame have dealt

Page 45

1 with matters like this on certificate filings?
 2 A. Again, this would have been a routine CC&N
 3 extension. As I recall that time period, there were a bunch
 4 of these sort of things taking place. And in the context of
 5 how we operated, as I recall during that time period, this
 6 information would come to a secretary and would be
 7 disseminated to the folks who were primary workers on that
 8 particular matter.
 9 Q. Do you recall in this time frame, March of 2005,
 10 having had any discussions with anyone else at the
 11 Commission concerning the practice of the Commission at that
 12 point to put the so-called null and void language in on new
 13 certificate grants?
 14 A. I don't.
 15 Q. At the time there was a convention where the
 16 language that became at issue in this case was included in
 17 certificates. And I take it your testimony is that as the
 18 then director of the utilities division you didn't take a
 19 position or weigh in on that discussion one way or the
 20 other.
 21 A. I think I need to ask you to maybe break the
 22 question down a little bit for me here.
 23 Q. Okay. That's fair enough. This gives us a good
 24 opportunity to do that.
 25 If we look at what the company quoted on Page 1 of

Page 47

1 A. I think, as I recall, this would have been in
 2 place before I got to the Commission. And I don't recall
 3 making specific inquiry regarding this language at this
 4 time. At that time.
 5 Q. And you don't recall this specific case or request
 6 as triggering any such involvement by you in that regard.
 7 A. No, I don't.
 8 Q. As the stakeholders in -- affected by such
 9 language, utilities, and the Commission began to consider
 10 using different language or dropping this type of language,
 11 did you eventually transition into a role where you did have
 12 some commentary on it?
 13 A. I think that would be accurate.
 14 Q. Can you describe for us how that came to you and
 15 what your views were on it?
 16 A. I just want to make sure that we're clear on this
 17 thing.
 18 The language that you're talking about here is a
 19 null and void?
 20 Q. Yes.
 21 A. That has a legal connotation associated with it.
 22 Can I assume you're not asking me for a legal
 23 opinion?
 24 Q. Yes, we understand you're here -- at least we
 25 presume you're here not testifying as a legal expert.

Page 46

1 its March 30th, 2005, filing, there's some ordering
 2 paragraphs.
 3 Do you see those?
 4 A. I do.
 5 Q. And it talked about 365 days to file a developer's
 6 assured water supply.
 7 Do you see that?
 8 A. I do.
 9 Q. And a main extension agreement within the
 10 extension area within 365 days.
 11 Do you see that?
 12 A. I do.
 13 Q. And then the language that later became an issue
 14 in this case, it's further ordered, and paraphrasing, if the
 15 company fails to meet the above conditions within the time
 16 specified, this decision is deemed null and void without
 17 further order of the Commission.
 18 Do you see that?
 19 A. I do.
 20 Q. So I'm asking, just from a policy perspective,
 21 which you indicated might be one area where you would be
 22 called upon to comment or advise, do you recall any
 23 discussions within the utilities division about the
 24 propriety of these time frames or the null and void
 25 convention that was in use back then?

Page 48

1 A. Let me state affirmatively that I am not here, and
 2 I'm not here testifying as a legal expert on anything.
 3 Q. All right.
 4 That's understood and accepted. And the issue is
 5 in your role, although you have a law degree, we understand,
 6 but in your role as utilities division director at that
 7 point, how did the null and void language policy come to you
 8 and what role did you play in what became of that policy?
 9 A. You know, I'm going to tell you that my memory is
 10 very foggy on this issue, because I can't remember specifics
 11 relative to it.
 12 But, this language, as I recall, was a pretty
 13 standard language that was put in at the time. And I think
 14 it was when this case got into some sort of dispute relative
 15 to the effect of that, that gave rise to a subsequent
 16 conversation, I think a subsequent change as a matter of
 17 fact in the language. The idea being that was it truly null
 18 and void without offering a legal opinion, and whatever that
 19 means in that context.
 20 And as a division after, as I recall, after we
 21 spoke with the legal division, the legal division basically
 22 said we needed to find additional language. And this was --
 23 and I think the language was changed. I don't know what the
 24 exact language is currently.
 25 But it was changed sometime I think subsequent to

Page 49

1 this matter.

2 **Q. And, do you remember who at the legal division**

3 **raised that issue with the utilities division?**

4 A. No. The file reflects -- e-docket reflects that

5 Janice Alward may have filed something regarding the effect

6 of the language.

7 I think that's what the e-docket reflects.

8 **Q. Trying to go back to what you recall as the**

9 **utilities division director at that time, do you remember**

10 **having any input from your perspective as utilities division**

11 **director as to what the new language should say or what some**

12 **of the problems were with the old language, or what the**

13 **policy should be of the Commission?**

14 A. It would have been the type issue, that would have

15 been the type issue that would have been discussed, and it

16 would have been the type issue that would have come to my

17 attention.

18 I don't remember specific input however.

19 **Q. And your discussion of the policy issue went to a**

20 **new policy that would apply across the board in these**

21 **CCN extension cases, as in addition to this specific case**

22 **that brought it to a head?**

23 A. Yes, whatever the -- once the language that you've

24 been referencing was identified as being problematic, then

25 whatever the new language would be, would be intended to

Page 51

1 legal effect.

2 And as I read the language, it talks about is

3 deemed null and void, that would have more of a legal

4 effect, I think.

5 So, I wouldn't -- I would be apprised of what the

6 thought process would be, but I wouldn't have decision

7 making on that language.

8 **Q. I understand that.**

9 **But would you agree there was also a utilities**

10 **division policy here that affected the utilities that the**

11 **division was regulating?**

12 A. I think -- I guess it's a testimony, Steve Olea, I

13 think he sort of talks about this issue and what was

14 intended to be associated with that language.

15 But the idea being that you needed to identify a

16 time frame to get certain things accomplished. And those

17 would have been the conditions that are identified above the

18 language which reflects null and void.

19 So it's more of a -- I think Mr. Olea said, he

20 said it was a -- trying to identify a reasonable time frame,

21 I think that was his phrasing, in which to get these things

22 done.

23 **Q. What was Mr. Olea's role within the division at**

24 **this point in time, 2005?**

25 A. He was an assistant director.

Page 50

1 have general application going forward.

2 **Q. Did you have a personal role in crafting or**

3 **proposing what the new type of language would be?**

4 A. Probably not.

5 **Q. Who would have done that, if you recall?**

6 A. Probably the division.

7 **Q. Probably the legal division?**

8 A. That would be my guess, yes, sir.

9 **Q. But, nonetheless, as utilities division director,**

10 **you would have had responsibility for looking at what they**

11 **came up with and giving it input from the utilities division**

12 **perspective; is that fair enough?**

13 A. I don't know that I agree with your statement.

14 I think what I would have -- I would have been

15 apprised of what was under consideration. And if I didn't

16 state an objection or concern or something like that,

17 probably went with it.

18 **Q. So it would have been more of a review role, and**

19 **either an acceptance by silence or some sort of suggestion.**

20 A. Well, I would have -- the question is, is this --

21 in my mind the question would have been, is this a legal

22 item or is it a policy item.

23 If this was a legal item, then I would be in an

24 acceptance role, because it wouldn't be my role, it wouldn't

25 be my responsibility to identify language that would have a

Page 52

1 **Q. And did he have a particular role on certain types**

2 **of cases? How did you use him as an assistant director?**

3 A. Because Mr. Olea had extensive background on the

4 water side, I had extensive background on the energy side.

5 And when I first came to the Commission, that was my

6 background, on the energy side.

7 It was after coming to the Commission when I

8 primarily got involved in water issues.

9 When I say the Commission, I mean the Arizona

10 Corporation Commission.

11 And because Mr. Olea had been with the Commission

12 who knows how long before I even got there, had been

13 focusing on water issues, when a routine matter such as this

14 would come forward, he would generally be allowed to handle

15 those matters.

16 **Q. All right. Let's move on to another docket**

17 **chronologically in the file here.**

18 **This is a letter dated April 7th, 2005, the 366th**

19 **day after the decision granting the CCN that was docketed by**

20 **Mr. Gerstman on behalf of Robson Communities.**

21 **My question is: Do you remember this letter being**

22 **brought to your attention at or about the time it was filed?**

23 A. I don't have specific recall, but it could have

24 been brought to my attention.

25 **Q. The record here which you've reviewed which showed**

Page 53

1 that this was the initial expression of the Robson/Cornman
 2 Tweedy view of the application of the null and void
 3 language, would you generally agree with that?
 4 A. Yes, sir.
 5 Q. Is this what kicked off the policy discussion you
 6 spoke of concerning the eventual transition of that null and
 7 void language in future decisions?
 8 A. Generally I don't know if I could say that.
 9 I would say that what happened was that once the
 10 CC&N extension application became contested, all right,
 11 that's when this issue was brought forward, as I recall.
 12 And that's sometime subsequent, I don't know when, sometime
 13 subsequent. That's when there would have been discussion as
 14 to whether or not this language would remain appropriate for
 15 inclusion in terms of a staff recommendation.
 16 Q. All right. Let's move on to a memorandum that was
 17 filed a few days later by the utilities division.
 18 I'm showing the witness a docketed memorandum
 19 dated April 11, 2005, to docket control from Ernest G.
 20 Johnson, for utilities division.
 21 Now, these initials look a little different than
 22 the last initials.
 23 Are those your initials or can you tell?
 24 A. They are not my initials.
 25 Q. From time to time would others in your absence

Page 55

1 paraphrase, basically states that a ROO is appropriate
 2 contrary to the suggestion in the staff's memorandum about
 3 changed circumstances and a need for further hearings.
 4 I'm not asking you to accept my characterization,
 5 but that's what happened in the docket.
 6 But my question to you is: Do you recall this
 7 event and the receipt and review of this ROO, which again
 8 you're shown as receiving on Page 5, as triggering any
 9 discussions within the division or between you and Mr. Olea
 10 or anyone else about, hey, hearing division seems to be
 11 going right to a proposed decision on this rather than
 12 holding further hearings?
 13 A. I don't recall this ROO generating conversation.
 14 Q. Let me focus on a couple of findings in the ROO,
 15 as proposed.
 16 If we go to Page 3, and look at paragraph 13,
 17 there's a finding that objections to the application and
 18 request for intervention were not filed timely in the
 19 docket.
 20 Would you agree with that?
 21 A. I think that's what the docket reflects.
 22 Q. And a proposed finding by the Commission suggested
 23 by ALJ Pope that neither Robson or Cornman were or are
 24 proper parties to this matter.
 25 A. Which line?

Page 54

1 initial for you?
 2 A. Yes, sir.
 3 Q. What was the general policy regarding that?
 4 A. The general -- I gave the authority to others in
 5 my absence to execute the duties and responsibilities of the
 6 division, and this would have been one of those instances,
 7 I'm presuming, where Steve Olea exercised that authority and
 8 initialed this document and forwarded it to docket control.
 9 Q. And you recognize that penmanship as Mr. Olea's
 10 penmanship?
 11 A. Pretty unique. Yes, they haven't changed.
 12 Q. Do you recall having any discussions with Mr. Olea
 13 about the policy decision voiced in this memorandum
 14 concerning a request for additional evidentiary proceedings?
 15 A. You know, I don't know where I was during that
 16 time period. So I don't know to what extent that we
 17 discussed this.
 18 Q. Let's keep moving chronologically to about a month
 19 later. I may have handed you a number of copies there, so
 20 let's hand one to Mr. Crockett.
 21 Do you each have one copy?
 22 MR. CROCKETT: Yes, just one for me.
 23 BY MR. HIRSCH:
 24 Q. This is the second ROO in the docket, dated
 25 May 10, 2005, from ALJ Amanda Pope, that, if I may

Page 56

1 Q. Line 6.
 2 A. There is language that states consequently neither
 3 Robson or Cornman were or are proper parties to this matter.
 4 Q. And we see on Pages 8 and 9 the specific statement
 5 of disagreement with the staff's recommendation for the
 6 scheduling of additional evidentiary proceedings.
 7 Do you see that?
 8 A. Did you say Pages 8 and 9?
 9 Q. I meant Lines 8 and 9, the next paragraph,
 10 paragraph 15.
 11 A. There is a statement that says at Line 7,
 12 paragraph 15, absent a demonstration that either Robson or
 13 Cornman have proper standing to object AWC's request, we
 14 disagree with staff's recommendations for additional
 15 evidentiary proceedings.
 16 Q. So my question to you is, did the hearing
 17 division's stated disagreement with staff's recommendations
 18 trigger discussions?
 19 A. I don't recall.
 20 Q. The docket doesn't appear to show that the staff
 21 filed any exceptions to this ROO. Are you aware of any
 22 discussion of whether exceptions should be filed?
 23 A. I don't recall.
 24 Q. With language like this, had the application been
 25 conferred in your mind from a routine CCN extension

1 application to a contested application triggering policy
2 issues?

3 A. I don't recall the time line in terms of when this
4 thing would have really become an item for my attention.

5 This was largely a routine matter until I think it
6 was the letter that you reference earlier is filed in the
7 docket. So sometime after that there would have been some
8 level discussion, but it was started at the -- it wouldn't
9 have started in my office.

10 It would have probably started among the staff who
11 were on the case.

12 I think probably Mr. Fischer would have had
13 conversations with Mr. Olea about these issues.

14 And then at some point if they felt -- Mr. Olea
15 felt there was a need, then we would have had a conversation
16 regarding that.

17 Q. Tell me if I'm understanding your testimony
18 accurately. At some point you were brought in to the mix.
19 You're just not sure when that occurred.

20 A. Yeah, I think that's accurate.

21 Q. Do you know, are you personally aware of any
22 interaction Jim Fischer had with representatives of Robson
23 Communities leading up to the 366th day letter, the April 7
24 letter?

25 A. No.

1 Q. Was anything discussed that you're aware of within
2 the utilities division of Mr. Fischer having reached out to
3 Mr. Gerstman or anyone at Robson and outlined for them this
4 null and void strategy?

5 A. No, sir.

6 Q. Have you ever heard that that occurred since?

7 A. Specifically have I heard what?

8 Q. That Mr. Fischer may have contacted Mr. Gerstman
9 and said, hey, you may not be aware of it, but you might be
10 able to make a claim to grab on to another certificate.

11 A. I'm not aware of those sort of conversations.

12 I've reviewed the docket, and there is some
13 discussion in the docket relative to certain items, but I
14 don't recall any discussions. I'm not aware of any
15 discussion.

16 Q. Would you agree with me that such contact would
17 have been improper if Mr. Fischer had done anything like
18 that?

19 A. I would have been very concerned.

20 Q. The May 10 ROO was followed by a May 19 docket of
21 another Robson Communities letter signed by Mr. Gerstman,
22 that you can glance through, but it appears to be in the
23 nature of an exception or on that position to the findings
24 in the ROO.

25 But, it is what it is. The record will speak for

1 itself.

2 But, my question is reviewing this letter as you
3 sit here, May 19, 2005, on the Robson Communities
4 letterhead, do you recall the docketing of this letter by
5 Mr. Gerstman sparking any further discussion involving you
6 and your office?

7 A. No.

8 Q. Do you recall having any input on the assertions
9 Mr. Gerstman is making in this letter before any rulings
10 were made?

11 A. I'm sorry?

12 Q. Do you recall having any discussions with anyone,
13 either within your division or with legal division or
14 otherwise, concerning the assertions Mr. Gerstman was making
15 in this letter?

16 A. No, sir.

17 Q. Later in 2005 staff filed a legal memorandum on
18 the issues pursuant to a procedure order that the hearing
19 division had entered. I'm showing the witness the
20 November 22, 2005, staff's legal memorandum.

21 So now we're a few months down the line, and the
22 hearing division is receiving briefing on the issues raised
23 by Mr. Gerstman and otherwise.

24 So I'm showing you this legal memorandum to
25 refresh your recollection, and you show as receiving a copy

1 of it.

2 My question to you is -- it's signed by Janice
3 Alward. Do you recall having any input or even policy level
4 discussions with Ms. Alward or anyone at the legal division
5 concerning the assertions made on behalf of Commission staff
6 in this filing?

7 A. The answer is no, but you used -- the answer is
8 no. It will remain no.

9 I want to make sure that we're clear.

10 Commission staff encompasses so many
11 functionalities at the agency.

12 My presumption in answering no was between the
13 office of general counsel, myself, the utilities division
14 representatives, am I aware of any discussions? No, I am
15 not.

16 And would not expect to be consulted, because this
17 was purely a legal matter.

18 Q. There's discussion in this filing concerning
19 matters such as conditions subsequent and the effect of the
20 null and void language with conditions attached, et cetera.

21 Do you recall having any input into what the legal
22 division -- what positions the legal division was going to
23 take as to those issues before it made this filing?

24 A. My answer would be I don't recall having any input
25 in this filing at all.

Page 61

1 Q. Okay.

2 Do you recall after it was docketed reading it and

3 having any reaction to the assertions in the staff's legal

4 memorandum?

5 A. I don't recall.

6 Q. On the first page of the filing, Line 22, the

7 assertion is made, the short answer is that AWC, which is

8 defined as Arizona Water Company, continues to hold a valid

9 CCN for the extension area.

10 Do you recall having any reaction to that one way

11 or the other as utilities director if you saw it?

12 A. No, I don't.

13 Q. Are you aware of anybody at the utilities

14 division, either under your direction or without your

15 direction, stating an objection to that position that

16 Ms. Alward was taking?

17 A. Frankly I don't have any recollection about what

18 happened at the time this memo was docketed.

19 Q. Let's go forward a number of months later into the

20 middle of 2006. We have a staff report regarding the

21 company's request for extension of time to comply with the

22 decision.

23 This is a memorandum to docket control from

24 Ernest G. Johnson, dated June 12, 2006, that was docketed on

25 that date as well for purposes of the record.

Page 63

1 Q. And that you learned by looking at the four pages

2 in at the staff acknowledgment page, that's Mr. Olea's

3 signature?

4 A. Yes, sir.

5 Q. And the document speaks for itself, but it goes on

6 to state from the utilities division's perspective positions

7 on why staff recommended such time periods, why they're

8 included in decisions, and how the time limits are

9 determined, and how the request for additional time are

10 analyzed, and other relevant policy issues.

11 My question is, by this point had the discussion

12 between Cornman Tweedy and Arizona Water and the vigor with

13 which this matter was being litigated before the hearing

14 division, had that risen to your level of input yet on

15 policy issues or otherwise?

16 A. The time period that I see on this memo is dated

17 June 12, 2006.

18 This matter, as I recall, it was filed in August

19 of 2000 -- this matter being the application for extension

20 was filed in August of 2003.

21 It had gone from being basically a routine CCN

22 matter to one that was transitioning to a contested matter.

23 It's possible.

24 Q. Would you agree that by this stage it was not only

25 a contest concerning an extension, it was turning into a

Page 62

1 Here we've got a different set of initials.

2 Can you interpret that for us, whose are those?

3 A. Yes, sir. Those appear to be the initials of --

4 initials EA, which I would assume would have been the

5 initials for assistant director Elijah Abinah.

6 Q. And what was his role at that time?

7 A. He was one of two assistant directors.

8 Q. With Mr. Olea?

9 A. Yes.

10 Q. And did Eli have particular responsibilities

11 different than Mr. Olea? What distinguished him from

12 Mr. Olea in terms of the scope of work?

13 A. I'm sorry to interrupt you.

14 Q. Go ahead.

15 A. Okay.

16 In general, at that time Mr. Abinah's background

17 had been largely in telecommunications, some energy, but

18 largely in telecommunications.

19 So by virtue of his initials being on this

20 document, I can only assume that he was available and I

21 wasn't and Mr. Olea was not available.

22 But let me double check that.

23 Mr. Abinah, I'm guessing to try to help get us

24 through this thing, is that Mr. Abinah probably signed this

25 because the underlying document was executed by Mr. Olea.

Page 64

1 policy debate about the impact of the null and void language

2 and conditions subsequent and similar policy considerations?

3 A. Let me be clear again, that you use the phrase

4 policy, then you talked about null and void and conditions

5 subsequent.

6 So I want to make sure in my response that I'm

7 offering a policy perspective.

8 Q. I accept it as such.

9 A. Okay.

10 I think that staff would have been interested in

11 terms of hearing from -- the utilities staff would have been

12 interested in hearing from the utilities division -- excuse

13 me, the legal division, which I have called the office of

14 general counsel this morning, as to what would be -- what

15 would be their thinking in terms of this item.

16 And what staff would be probably trying to figure

17 out is how can we get the information we need to make the

18 recommendation to the commissioners.

19 The idea being that one of the things that you

20 wanted to make sure of, I think Mr. Olea talks about this,

21 you want to make sure there's assured water supply.

22 Then you want to make sure that whatever other

23 conditions need to be addressed.

24 So, this notion, I think what he says on Page 2,

25 staff is presently considering no longer recommending MXA's

1 to be filing compliance due to the fact that these things,
2 that may have been -- that probably was something that we
3 talked about.

4 Q. And I take it that although you weren't around to
5 initial the transmittal memo, that the policy statement of
6 the utilities division contained in the document had your
7 blessing.

8 A. I'm going to assume so.

9 Q. Do you remember anything else about discussions
10 with Mr. Olea or with Eli or others concerning what
11 utilities division staff from a nonlegal perspective would
12 want to see in future CCN extension decisions, other than
13 what's stated here?

14 A. No.

15 Q. The matter then transitioned into a hearing, just
16 for framework for all of us, before now Judge Jibilian and
17 Judge Wolfe in July of 2006.

18 So now we're going to go to the briefing, post
19 hearing.

20 And I'm showing you staff's opening brief dated
21 September 15th, 2006.

22 And there's -- it's a rather unique filing, I
23 think counsel at the time would have agreed, because there's
24 one Roman numeral saying reasons for granting the time
25 extension and the next Roman numeral is reasons against

1 granting the time extension.

2 Do you see that?

3 A. I see reason on Page 2, Roman numeral two, Line 1,
4 reasons for granting time extension, at Line 15, Page 2,
5 Roman numeral three, reasons against granting time
6 extension.

7 Q. My question is, did you have any dialogue or input
8 or consultation with the legal division and Ms. Alward,
9 Ms. Alward or Mr. Ronald, who signed this, before these
10 positions were taken in staff's opening brief?

11 A. I don't recall.

12 Q. Do you recall reading this and having any reaction
13 to it?

14 A. No, I don't.

15 Q. I take it then you don't recall stating any
16 position one way or the other for the utility division about
17 the assertions made and agreed?

18 A. Because I don't recall this document, I don't
19 recall anything, any statements regarding this document.

20 Q. Do you recall any -- having any discussions
21 internally within the utilities division with Mr. Olea or
22 others about the assertions that the legal division was
23 making?

24 A. I don't recall.

25 Q. Did you recall having any role in the hearing that

1 took place before judge -- I'll use Judge Wolfe, because
2 that was her name then, the prior July of 2006.

3 A. I don't recall participating in any proceeding
4 before a Judge Wolfe involving Arizona Water.

5 Q. Do you recall having any dialogue with Mr. Olea
6 who may have presented testimony at the hearing?

7 A. I don't recall.

8 Q. Further briefing occurred, and I'll put before you
9 now staff's response brief, dated October 6th, 2006.

10 And here staff is in the position of responding to
11 issues that have been raised by the litigants, the other
12 litigants.

13 And this again speaks for itself, but there's
14 an analysis of the US West Communications case, and the
15 Phelps Dodge versus EPCO case, and other cases that bear
16 upon the general topic of CCNs and their makeup and
17 enforceability.

18 I'll just use generically.

19 But my question to you is, as with the prior
20 brief, do you recall Mr. Johnson having any personal
21 involvement or interaction with hearing division regarding
22 the issues raised in this response brief?

23 A. No.

24 Q. Do you recall having any dialogue with Mr. Olea or
25 any utilities division staff regarding these issues at that

1 time?

2 A. No.

3 Q. And after staff filed this October 6th, 2006,
4 response brief, do you recall reading it and having any
5 reaction to it?

6 A. No.

7 Q. A ROO then issued several months later by
8 Judge Wolfe. And I've put before you that ROO, dated
9 June 12, 2007.

10 Showing a copy on Page 20 going to you, and making
11 particular findings and conclusions regarding the issues in
12 the case.

13 When you've had a chance to review as part of
14 reaching your conclusions here the docket generally, I know,
15 but do you recall having reviewed the ROO when it came in
16 and made these proposed findings and conclusions?

17 A. I have no recollection of the ROO at that time.
18 I have reviewed this document, but at that time I
19 don't have any recollection.

20 But in terms of maybe trying again to facilitate
21 our discussion here --

22 Q. Please.

23 A. In terms of information I may have had to
24 consider, when this matter -- prior to this matter going to
25 the Commission, I don't know when this was set before the

Page 69

1 Commission, I would have liked to have read the document.
 2 Now, I don't know when I would have read the
 3 document.
 4 Q. This was before it went to open meeting?
 5 A. That's right.
 6 Q. And would you agree with me that this particular
 7 ROO went specifically to the heart of the then pending issue
 8 concerning the impact of the null and void language and the
 9 policy implications of having certificates evaporate or go
 10 away under those circumstances?
 11 A. I'm going to need you to point me to some language
 12 that you're referencing when you make that statement.
 13 Q. Okay.
 14 It is kind of an overarching observation that
 15 flows from the conclusions and orders, but let's look at
 16 Page 17.
 17 If you look at the top of Page 17, and, which is
 18 paragraph 92 of the findings, Judge Wolfe is proposing a
 19 finding that the factors that staff cites in favor of
 20 granting the time extension significantly outweigh the facts
 21 in support of not granting the extension.
 22 Do you see that?
 23 A. Yes, sir.
 24 Q. And they go on -- the judge goes on to make some
 25 recommendations, if we look at Pages 9, 10, and 11, about,

Page 71

1 Page 17, talks about Cornman's preference as the subsequent
 2 landowner that its affiliate Robson provide water utility
 3 service and the finding that this proceeding is not the
 4 proper venue for determining whether a different provider
 5 shall provide service.
 6 Do you recall any discussions with Mr. Olea
 7 internally or others in between the ROO coming out and the
 8 public -- and the open meeting on that point?
 9 A. I don't.
 10 Q. Paragraph 95 addresses a finding that Arizona
 11 Water is fit and proper, and that staff's witness has
 12 testified that Arizona Water continues to be a fit and
 13 proper entity.
 14 Do you recall having any discussions at the time
 15 about any disagreement on staff's part to those assertions?
 16 A. I don't recall any conversation regarding
 17 paragraph 95.
 18 Q. If we look at paragraph 97, on the top of Page 18,
 19 there's -- and I'm not going to go through the page after
 20 page of fact findings earlier in the decision, but here's a
 21 more overarching finding at Lines 4 through 5, that the,
 22 paraphrasing, the circumstances about the Arizona Water
 23 Company's inability to meet one of the conditions was caused
 24 by Cornman and was beyond Arizona Water's control.
 25 Do you recall there being discussion at the

Page 70

1 you know, the concept of excluding undeveloped properties
 2 could erode public reliance on the certainty of the
 3 Commission's CCN process. And the issue concerning the
 4 preference of the new property owner, the affiliate of
 5 Robson, and its impact on the decision.
 6 Looking the those paragraphs here today, do you
 7 recall anything of your involvement in between the time this
 8 ROO came out and you said you would have read it and the
 9 open meeting concerning preparing for what the utilities
 10 division perspective would be on those proposed findings?
 11 A. Let me make sure that I'm sure on something.
 12 I think you reference Pages 9, 10, and 11.
 13 And then you read the language you read. And I
 14 just want to make sure that I'm looking at Page 17.
 15 Q. I am looking at Page 17, and I did mean to
 16 reference Lines 9, 10, and 11.
 17 So I'm sorry if I made that mistake.
 18 About that's the part that says the effect of
 19 eroding public reliance on the certainty of a CCN.
 20 Let's take them one at a time.
 21 Do you recall that proposed finding triggering any
 22 discussion by you about whether the utilities division ought
 23 to take a position on that assertion?
 24 A. I don't recall.
 25 Q. And paragraph 94, that we've been looking at, on

Page 72

1 utilities division about what happened at the hearing,
 2 Mr. Poulos' testimony in that regard, and this finding by
 3 Judge Wolfe?
 4 A. I don't recall being part of the discussion.
 5 Q. Do you remember, after this ROO was entered and
 6 before the open meeting, having any discussions within the
 7 utilities division about the evidence of Cornman's actions
 8 to thwart or hinder Arizona Water from being able to get the
 9 needed papers concerning water supply issues?
 10 A. I don't recall.
 11 Q. Do you ever remember being told about or reading
 12 the transcript of Mr. Poulos' --
 13 MR. GERSTMAN: Poulos.
 14 BY MR. HIRSCH:
 15 Q. Sorry, Peter keeps correcting me.
 16 Mr. Poulos' testimony at the July, 2006, hearing?
 17 A. I did not review a transcript.
 18 Q. Do you recall listening to the hearing?
 19 A. I don't recall.
 20 Q. Do you recall any discussions with anyone in the
 21 hallways or around utilities division about, hey, did you
 22 hear what Mr. Poulos did on the stand this morning or what
 23 came out in the Cornman Tweedy hearing?
 24 A. No, sir.
 25 Q. Would you agree with me that by the time of that

Page 73

1 hearing this case was being fully and vigorously contested?
 2 A. I think the case was being contested, yes.
 3 Q. Do you recall as you sit here as executive
 4 director of the utilities division having any other role or
 5 knowledge of the case at the time the ROO was issued through
 6 the open meeting?
 7 A. I just want to be clear.
 8 I think you may have misspoken. You said
 9 executive director of the utility division.
 10 Q. I meant director of the utility division.
 11 A. And the rest of your question was?
 12 Q. I'm just asking kind of a catchall question.
 13 Other than what you've told us, which the record will speak
 14 as to what it is, but are you aware of any input or
 15 discussions you've had with anyone concerning the contested
 16 nature of this proceeding when the ROO came out and before
 17 the open meeting?
 18 A. No, sir.
 19 Q. You recall attending the open meeting that ensued?
 20 A. I don't have any specific -- I don't have any
 21 specific memory, but generally I was in attendance.
 22 If I was in the building, I was in attendance.
 23 Q. Let's go to the decision that was entered. So
 24 I'll pass out a docketed copy of decision 69722, which I
 25 think has been marked many times in this proceeding, so it's

Page 75

1 Lines 26 and 27, the second part of paragraph 102 of the
 2 findings, we say: Our subsequent proceeding on remand will
 3 be for the purpose of considering whether the Cornman
 4 property should be deleted from the CCN extension granted to
 5 Arizona Water by decision 66893.
 6 Do you see that?
 7 A. Yes, sir.
 8 Q. Do you remember having any reaction to that
 9 finding when you read it, assuming you did read it, as part
 10 of the decision at the time?
 11 A. No, I do not.
 12 Q. Do you recall any discussion at the utilities
 13 division level about moving for rehearing or otherwise
 14 stating an objection to that finding?
 15 A. No, I do not.
 16 Q. If we look at the order, basically the first
 17 two ordering paragraphs to Page 20, Line 20 to 25, both
 18 extend the deadline for compliance and then order that for
 19 purposes of compliance the conditions set forth in decision
 20 number 66893 have been fulfilled.
 21 Do you see that?
 22 A. Yes, sir.
 23 Q. Do you recall any discussion you may have been
 24 involved with at the hearing division -- I'm sorry, at the
 25 utilities division about that ordering language?

Page 74

1 one reason we're not marking them as deposition exhibits.
 2 And they're from the docket.
 3 So I'm showing you decision No. 69722, July 30th,
 4 2007. Which is the Commission's decision at this stage of
 5 this matter.
 6 And I know you've reviewed it as part of your
 7 testimony here.
 8 Do you recall this decision coming out in July of
 9 2007?
 10 A. Before reviewing the document, I did not -- before
 11 reviewing the docket, I did not recall.
 12 Q. If we look at Page 19, paragraph 98, Line 13 and
 13 14, we see the decision states: We find that for purposes
 14 of compliance the conditions placed on Arizona Water CCN
 15 extension in decision No. 66893 have been fulfilled.
 16 Do you see that?
 17 A. Yes, sir.
 18 Q. Do you recall reviewing that when the decision was
 19 issued?
 20 A. I don't recall.
 21 Q. Did staff discuss a motion for reconsideration or
 22 any sort of filing that would have challenged that finding
 23 in the decision that we just read?
 24 A. I don't have any recollection of that.
 25 Q. If we look at the tail end of that page, 19,

Page 76

1 A. No, sir.
 2 Q. And, again, you're unaware of any action
 3 undertaken by the utilities division to have that order
 4 reheard or amended.
 5 A. I'm not aware that any was taken, sir.
 6 Q. And, finally, the last page of the decision,
 7 Page 21, above the signatures, there's a final ordering
 8 paragraph on Lines 3 and 4 that mirror the finding language,
 9 that the preceding on remand is for the purposes of -- for
 10 the purpose of considering whether the Cornman property
 11 should be deleted from the CCN extension.
 12 Do you see that?
 13 A. Yes, sir.
 14 Q. And do you recall the utilities division having
 15 any discussions about opposing that or seeking rehearing on
 16 that part of the order?
 17 A. I do not recall any discussions.
 18 Q. Did you have any role in the review or action on
 19 Cornman Tweedy's motion for rehearing that was filed
 20 regarding this decision, 69722?
 21 A. I don't think I follow you, sir.
 22 Q. You're aware that Cornman Tweedy moved for
 23 rehearing and reconsideration of this opinion and order, or
 24 are you not, sir?
 25 A. If it is reflected in the docket, then I probably

Page 77

1 did review it.

2 **Q. This is the rehearing where the James P. Paul**

3 **argument was made and many of the arguments that are**

4 **potentially at issue now before Judge Nodes were addressed.**

5 **But the docket will speak for itself.**

6 **My question is though, I think you've answered it,**

7 **do you recall the utilities division having reviewed and**

8 **provided any input to anyone else at the Commission**

9 **regarding the issues raised in Cornman Tweedy's motion for**

10 **rehearing?**

11 A. I don't think so.

12 **Q. On motions for rehearing, what -- let's go more**

13 **now to the typical policy, plus or minus at this point in**

14 **time 2007.**

15 **You've now got several years under your belt.**

16 **When a motion for rehearing comes in, is it**

17 **circulated among the divisions and input received from the**

18 **commissioners or hearing division or others as to potential**

19 **action?**

20 A. As I understand it, we're now at a point where

21 we're post-decision by the Commission, and they're the

22 decision makers at the Commission.

23 So the motion to -- for rehearing would be filed

24 in docket, and 13 copies would be made, and distribution

25 would take place.

Page 79

1 A. Through exceptions.

2 If we're talking about a contested proceeding such

3 as this --

4 **Q. No, I'm talking about the stage where this one was**

5 **at.**

6 **We saw there weren't any exceptions. The docket**

7 **will reflect that.**

8 **So now the decision comes out.**

9 **Now we're in that setting where there's a motion**

10 **for rehearing. And the Commission typically meets upstairs,**

11 **you know, within a close period of time, because a**

12 **20-day clock is running, as you're aware, and decides around**

13 **the conference table on what action to take on a motion for**

14 **rehearing.**

15 **And utility division people are sitting around the**

16 **exterior of the room. What's the policy and protocol in**

17 **terms of -- is that the only point you have input and**

18 **communications, or is there communications going on behind**

19 **the scenes?**

20 A. Let me try to be responsive, but I'm going to have

21 to segment what I think you just asked.

22 **Q. Okay.**

23 A. In a contested proceeding, the utilities division

24 staff who were litigants in the case would not have any

25 communications with the commissioners at all.

Page 78

1 Ultimately copies would be provided to the

2 utilities division.

3 Additional copies might need to be made of that

4 document. It would be circulated within the division. It

5 would go to the team members assigned to the case generally,

6 which would include the -- well, the legal division would

7 get their own copy, but it would go to whoever the case

8 manager was and whoever team members were generally.

9 And, at some point, if input -- depending on what

10 the issues were, it might be brought to my attention at that

11 point.

12 **Q. Now, in terms of the specific issues we've been**

13 **talking about this morning regarding the application of the**

14 **null and void language and the policy considerations related**

15 **to that, do you remember such a discussion regarding the**

16 **Cornman Tweedy motion for rehearing?**

17 A. You know, candidly I do not.

18 I'm not saying that there wasn't discussions. I

19 just do not remember.

20 **Q. Do you remember the utilities division -- well, I**

21 **think I asked that, but let me ask a different question.**

22 **If the utility division feels strongly on a point**

23 **that a party is raising in a motion for rehearing, how will**

24 **it voice its recommendation to the Commission before they**

25 **meet and consider it?**

Page 80

1 There may be staff members identified as a

2 advisory staff, and they may be in communication with the

3 Commission.

4 It's my understanding, and frankly I don't know if

5 it's a good understanding, but it's my understanding that

6 when the motions for reconsideration came in, that the

7 dialogue would be between the legal division and the

8 commissioners as to what approach may or may not be

9 appropriate.

10 I don't think that motions for reconsideration

11 generally would come as an agenda item in the commissioner

12 staff meeting. I think that's the one that you were talking

13 about. I don't think that was typical.

14 I think motions, if something found its way on

15 that agenda, it's probably because a commissioner requested

16 that it be on that agenda, and they have to hold their

17 discussions in open meeting.

18 And therefore there was a need on that

19 commissioner's mind to have such a discussion.

20 But I'm just trying to kind of complete the loop

21 of understanding here.

22 **Q. I appreciate that.**

23 **At that time period who decided as to whether the**

24 **utilities division would file exceptions to a pending ROO?**

25 A. Ultimately it would be my responsibility.

Page 81

1 Q. And that would come in discussion with the folks
 2 reporting to you that were working on the file?
 3 A. Yes, sir.
 4 MR. HIRSCH: Let's go off the record for a second.
 5 (Lunch recess taken.)
 6 BY MR. HIRSCH:
 7 Q. Mr. Johnson, we're returning after lunch. Are you
 8 aware that you're still under oath for purposes of your
 9 testimony today?
 10 A. Yes, sir.
 11 Q. Did you have any opportunity to reflect on your
 12 answers such as to offer any amendments or expansions of
 13 your answers you've given to date?
 14 A. Not at this time, sir.
 15 Q. Okay.
 16 Thank you.
 17 We had broken right at the point of
 18 decision 69722, and the beginning of the subsequent remand
 19 proceeding.
 20 And the next document I'm going to show you is a
 21 February 15th, 2008, staff brief entitled staff's prehearing
 22 brief and response to Arizona Water Company's motion to
 23 strike.
 24 So, to put things in context, you're still, as of
 25 February of 2008, director of the utilities division;

Page 83

1 Q. There's an extended discussion of the James P.
 2 Paul case, which is the topic of some of your opinions in
 3 today's proceeding.
 4 Did you have any review or input specifically
 5 related to what the staff's position on the James P. Paul
 6 case was going to be for purposes of the 2008 remand?
 7 A. I'm going to need you to restate that question.
 8 Q. Sure. Let me try to restate it a little clearer.
 9 Here in 2008, the staff itself is docketing
 10 specific positions relating to the application of the
 11 James P. Paul Water Company to the facts of this case.
 12 Would you generally agree with that?
 13 A. Yes, sir.
 14 Q. My question is, and this is entitled staff's
 15 prehearing brief, did anyone consult with you or did you
 16 give any advice to anyone concerning the specific policy
 17 focus of how staff would characterize James P. Paul?
 18 A. Not that I recall.
 19 But when these briefs were prepared, they were
 20 generally prepared in the legal division. And that's -- if
 21 they consulted or worked with someone, they would work with
 22 whoever the primary analyst was on the case, maybe a manager
 23 or two.
 24 So you might have the engineer and the financial
 25 analyst or the CCN analyst who worked together.

Page 82

1 correct?
 2 A. Yes, sir.
 3 Q. And at this point I'll tell you that due to
 4 Mr. Poulos' health issues and other considerations, the
 5 parties agreed, I'm sure you saw this in the docket review,
 6 to submit this phase of the proceedings 100 percent on
 7 pre-filed testimony.
 8 Are you aware of that?
 9 A. Yes, sir.
 10 Q. Just to put this instrument in context here, we
 11 reached agreement that the parties would submit a prehearing
 12 brief, and then Arizona Water Company had filed a motion to
 13 strike certain aspects of Cornman's pre-filed testimony.
 14 Direct and rebuttal.
 15 So let me ask the question I've been asking all
 16 along.
 17 Do you recall having any involvement in your role
 18 as director of the utilities division in assessing the
 19 issues that were raised by Arizona Water Company's motion to
 20 strike?
 21 A. No.
 22 Q. And do you recall having any role with the input
 23 and substance of the staff's prehearing brief that's before
 24 you, February 15th, 2008?
 25 A. No, sir.

Page 84

1 But in terms of the direct discussions, but they
 2 wouldn't consult me necessarily on this.
 3 Q. Wouldn't you agree that the discussion of James P.
 4 Paul triggers a policy consideration versus a detail of an
 5 engineering study or rates design study?
 6 A. Are we saying in terms of what's in this document
 7 or what's in my testimony?
 8 Q. I mean in terms of what's in this document.
 9 A. Well, I haven't read this document this afternoon
 10 enough to make that assessment.
 11 Q. I guess my question is this.
 12 In my world at least, if a -- I'm an attorney for
 13 a client, and if I'm going to be stating a position in a
 14 filing, I typically consult with a client and discuss what
 15 the client direction is in terms of the input of the
 16 position I'm taking.
 17 Did that not happen at this time frame between
 18 your lawyers and yourself?
 19 A. I don't recall having discussion with the legal
 20 staff regarding this brief.
 21 What I'm testifying here today is that such a
 22 discussion could have taken place with other members of the
 23 utilities division. I just don't recall participating in
 24 that.
 25 Q. And you don't believe that the issues discussed in

Page 85

1 the Cornman Tweedy case in this brief as of February, 2008,
 2 had raised to the level of your involvement as director to
 3 trigger your direct input into such briefing.
 4 A. It was not my normal routine to tell the legal
 5 division what to put in a brief.
 6 And usually because they were working on multiple
 7 cases at one time, they may do a walk through and say here
 8 is the brief that's got to be filed at 3:00 o'clock this
 9 afternoon.
 10 At the Commission, there are hundreds and hundreds
 11 of cases, and frankly ly we did not have the ability to go
 12 through a long digestive period and try to figure those
 13 things out.
 14 Q. As of February, 2008, was the Cornman Tweedy
 15 dispute of sufficient visibility to trigger your personal
 16 involvement or not?
 17 A. Oh, it may have been. But I thought the question
 18 was regarding this document here.
 19 Q. It is. So let's ask generically.
 20 By now on its second remand and going into what
 21 we've called phase three, and being active for almost
 22 eight years -- I'm sorry, almost five years, you would agree
 23 that this was no longer a pro forma administrative
 24 certificate expansion but would be considered contested.
 25 A. I think the case was contested in February 15,

Page 87

1 Q. Sure.
 2 And the Commission used this docket to conduct an
 3 analysis of that, and made findings that in this case the
 4 condition was rendered impossible to perform and then was
 5 deemed complied with.
 6 A. You'll have to show me that language.
 7 Q. I won't take the time to do that.
 8 And on remand, the staff, as well as Cornman
 9 Tweedy and Arizona Water, were tasked to brief their
 10 respective views of what James P. Paul meant to Judge Nodes
 11 and ultimately the Commission.
 12 Would you agree with that?
 13 A. I think that's reflected in the docket, yes.
 14 Q. My point is, when it came time for the staff view
 15 of the world of the application of James P. Paul on
 16 regulated public service corporations providing water
 17 service, didn't you feel that was a policy directive that
 18 you should make as director of the utility division, or at
 19 least weigh in on?
 20 A. I don't recall having a conversation along those
 21 lines.
 22 Q. Would the brief such as the one we see in
 23 February, 2008, be something that the lawyers just filed on
 24 their own without any consultation with the utilities
 25 division?

Page 86

1 2008.
 2 Q. And there had been two decisions entered and
 3 substantial findings of fact and conclusions of law
 4 regarding matters of policy that directly relate to
 5 utilities that your division regulated. Wouldn't you agree
 6 with that?
 7 A. Well, you've -- I would have to ask you to clarify
 8 the question. Because you've -- what I heard you say was
 9 there had been several policies. I think you mentioned two.
 10 Q. Yes.
 11 A. And I'm not sure what you're referencing.
 12 Q. Okay. Well, the decisions we've reviewed this
 13 morning and you've seen in the docket go beyond the typical
 14 CCN extension decisions.
 15 Would you agree with that?
 16 A. You have to point me to the language you're
 17 referring to.
 18 Q. Let me try to address it generically.
 19 The decisions, for example, go into detail about
 20 the impact of the so-called null and void language in the
 21 conditions.
 22 Do you agree with that?
 23 A. I think there is discussion in one of those
 24 documents that you were providing this morning which talks
 25 about -- which makes reference to null and void language.

Page 88

1 A. I think my earlier answer was that typically there
 2 would have been some discussion between the office of
 3 general counsel and the utilities division. It may not be
 4 with me. I don't recall it being with me.
 5 Q. Right.
 6 And as you sit here today, do you know if as of
 7 February, 2008, time frame that the Cornman Tweedy contested
 8 matter had risen to a level of visibility and concern that
 9 you typically would have been involved?
 10 A. I typically would have been involved? Or I
 11 would --
 12 Q. Yes.
 13 A. -- or I would have had some knowledge of what was
 14 taking place?
 15 Q. I mean, involved by way of directing your division
 16 what stance to take as to the James P. Paul issue.
 17 A. No, I don't think I would have been directing
 18 division in terms of what position to take in a legal brief.
 19 Q. Who in your view as of this time made the decision
 20 as to what position the staff was going to take in this
 21 brief?
 22 A. This would have been the office of general
 23 counsel.
 24 Q. And your view is they didn't report to anyone.
 25 They just sua sponte decided what was in their interest.

Page 89

1 MR. CROCKETT: Steve, I'm going to object to the
 2 question because I think it mischaracterizes or misassumes
 3 the testimony that he's previously given on that issue.
 4 BY MR. HIRSCH:
 5 Q. Besides that, it was not a good question. So let
 6 me withdraw it, and we'll move on.
 7 I think we've had enough on that point.
 8 A couple of specific points here to see if you
 9 have any recollection as to the February 15th, 2008,
 10 document. Part of the issue that's being addressed is what
 11 the upcoming proceeding is to be, and there was a fairly
 12 vigorous dispute as to what was going to be admissible and
 13 what the focus of the upcoming hearing was going to be,
 14 which led to a motion to strike, among other things.
 15 And staff is setting forth some positions.
 16 So if we look at the front sheet, Page 1 of the
 17 brief, Lines 23 through 25, and I'm going to paraphrase
 18 since we don't take the time to read three lines here, but
 19 basically staff believes that the scope of this hearing
 20 should be consistent with a deletion proceeding.
 21 If you look at 23 through 25.
 22 And then later we look at the conclusion. I'm
 23 just going to tie these two together so we can speed along
 24 here. At the conclusion at Page 5, Lines 6 through 7, the
 25 sole justification, here I am quoting, for deletion of a CCN

Page 91

1 don't have any awareness of you having been involved in any
 2 direction to the Commission's legal division as to what
 3 position to take as to whether this was going to be a
 4 deletion proceeding or something other than a deletion
 5 proceeding; is that correct?
 6 A. I don't have any recollection, and that would not
 7 be my normal approach.
 8 Q. Let's move on and ask questions about a reply
 9 brief submitted by staff a little later. Well, actually
 10 much later because there were some health issues here.
 11 But the reply briefing eventually came up in June
 12 of 2009.
 13 I'm showing you a reply brief dated June 9th of
 14 2009.
 15 Now, here history would tell us we're right on the
 16 eve of you assuming the executive directorship; correct?
 17 A. I think the date is June 19th, if I'm reading it
 18 correctly.
 19 Q. Yes.
 20 A. I think you said June 9.
 21 Q. I misread it.
 22 It is June 19th. Thanks.
 23 A. And I think the question was was this just prior
 24 to my becoming the executive director.
 25 Q. Yes.

Page 90

1 under a public interest analysis is if AWC is simply not fit
 2 and proper to hold a CCN.
 3 Do you see that?
 4 A. I see the language.
 5 Q. And would you be in agreement that at that point
 6 in time staff's position was that the boundaries of the
 7 jurisdiction of the Commission on this remand proceeding was
 8 identical to a deletion proceeding?
 9 A. I need to ask, are you asking me for a legal
 10 opinion?
 11 Q. No.
 12 A. Or are you asking me a policy view?
 13 Q. Your analysis as the director of the utilities
 14 division, given your background, education, and scope of
 15 your position.
 16 A. Well, this brief was authored by Charles Haines.
 17 He's a lawyer. So I assume he sets forth a legal
 18 perspective, so I can't presume or assume what his legal
 19 perspective was.
 20 I can review the language.
 21 I can give you a nonlegal perspective on my
 22 assessment of the language.
 23 Q. Let me ask this question.
 24 I'm going to make an assumption from your prior
 25 answers. You don't recall Mr. Haines coming over to -- you

Page 92

1 A. Yes.
 2 Q. Before we get into this, can you summarize for us
 3 how you achieved the executive director position? Was it a
 4 recruitment? Was it open and you applied? Were you
 5 approached?
 6 A. It was opened, and I applied.
 7 Q. Do you remember the official start date that you
 8 became executive director, in August of 2009?
 9 A. No, sir.
 10 Q. Up until the time you assumed that position, were
 11 you -- you continued to be active as utilities division
 12 director.
 13 A. I performed the role of utilities director.
 14 Q. A couple of indications in staff's reply brief
 15 dated June 19th, 2009, if we go to Page 2, Lines 25 through
 16 27, this is in the nature of a reply, so the other parties
 17 have weighed in as to their perspective.
 18 And, again, staff seems to be taking the position
 19 as set forth in the sentence I'm referencing here, the
 20 character of the proceeding as to whether AWC should
 21 continue to hold the CCN is a deletion proceeding rather
 22 than an examination of whether the extension should be
 23 granted.
 24 Do you recall having any input or involvement in
 25 determining to take that position on behalf of staff?

Page 93

1 A. I view that as a -- well, the way it's presented,
 2 it's presented in the form of argument, so my assumption is
 3 that it's legal argument.
 4 And because it's legal argument, that's not
 5 something I probably would have been involved in.
 6 **Q. Let's go to the top of Page 3. And you can**
 7 **determine whether you think this is a legal position or not.**
 8 **Line 1 through 3, quote, to the extent that various facts**
 9 **may demonstrate the reasonableness of deleting a CCN, staff**
 10 **does not believe that the facts presented by Cornman are**
 11 **sufficiently compelling to justify deletion of AWC's CCN.**
 12 **Do you see that?**
 13 A. I see the language, yes, sir.
 14 **Q. Okay.**
 15 **Now, Mr. Johnson, are you telling us today that**
 16 **this is a legal argument being presented by the legal**
 17 **division, or do you think this is a position of staff as to**
 18 **the application of facts?**
 19 A. I'm not sure.
 20 **Q. And, I take it, consistent with your prior**
 21 **answers, that this position of staff was not run by you in**
 22 **any way in your position as director of the utilities**
 23 **division at that time.**
 24 A. Let me -- let me make sure that I understand what
 25 you're saying so that the record is clear.

Page 95

1 And that I would be present along with the
 2 two assistant directors, and whoever was most familiar with
 3 that matter would be all for generally, through me, through
 4 me, to the Commission, for questioning.
 5 So, for example, on this particular matter, it was
 6 a contested matter. So at the open meeting it is unlikely
 7 that I had any comments or any remarks regarding this
 8 matter. Those comments, all commissioners in those
 9 proceedings would generally direct questions to the hearing
 10 officer.
 11 So I don't have any recollection, nor do I know
 12 why I would necessarily -- why I would have any reason to
 13 speak at that agenda.
 14 **Q. Let's talk generally what your role was as**
 15 **director of utilities division.**
 16 **Clearly the hearing division and ALJ is over there**
 17 **responding to questions.**
 18 **But then the focus shifts to the parties and the**
 19 **staff.**
 20 **And, typically the Commission calls on the**
 21 **participants, not the judge, but the participants to answer**
 22 **questions about policy statements or facts or conclusions**
 23 **that they're weighing.**
 24 **Would you agree with that?**
 25 A. I would say if it's nonlegal, there may be

Page 94

1 In terms of my interaction with the legal
 2 division, I just want to make sure that -- I may be
 3 repeating myself, but I want to be clear.
 4 It was not the normal practice for me to sit with
 5 the legal division and discuss legal division briefs. So,
 6 it would probably be the norm where I did not review the
 7 brief prior to its filing.
 8 In my mind that is a separate issue from did I
 9 have an awareness at different points in time that the
 10 matter had become contested, and some of the other questions
 11 that I think I've already responded to.
 12 So I just want -- I'm trying to make that
 13 distinction here.
 14 **Q. I appreciate that, and this language perhaps bears**
 15 **upon that.**
 16 **For example, when there was the open meeting at**
 17 **which the Teena Wolfe ROO was adopted, and became the**
 18 **subsequent decision that we looked at right before lunch,**
 19 **which is number 69722, typically you would have appeared for**
 20 **the utilities division as its director and sat there and**
 21 **been prepared to respond to questions by the Commission,**
 22 **would you not have?**
 23 A. I would have been generally speaking, because I
 24 don't know specifically here, but generally speaking I would
 25 be in attendance at the Commission open meeting.

Page 96

1 questions from the bench to the technical staff.
 2 If it's a legal question, it's going to go through
 3 counsel.
 4 **Q. No question.**
 5 **But when it comes to policy decisions, wouldn't**
 6 **you agree that month after month you spoke with authority as**
 7 **the voice of the utilities division in open meetings**
 8 **addressing commissioners' questions on all manner of issues**
 9 **that came up to be voted upon?**
 10 A. I'm not sure I understand the question, so let me
 11 again try and be responsive. Let me try to say this.
 12 **Q. Okay.**
 13 A. I don't have any specific recollection of offering
 14 any comment or opinion at an open meeting regarding this
 15 matter.
 16 Okay?
 17 Now, in terms of my general duties and
 18 responsibilities, I would, at an open meeting, I would be
 19 present and available to the commissioners to address
 20 questions that were nonlegal, or if they had policy
 21 questions regarding the division or the division position.
 22 And if they addressed it directly to me, then if I knew the
 23 answer, I would try to respond. If I didn't know the
 24 answer, I would call upon the technical staff or who would
 25 possess the answer hopefully.

Page 97

1 **Q. In preparing for the series of generally monthly**
 2 **open meetings, wouldn't you have a staff meeting with your**
 3 **senior people and talk through what was on the docket that**
 4 **month and prepare to answer the commissioners' questions?**
 5 **A. We would periodically have a progress and**
 6 **recommendation meeting.**
 7 **And those meetings were not necessarily focused on**
 8 **just the open meeting agenda. There might be focus on**
 9 **something that hadn't even made it through hearing yet.**
 10 **And there would be various topics that would come**
 11 **on for discussion.**
 12 **Q. To the extent that that hasn't been encompassed in**
 13 **my prior questions, would Cornman Tweedy at this point in**
 14 **time on its second remand in 2008 have risen to a level of**
 15 **being discussed at such a policy and recommendation meeting?**
 16 **A. I don't know that it did, but it's possible.**
 17 **Q. Let's say somebody else was talking with legal**
 18 **division about directions on behalf of staff. How would**
 19 **they have gotten direction from you as director?**
 20 **A. If someone had a question, then they could stop by**
 21 **my office.**
 22 **I had late hours. They could -- or they could use**
 23 **a progress and recommendation meeting as an opportunity to**
 24 **raise questions or opinions.**
 25 **Now, if I can fully respond to the question, if**

Page 99

1 **A. No.**
 2 **Q. All right.**
 3 **What -- is that not your signature on the cover**
 4 **sheet of the ROO?**
 5 **A. It is my signature.**
 6 **Q. What is your view of what you're doing in signing**
 7 **this as executive director?**
 8 **A. The function of the executive director when it**
 9 **came to a document such as this was purely administrative.**
 10 **I did not establish any of the dates. I think**
 11 **that's part of your inquiry.**
 12 **I did not establish any of the dates, whether it**
 13 **be for exceptions, whether it be for the open meeting. I**
 14 **didn't do any of that.**
 15 **I think that was all part of the process between**
 16 **the administrative law judge and the docket function.**
 17 **And when these things would come to me, part of**
 18 **the duties of executive director was to set my signature to**
 19 **these things and issue them on behalf of the agency as**
 20 **purely an administrative function. And that's what's**
 21 **represented here.**
 22 **Q. As you issued the ROOs, did you have, you or your**
 23 **staff you supervised, have any role in reviewing the ROO for**
 24 **form or substance?**
 25 **A. As executive director, no.**

Page 98

1 the responsibility had already been delegated, in this case
 2 as I recall it in terms of how this case was managed, this
 3 was a matter that came in as a routine CC&N. It was handed
 4 off to the analyst. I think we've identified him as
 5 Mr. Fischer.
 6 Mr. Fischer was supervised by Mr. Olea.
 7 Okay?
 8 That the normal dialogue that would take place
 9 would take place between Mr. Fischer and Mr. Olea.
 10 If Mr. Fischer is no longer involved, I think that
 11 Mr. Olea would have been directing what was happening in
 12 that particular proceeding. And he had opportunities to
 13 consult with me.
 14 I don't recall that he did.
 15 **Q. Okay. Let's move on to the stage post your**
 16 **becoming executive director. And I'll hand you the ROO that**
 17 **emerged from the briefing that we were just looking at.**
 18 **So we're towards the tail end of 2010 now. And**
 19 **Judge Nodes has issued what is styled an order on remand**
 20 **from decision 69722.**
 21 **Now, here, the cover sheet shows that as executive**
 22 **director you are issuing the ROO to the parties and**
 23 **directing when exceptions are to be filed and when it is to**
 24 **be tentatively scheduled for the open meeting; isn't that**
 25 **right?**

Page 100

1 **Q. Did you perform that role back when you were**
 2 **director of utilities division?**
 3 **A. In terms of a ROO?**
 4 **Q. Yes.**
 5 **A. There would be rules -- excuse me.**
 6 **For purposes of determining whether or not there**
 7 **would be exceptions, there would be times when you would**
 8 **focus on the ROO, and then raise issues whether or not you**
 9 **felt it accurately depicted at least your perspective of the**
 10 **case.**
 11 **Q. I think we visited that at some length at each**
 12 **point of the ROOs in this proceeding.**
 13 **Going back to that phase, while you were director**
 14 **of utilities division, how often in the normal course would**
 15 **you have communications with Steve Olea?**
 16 **A. Daily.**
 17 **Q. His office was immediately proximate to yours;**
 18 **right?**
 19 **A. Yes, sir.**
 20 **Q. And did you see it as part of your role to visit**
 21 **with him as your assistant on numerous matters that the**
 22 **utilities division had input in?**
 23 **A. We had hundreds of matters that would come through**
 24 **the division at any given time, and it's very possible that**
 25 **I would be working on other matters while Mr. Olea would be**

1 handling some portions of water matters. And he would
 2 consult me on an as-needed basis.

3 For example, I might be working on an alternative
 4 regulation for a telecommunications matter. I might be
 5 working on an APS rate case or TPE rate case during this
 6 time period. I might be involved in a rule making during
 7 this time period.

8 There are a number of activities that I could be
 9 involved in. And I would have trust in Mr. Olea based upon
 10 his experience in those issues that unless he needed a
 11 policy decision he would be able to handle the matter.

12 Q. Now, back to the executive director role, let's
 13 focus on that just generically.

14 Did the various divisions of the Commission report
 15 to you then, the division heads?

16 A. Pursuant to the function and statute, the
 17 executive director, the other agency divisions do report to
 18 the executive director, yes.

19 Q. And say as to hearing division, what would your
 20 typical interaction be with the hearing division once you
 21 became executive director?

22 A. Budget, space, if they needed to recruit for
 23 personnel, those sort of issues.

24 I would not have any case-related involvement as
 25 executive director.

1 A. Which meeting would that be?

2 Q. Well, there was a meeting as scheduled on the face
 3 here in mid December of 2010.

4 Do you recall -- that was Chris Mays' last
 5 meeting.

6 Do you recall attending that meeting?

7 A. If you're talking about did I attend the typical
 8 open meeting in the courtroom, as executive director, no,
 9 unless there was a problem.

10 If the commissioners had a particular issue or
 11 something, then I might come down. But on a regular basis,
 12 no, I would not attend those.

13 Q. All right.

14 I'll tell you that the -- Mr. Crockett and I will
 15 recall that the meeting, the open meeting where this ROO,
 16 November 29, 2010, ROO was initially considered was in what
 17 is now the old hearing room and was continued to a later
 18 meeting.

19 Do you have any recollection of either being
 20 present or listening in on the listen line or watching video
 21 as the meeting unfolded?

22 A. I don't have any recollection of that.

23 Q. Do you have any recollection of the questions
 24 Mr. Crockett and I faced at that open meeting?

25 A. No, I do not.

1 Q. Do you have authority to hire and fire ALJs?

2 A. Under the law I did.

3 Q. Did you ever interface with any of the ALJs
 4 themselves or just the director of the division?

5 A. Typically I would interact with the director of
 6 the division. I had no need to talk to the other folks
 7 other than in the hallway, hi, bye, something like that.

8 Q. And what about the utilities division, since that
 9 was kind of the path by which you climbed the ladder to
 10 executive directorship, what was your day-to-day contact
 11 with -- it turned out to be Mr. Olea?

12 A. Yeah. Same. If they had personnel issues,
 13 budget, space. I removed myself from any sort of
 14 involvement on those substantive issues. And part of that
 15 was because when I assumed the position of executive
 16 director, it was made clear to me that it was the desire of
 17 the Commission at that time that my role be administrative,
 18 be administrative, and that it not be substantive.

19 So I didn't have any involvement in substantive
 20 matters that I can recall.

21 Q. Did you attend open meetings as executive
 22 director?

23 A. Yes, sir.

24 Q. Did you attend the open meeting where the
 25 November 29th, 2010, ROO was discussed?

1 Q. Do you recall as you sit here that the open
 2 meeting item was continued until February 1st, 2011?

3 A. I think a file reflects that, but, no, I do not
 4 have any independent recollection.

5 Q. As executive director, what -- we talked about
 6 relationships with the divisions that reported to you. What
 7 about your relationship with the commissioners themselves on
 8 their policy advisers and offices?

9 A. I respected the direction I had received regarding
 10 the role of the executive director, and that's the way I
 11 tried to conduct myself.

12 Q. And what was that direction that you had received?

13 A. I wasn't really involved in substantive matters,
 14 be they utility, be they securities, or any sort of
 15 regulatory functionality. That was not my function.

16 Q. So, during your years of service as executive
 17 director of the Arizona Corporation Commission, you didn't
 18 consult with commissioners concerning policy matters that
 19 the Commission was facing, say in the utilities field.

20 A. I wouldn't have a reason to.

21 Q. And you didn't -- when there was a motion for
 22 rehearing filed, did you have any role in terms of
 23 consultation with the commissioners concerning the position
 24 the Commission might take on a rehearing request?

25 A. No.

1 **Q. Do you recall having any attendance or listening**
 2 **in at the meeting on February, the open meeting of**
 3 **February 1st, 2011? It was Commissioner Pierce's first**
 4 **meeting as chairman.**
 5 A. I don't recall.
 6 **Q. Do you recall the commissioners breaking into**
 7 **executive session during that open meeting?**
 8 A. I don't recall.
 9 **Q. Do you recall participating in the executive**
 10 **session?**
 11 A. I have no recollection of that.
 12 **Q. Did you ever participate in an executive session?**
 13 A. What do you mean did I ever participate? I don't
 14 think I understand the question.
 15 **Q. You're the executive director. The commissioners**
 16 **vote to break into executive session. They go back into the**
 17 **side room.**
 18 **Not necessarily on Cornman Tweedy, but any matter.**
 19 **Did you participate?**
 20 A. In order to kind of help our dialogue here, if I
 21 understand what you're asking is -- well, I don't know if
 22 you're asking me was I ever in attendance at a -- in an
 23 executive session.
 24 **Q. Yes.**
 25 A. And the answer would be that there would be

1 occasions where as executive director I was in attendance.
 2 I would not be an active participant, because those would be
 3 for the purpose of receiving legal advice.
 4 **Q. But, in any event, you don't remember attending or**
 5 **having any role in the executive session or sessions that**
 6 **occurred related to the Cornman Tweedy matter on the**
 7 **February 1, 2011, open meeting agenda.**
 8 A. If I understand your question, I have no
 9 recollection of being at any executive session involving
 10 that. I just don't recall.
 11 **Q. Did you ever have any communications with any --**
 12 **anyone at the Commission concerning what took place in the**
 13 **executive session that addressed the Cornman Tweedy agenda**
 14 **item on February 1st, 2011?**
 15 A. Not that I recall, nor would I have a reason.
 16 Whatever was discussed in executive session, as I
 17 understood it from our legal division, had to remain in
 18 executive session.
 19 **Q. And once -- the record will show that February 1,**
 20 **2011, proceedings led to another remand of this proceeding,**
 21 **which takes us to the preparation stages s for the upcoming**
 22 **hearing.**
 23 **Did you have any role whatsoever, as executive**
 24 **director or otherwise, in the Cornman Tweedy docket after**
 25 **you became executive director?**

1 A. Not that I'm aware of.
 2 **Q. While you were at the Commission, either as**
 3 **utilities division director or executive director, did you**
 4 **have any personal communications with Ed Robson?**
 5 A. I wouldn't know him if he walked in the room.
 6 **Q. What about Mr. Jim Poulos?**
 7 A. I did meet Mr. Poulos while I was utility
 8 director.
 9 **Q. What was the general nature of that meeting?**
 10 A. It was a handshake like you do with so many other
 11 folks who come around, including Mr. Garfield.
 12 **Q. Was there ever any relationship beyond shaking his**
 13 **hand, seeing him on Commission business over at Commission**
 14 **offices from time to time?**
 15 A. No.
 16 **Q. What about, I think you answered this earlier,**
 17 **about the first time you met Mr. Gerstman was this morning.**
 18 A. About 30 minutes before coming over here.
 19 **Q. What about another gentleman who's a witness in**
 20 **this proceeding for Robson, Mr. Steve Soriano?**
 21 A. I don't know who he is.
 22 I've read his testimony. I never met him.
 23 **Q. I want to ask the same general question as it**
 24 **relates to Arizona Water Company.**
 25 **You met Mr. Garfield.**

1 **Do you recall meeting other officers of Arizona**
 2 **Water Company during your years at the Commission?**
 3 A. Well, actually one, a vice president at Arizona
 4 Water, Joel Reiker, was a former employee at the Commission
 5 at the utilities division. And of course I knew Joel as an
 6 employee at the Commission and had seen him periodically at
 7 various meetings.
 8 And I think I met counsel other than you. I
 9 met -- is it Mr. Geake?
 10 **Q. G-E-A-K-E?**
 11 A. Yes, sir.
 12 I would have met him. And there may have been a
 13 couple other people in there. I just don't remember.
 14 **Q. Would you describe that you have any relationship**
 15 **with any of the officers of Arizona Water besides the former**
 16 **employee relationship with Joel Reiker? But any beyond**
 17 **seeing them at the Commission, business relationship, is**
 18 **there any personal relationship or other relationship beyond**
 19 **the business relationship?**
 20 A. I saw Mr. Reiker recently at a meeting that he and
 21 I attended in Dallas. And, we spoke and talked about
 22 different things.
 23 But I don't have an ongoing communication with
 24 Mr. Reiker.
 25 **Q. Okay.**

1 Thank you.

2 After you left the Commission, did you go right to
3 starting up the Strategis agency or did you have any other
4 employment?

5 A. Once I left the Commission, I was not employed by
6 any other entity until such time as I determined that I
7 would establish Strategis.

8 Q. And when approximately was that?

9 A. It was after I left the Commission, so it would
10 have been sometime after February 8th. Sometime after that.

11 Q. February 8th of 2013?

12 A. Yes, sir.

13 Q. What led to the formation of Strategis?

14 A. My departure from the Corporation Commission, the
15 Arizona Corporation Commission.

16 Q. But as opposed to, you know, applying for a job
17 with Mr. Crockett, I'll say facetiously, as a paralegal, or
18 doing other things with your background and education, what
19 led you to take the track of starting Strategis?

20 A. Frankly I thought it was time to work for myself.
21 For the 25 years prior to that I had worked, as you know, in
22 government, and worked for two regulatory commissions. And
23 I was at a point in time where I thought it was time to work
24 for me.

25 Q. I won't take time to dwell further on the website,

1 but I take it you're the author of the description of the
2 services and insights that Strategis can provide its clients
3 that is set forth on the website.

4 A. I'm one of the authors.

5 My wife would be very upset if she wasn't included
6 in that. So, yes.

7 Q. We'll give her credit also.

8 A. Yes.

9 Q. That gets to my next question.

10 What employees does Strategis have?

11 A. Me.

12 Q. Have you considered while at Strategis a policy
13 regarding matters you would take on that relate to issues
14 that were pending before the Commission during your term or
15 employment with the Commission?

16 A. Could you help me with that question a little bit?

17 Q. Let me try to restate it.

18 Did you reflect on adoption of a policy about what
19 cases you might take if they came to you that relate to
20 matters that were pending while you were at the Commission?

21 A. I don't know that I reflected on that.

22 In terms of Strategis, the focus on Strategis is
23 largely focused out of state. And my intention largely was
24 to develop the business. And I did, in fact, head in that
25 direction in terms of developing the business.

1 And part of my rationale for doing so is that I
2 was subject to Title 38, which basically I had certain
3 limitations on activities for a period of 12 months before
4 the Arizona Corporation Commission.

5 Q. When you formed Strategis, did you focus on
6 developing business both in Arizona and outside of Arizona?

7 A. At the time I focused outside of Arizona.

8 Q. And where did you focus?

9 A. I focused through my various contacts and
10 communications through the National Association of
11 Regulatory Utility Commissioners.

12 So I focused in places like Oklahoma and the
13 Maryland area, even down in the state of Georgia, just
14 various.

15 Oregon may have been another place.

16 Several different places based on relationships
17 that I had established outside of Arizona.

18 Q. And just to be clear, with your earlier answer
19 this morning, in the work you've attempted to develop in
20 those other states, none of that has included any provision
21 of expert witness testimony or reports.

22 A. Not as of this date, no, sir.

23 Q. All right.

24 I'm not asking as a legal expert, but in terms of
25 your policy, if you will, as the principal of Strategis, is

1 it your understanding that the Title 38 provision controls,
2 in other words, after a one-year period, that you're free to
3 take on work involving Corporation Commission matters that
4 may have been pending when you were employed there?

5 A. I think the statute speaks for itself in that
6 regard, but I think there have been 30 plus people who
7 preceded me who have left the Commission and who basically
8 for a period of 12 months did not appear before the
9 Commission.

10 I think that has been the practice prior to me.

11 And I think that my actions, I stayed away for
12 over 18 months. So I don't -- I think I went well beyond
13 what the other 30 or so people did who preceded me.

14 Q. Is this engagement the first Arizona engagement
15 you've had while at Strategis?

16 A. This is the first Arizona engagement I've had in
17 which I've been ask to testify.

18 Q. Did you have any engagements before this one that
19 related to non-testifying or non-expert, by definition it's
20 going to involve your expertise, but non-testifying issues
21 about matters pending at the Arizona Corporation Commission?

22 A. Could you repeat that question?

23 Q. Let me try to restate it to make it a little more
24 focused.

25 I think we've established that this is your first

1 **testifying provision of expert testimony in an Arizona**
 2 **matter since you left the Commission; right?**
 3 A. Correct.
 4 **Q. And you feel you're well outside the 12-month**
 5 **provision addressed in the Title 38 statute just by virtue**
 6 **of the way chronologically you weren't approached here until**
 7 **more like 18 months after you left; right?**
 8 A. For purposes of this proceeding, yes, it would
 9 have been outside the 12 year -- 12-month period, which is,
 10 if I recall the statute, it talks about appearances before
 11 the Commission. Right.
 12 And so I have not -- I have yet -- I don't think
 13 I've been inside that building, I don't think, in 18 months
 14 or so. For anybody, on anything.
 15 **Q. Now, focusing on matters before the Arizona**
 16 **Corporation Commission, what's been the nature of your**
 17 **engagements, other than this one? Have there been any?**
 18 A. You know, inside, inside the 12-month period of
 19 time, I don't know that I've had, on behalf of -- I don't
 20 think that I have matters pending before the Commission
 21 within the 12-month period of time.
 22 I don't think there was anything pending before
 23 the Commission during the 12-month period of time.
 24 **Q. Now, after the 12-month period of time, would we**
 25 **state that that's February of 2014 forward?**

1 **interaction with any of the commissioners for any reason?**
 2 A. I'm not sure. It's possible if they attended a
 3 NARUC meeting, that you see people at NARUC meetings.
 4 **Q. Would it have been a shake hand greeting sort of**
 5 **thing rather than --**
 6 A. It would have been a cordial sort of moment,
 7 nothing beyond that.
 8 **Q. No substantive engagements for a client to lobby**
 9 **or promote a policy position or anything?**
 10 A. None.
 11 **Q. What about any interaction, we'll talk about a**
 12 **couple of witnesses on the Arizona Water side of things,**
 13 **with Mr. Paul Walker, since you've been at Strategis?**
 14 A. I think Mr. Walker contacted me after I left the
 15 Commission. And wanted to meet and have lunch.
 16 I think we did have lunch with some other folks,
 17 some water companies. I think we had lunch with them at one
 18 time.
 19 And I think that I told -- Mr. Walker, I think,
 20 contacted me. And I asked him, let's not meet for a period
 21 of time.
 22 That's my recollection of it.
 23 Ultimately we did have lunch.
 24 And there are a couple of water companies who were
 25 in attendance there.

1 A. In terms of appearances before the Commission?
 2 **Q. Right.**
 3 A. That would be after February 8th of 2014.
 4 **Q. Have you had any appearances before the Commission**
 5 **other than the pre-filed testimony that you've docketed**
 6 **here?**
 7 A. No.
 8 **Q. Before being contacted here, had you ever done**
 9 **any work for Robson Communities or any of the Robson**
 10 **affiliates?**
 11 A. No.
 12 **Q. Any of the Robson affiliated utility companies**
 13 **specifically?**
 14 A. No, sir.
 15 **Q. Do you or any of your family have any other**
 16 **business connected with the Robson Communities or Robson**
 17 **affiliated utilities other than this assignment at present?**
 18 A. No, sir.
 19 **Q. What about work with Mr. Crockett or his firm or**
 20 **prior firms before this engagement, any work with him other**
 21 **than seeing him as an attorney at the Commission?**
 22 A. I don't think I had any specific engagement with
 23 Mr. Crockett before this engagement.
 24 **Q. After -- let's take that one-year period. Between**
 25 **February, 2013, and February 8th of 2014, did you have any**

1 **Q. Have you had any other relationship with**
 2 **Mr. Walker while at -- after you left the Commission, other**
 3 **than that lunch?**
 4 A. I think Mr. Walker attended kind of a going away
 5 function at a restaurant.
 6 So I think that's probably it.
 7 **Q. Do you have any opinions of Mr. Walker's**
 8 **background, character, reputation as an expert witness in**
 9 **his field?**
 10 A. It is whatever it is.
 11 **Q. Let me ask the same questions as to another**
 12 **witness in the proceeding, Rita McGuire. Had you had any**
 13 **knowledge of her while you were at the Commission for any**
 14 **reason?**
 15 A. No.
 16 **Q. And what about since leaving the Commission and at**
 17 **Strategis?**
 18 A. No.
 19 When you say -- let me make sure I'm clear on the
 20 question.
 21 **Q. Yeah.**
 22 A. Outside of this proceeding?
 23 **Q. Yes.**
 24 A. No.
 25 **Q. And then I take it as part of your tasks, your**

Page 117

1 tasks here you became familiar with her testimony through
 2 what had been docketed.
 3 A. Yes, sir.
 4 Q. Before that point, had you ever had any
 5 interaction with her whatsoever?
 6 A. No, sir.
 7 Q. I think we touched upon this when it related to
 8 the deposition, but I don't think I asked about the overall
 9 assignment.
 10 When, plus or minus, when do you first recall
 11 being contacted in what led to this assignment and your
 12 testimony here?
 13 A. I think I was contacted mid-June of 2014.
 14 Q. And who contacted you?
 15 A. I think I was contacted by Gary Hayes, I think who
 16 contacted me, for the purpose of setting up a lunch with
 17 Mr. Crockett. So my focus was with Mr. Crockett.
 18 Q. And what did Mr. Hayes tell you generally?
 19 There's a case you might be retained in or what?
 20 A. He said basically, I think he said -- I don't
 21 remember the exact words, but I think he said Jeff wants to
 22 talk to you about a possible case, or something like that.
 23 And I was on vacation at the time.
 24 And so it was probably some ten days later before
 25 I actually spoke with Mr. Crockett.

Page 119

1 interview for an assignment or what were you told at that
 2 lunch meeting?
 3 A. Basically I was told, as I recall it, that this
 4 case had gotten to a point where basically I was told that
 5 Paul Walker had filed testimony. And that there may be a
 6 need for some policy testimony.
 7 I think that's what I was told.
 8 Q. Incidentally, when Mr. Hayes told you of the
 9 potential engagement and to meet with Mr. Crockett, did he
 10 fill you in on the case at all?
 11 A. No.
 12 Q. At what point did the meeting with Mr. Crockett
 13 transition into an actual engagement then?
 14 A. I think I actually started working on the case
 15 around June 26th, is what I think when I first started
 16 working on the case.
 17 Q. And state for us the financial terms of the
 18 engagement.
 19 A. I'm being paid at the rate of \$300 per hour.
 20 Q. Is there a deposit or retainer lump sum at the
 21 front end or just an hourly rate billing?
 22 A. An hourly rate billing.
 23 Q. Is it billed on a monthly basis or at the end of
 24 the engagement or what?
 25 A. On a monthly basis.

Page 118

1 Q. And how did you know Mr. Hayes?
 2 A. I've known Mr. Hayes since he was at the
 3 Commission on and off.
 4 He came as a policy adviser to a former
 5 commissioner, and I think he's -- he was another one of
 6 those people who was subject to Title 38, as I recall, and
 7 who has been active and appeared before the Commission on
 8 other matters.
 9 Q. Do you have any other relationship with Mr. Hayes
 10 other than the professional knowledge of him through the
 11 Commission?
 12 A. Yeah, I know Mr. Hayes. We don't hang out
 13 socially, but I knew him particularly when he was on staff.
 14 But he would come back to the Commission when I
 15 was at the Commission, and we would chat and talk about
 16 football, and Texas Tech versus Oklahoma, and the same sort
 17 of discussion I would have with a lot of other people.
 18 Q. All right.
 19 So that led to -- did you say it was -- I guess,
 20 what was the next step with Mr. Crockett? Did you meet face
 21 to face or by phone?
 22 A. We had lunch.
 23 Q. Was it before or after the 4th of July?
 24 A. It was before the 4th of July.
 25 Q. And what basically were you told? Was it like an

Page 120

1 Q. All right. Walk us through generally what you did
 2 from June 26 forward to reach your opinions that you filed.
 3 A. Well, frankly, I didn't remember the case. And so
 4 the first thing that I did was ask, well, what's the docket
 5 number, because I didn't know the docket number.
 6 And then once I got the docket number, I got on
 7 e-docket and started trying to review the documents that had
 8 been filed in the case and the various testimonies and
 9 pleadings in the case.
 10 Q. Did Mr. Crockett or anyone from Robson provide you
 11 with written materials to aid you in your readiness for your
 12 testimony?
 13 A. I'm not sure I follow your question.
 14 Q. Did Mr. Crockett's office give you a file, any
 15 backup information, any paper whatsoever, or just turn you
 16 loose with the docket?
 17 A. Between June 26th, and I think toward around the
 18 12th or so of July, I didn't have any communication -- much
 19 communication I think with Mr. Crockett.
 20 I was looking at the case. I was looking at the
 21 files trying to understand what was in the case, get an
 22 understanding of the case.
 23 Q. Okay.
 24 Did you have any contact with Mr. Gerstman,
 25 Mr. Soriano, or anyone at Robson during that same time

1 **frame?**
 2 A. No, I did not.
 3 **Q. What happened -- you seem to remember July 12th or**
 4 **thereabouts. What happened then?**
 5 A. Well, because I was in Austin, Texas, and I had
 6 been developing some testimony, and I was in the process of
 7 finalizing some testimony to submit to Mr. Crockett for his
 8 review. And so that's why it stands out in my mind.
 9 **Q. And just to relay for me the days between**
 10 **July 12th and we know the testimony was docketed on**
 11 **July 18th, did you give a verbal report on the 12th to**
 12 **Mr. Crockett as to conclusions you had drawn or what?**
 13 A. I sent testimony.
 14 **Q. So by the 12th you had completed your review of**
 15 **the docket and actually, what, typed up or were on a word**
 16 **processor provided draft testimony?**
 17 A. I wouldn't say I completed my review of the
 18 docket. I think the testimony says that I reviewed much of
 19 the docket and much of e-docket in that time period.
 20 I have since reviewed all of the e-docket. There
 21 might be a few things I didn't review.
 22 But, yes, I transmitted testimony to Mr. Crockett
 23 around that time.
 24 **Q. Was the transmittal in a Q and A format to**
 25 **Mr. Crockett's office to format into the filing, or was it**

1 in a rougher format than that? What was the nature --
 2 A. It was a draft, but it was a Q and A in the
 3 typical format that you see testimony in.
 4 **Q. You were familiar with that from your years at the**
 5 **Commission as to what form the Commission would be expecting**
 6 **this to be.**
 7 A. Yes, sir.
 8 **Q. And other than looking at the e-docket, did you**
 9 **conduct any other investigation or research to reach your**
 10 **conclusions that went into that first draft on July 12th?**
 11 A. I don't remember.
 12 **Q. Do you remember calling and interviewing anyone**
 13 **else to achieve any insights into things, or was it just**
 14 **your opinion based on looking at the issues in the case?**
 15 A. I didn't call anybody to interview about the
 16 matter.
 17 **Q. Did you travel anywhere or go to any other**
 18 **websites to look at any other files or documents to lead to**
 19 **your opinions?**
 20 A. I don't recall.
 21 **Q. All right.**
 22 **So, I guess summarize for us the events between**
 23 **July 12th and the filing of the testimony on July 18th. Was**
 24 **there a back and forth on drafts, or --**
 25 A. It was a typical back and forth that would happen

1 in any pre-filing period.
 2 **Q. Were there issues that had not been addressed that**
 3 **you were asked to address, or was it more a question of**
 4 **making form edits to the draft?**
 5 A. I think my testimony covered most of the concerns,
 6 but Mr. Crockett would have had an opportunity to provide
 7 edits and catch things that I didn't catch, which always
 8 happens, footnote things and various things like that.
 9 **Q. In that time frame between the 12th and the 18th,**
 10 **did you have any discussions with Mr. Gerstman of any**
 11 **nature, phone conversations?**
 12 A. No.
 13 **Q. Or anyone from Robson?**
 14 A. No, sir.
 15 **Q. Did you have any discussions with anyone at the**
 16 **Commission, any staff or any employee of the Commission**
 17 **either existing or former?**
 18 A. I don't recall discussing -- I didn't get into a
 19 discussion regarding my testimony with any member of the
 20 staff.
 21 I talked to Mr. Reiker, and I didn't talk about my
 22 testimony.
 23 I did tell Mr. Reiker that I had been retained.
 24 **Q. This is when you saw him at the NARUC meeting.**
 25 A. That's correct.

1 **Q. I'm getting more to, gee, I need to chase this**
 2 **down with Steve Olea, or I should get some more insights**
 3 **from Jim Fischer on this point, or anything like that?**
 4 A. No, no, no, no. I did not have that type of
 5 communication.
 6 While at NARUC when I informed Joel Reiker that I
 7 had been retained, I also informed Steve Olea that I had
 8 been retained, so that -- as a courtesy.
 9 And Mr. Abinah, I was advised -- he may have been
 10 advised at that time or a few days before, I don't recall
 11 the exact time frame, but as a courtesy I thought I would
 12 advise him that I had been retained.
 13 **Q. Now, when -- is your retention documented in a**
 14 **retention agreement, or is it just verbal?**
 15 A. I have forwarded a letter of engagement to
 16 Mr. Gerstman. I have not received it back.
 17 **Q. Perhaps you can visit with him in the hallway when**
 18 **we're done.**
 19 MR. CROCKETT: Summer vacation schedules wreak
 20 havoc sometimes.
 21 BY MR. HIRSCH:
 22 **Q. What do you consider to be the scope of your**
 23 **assignment here?**
 24 A. What I consider to be the scope of my assignment
 25 was largely to respond to the testimonies of, as I state in

1 my testimony, Mr. Paul Walker, generally, and to a lesser
 2 extent Ms. Rita McGuire.
 3 **Q. Were you asked to give any legal opinions in the**
 4 **matter of any nature?**
 5 A. Absolutely not.
 6 **Q. And I think we covered this earlier. Your**
 7 **position is that you are not giving legal opinions in what**
 8 **you filed on July 18th or what was filed on your behalf.**
 9 A. I am not offering any legal opinions.
 10 **Q. Given your background, which we've covered today**
 11 **and it's set forth on your website, what would you consider**
 12 **to be your expertise that lends itself to bringing outside**
 13 **opinions in to the Commission in this proceeding that will**
 14 **be of relevance to it?**
 15 A. Well, I have been in a policy making role for
 16 about 20 years. I have addressed most regulatory, state
 17 level anyway, state level regulatory policy issues between
 18 my time in Oklahoma and my time in Arizona.
 19 Probably the area I did not have experience prior
 20 to coming to Arizona was in arid water, because that was
 21 really not much of an issue in Oklahoma.
 22 Since that time I have probably had more than
 23 30 plus meeting attendances where I've attended meetings or
 24 got training, or whatever, regarding water, the water
 25 industry, including three times a year I attend the National

1 think it's Clearwater or something like that, Clearwater,
 2 Florida, or something like that.
 3 And the last decade I've probably attended that
 4 three times.
 5 I've attended approximately three or four times
 6 the water law seminar sponsored by -- it's approved by the
 7 Arizona Bar Association, but I'm sure you're familiar with
 8 it. It's a two-day seminar usually August or something.
 9 I've done that about four times, or so.
 10 I've attended the water rate school in San Diego.
 11 Which, while it was focused on rates primarily,
 12 it -- the subject matter tended to favor water-related
 13 issues.
 14 I have attended, who knows, maybe ten -- at least
 15 five meetings sponsored locally by local -- I think there's
 16 two local water associations.
 17 One Mr. Walker was associated with.
 18 I think the other one Mr. Patterson was associated
 19 with. And still may be associated with.
 20 And I've done various readings and web reviews.
 21 And I know I'm leaving other things out.
 22 I think too there was a national -- for CLE
 23 purposes, even though you're not active, you still have to
 24 get CLE.
 25 I have attended other NARUC training for lawyers

1 Association of Regulatory Commissioner meetings,
 2 specifically the water committee meeting.
 3 I think you've been there too, Mr. Garfield.
 4 Have you been there?
 5 MR. GARFIELD: No, not yet. Mr. Reiker has.
 6 THE WITNESS: I've been at those meetings where
 7 all kind of topics are being discussed. So I've been doing
 8 that for over a decade.
 9 Attending those meetings.
 10 I specifically focused on water issues.
 11 In addition to that, I have attended -- I think
 12 you've been at the National Association of Water Company
 13 meetings.
 14 Have you been there?
 15 MR. GARFIELD: No.
 16 THE WITNESS: Not yet? Okay.
 17 Well, I have been there.
 18 MR. GARFIELD: I have that common face.
 19 THE WITNESS: I have been at those meetings, where
 20 water policy issues, water safety, water and wastewater
 21 issues, water safety issues, and a number of other issues
 22 such as the value of water have been discussed at those
 23 meetings.
 24 Additionally, NARUC has an invitee only meeting
 25 concerning water policy that's held down in Florida. I

1 where water topics have been part of the agenda. And there
 2 are other things that I have done particularly on the water
 3 side.
 4 On the energy side, I don't know what I've not
 5 done in terms of the policy background. That would include
 6 electric and natural gas.
 7 I already said I started off with cotton gins.
 8 So I think over the past 20 years I've gained a
 9 wealth of experience regarding regulatory policy.
 10 So if you ask me what's my expertise, what's the
 11 basis of my expertise, I think that would be it.
 12 BY MR. HIRSCH:
 13 **Q. And have you ever published any articles on any of**
 14 **those topics?**
 15 A. Have not published articles.
 16 I've had speaking appearances.
 17 I made a presentation at NARUC at an Anaheim
 18 meeting. I don't remember the exact year. It's probably
 19 been within the last ten years. Regarding model procurement
 20 practices. It had to do with the FERC and state trying to
 21 develop some model procurement practices in the energy
 22 industry.
 23 In addition to that, I remember talking about
 24 energy issues in the Southwest, which was a seminar in
 25 Albuquerque, New Mexico.

Page 129

1 I made a presentation there while employed by the
 2 Arizona Corporation Commission.
 3 Q. Any speaking appearances on water or water-related
 4 issues?
 5 A. No, I don't believe so.
 6 Q. Let's break down your work here kind of into
 7 phases.
 8 The first phase from retention to the July 12th
 9 generation of the first draft, how many hours would you say
 10 you put into this matter during that time?
 11 A. I'm sorry, say that part again?
 12 Q. The first phase, retention to the generation of
 13 the first testimony draft on July 12, how many hours did you
 14 have?
 15 A. I don't recall. I probably would have had more
 16 than 40 hours.
 17 Q. And then do you recall, and if it's easier to
 18 ratchet it to a month or to a different time frame, I just
 19 happen to select kind of the phases that we were talking
 20 about, but in that last phase between the 12th and the file
 21 on the 18th, do you remember how much time?
 22 A. It was -- it was -- I don't know.
 23 Probably a similar amount of time.
 24 Q. Approaching it from the other direction then, with
 25 you say you have around 80 hours in the matter leading up to

Page 131

1 probably reviewed that document.
 2 Q. And you did.
 3 Let me ask it this way. Are there docketed you
 4 looked at that you didn't drop a footnote or cite to?
 5 A. Not that I recall.
 6 Q. Have you ever made a presentation or given
 7 opinions relating to the concept of integration of water
 8 utilities along the lines of what you've opined to in your
 9 testimony before this case?
 10 A. No, I have not.
 11 Q. Have you talked -- I think it's subsumed in my
 12 question, but in terms of some of your opinions relating to
 13 Mr. Walker's testimony and the impact of prior rulings and
 14 decisions, I take it you haven't talked with anyone at the
 15 Commission legal division about their interpretation of the
 16 effect of those rulings.
 17 A. Let me make sure again.
 18 My testimony does not address legal issues. It's
 19 presented from a regulatory policy perspective. Therefore I
 20 would not need to talk to the legal division at the
 21 Corporation Commission, and have not.
 22 MR. HIRSCH: Let's go ahead and take our last
 23 break here, and I am nearing the end.
 24 Thank you.
 25 (Brief recess taken.)

Page 130

1 the time that you've spent preparing for the deposition
 2 here?
 3 A. That would be close.
 4 Q. And then how many hours would you say you have in
 5 preparing for the deposition here?
 6 A. Five or six, something like that.
 7 Q. And do you have any different rate for testifying
 8 here at the Commission than you do the \$300 rate you gave us
 9 for the research work and the drafting of the testimony?
 10 A. My fee in this proceeding is \$300 per hour,
 11 period.
 12 Q. As you sit here today, do you have any remaining
 13 work, tasks assigned or anticipated, other than attending
 14 the hearing on the matter?
 15 A. Not that I'm aware of.
 16 Q. As a part of your testimony, did you review any
 17 dockets that affect the Robson affiliated utilities or
 18 Robson Communities?
 19 A. That's a very general question. I don't know how
 20 to respond.
 21 I reviewed many documents -- many dockets in
 22 preparation for my testimony.
 23 Q. I guess specifically, which documents other than
 24 the Cornman Tweedy did you review?
 25 A. If I cited something in my testimony, then I

Page 132

1 BY MR. HIRSCH:
 2 Q. Mr. Johnson, some of these are going --
 3 A. Mr. Hirsch, I'm sorry to interrupt you.
 4 Q. That's fine.
 5 A. But there's one thing I'm reminded of. You asked
 6 me if I was reminded to bring it forward.
 7 Q. Yes.
 8 A. The one thing that I'm reminded of is that I
 9 did -- I was contacted by Frontier Telecommunications. I
 10 think you were asking me who I may have done some work for.
 11 I want to make sure that I told you it was Frontier
 12 Communications.
 13 It was regarding a tariff sort of issue.
 14 So I just want to make sure that I shared that
 15 with you.
 16 Q. That's, that's a contact you recall that involves
 17 a matter that was within the jurisdiction of the Commission
 18 here in Arizona.
 19 A. It was within, but nothing was pending.
 20 Q. And just generally, it was the nature of
 21 consultation about how to move a tariff forward or structure
 22 one?
 23 A. It was one of those things that we have
 24 interpretation of a tariff. Others may have interpretation
 25 of a tariff.

Page 133

1 Kind of help us figure out how -- you know, what's
 2 the best approach to be taken in terms of dealing with this
 3 issue.
 4 It did not require an appearance at the Commission
 5 or anything like that.
 6 **Q. Okay. Thanks.**
 7 **And, my wrap-up question relates to kind of the**
 8 **closing in everything since you left the Corporation**
 9 **Commission.**
 10 **I think I covered this in different bits and**
 11 **pieces, so maybe I'll ask it in a leading format.**
 12 **Relating to any aspect of this case, whether it's**
 13 **anything that's in the docket or expert opinions that others**
 14 **have given or expert opinions you've been asked to give, I'm**
 15 **understanding that you haven't talked substantively to**
 16 **anyone, any Commission employee, whether it be a**
 17 **commissioner or legal division or staff, or employee; is**
 18 **that correct?**
 19 **A. Regarding?**
 20 **Q. Regarding this case.**
 21 **I understand you had some social interaction at**
 22 **NARUC, et cetera.**
 23 **A. No, I don't think that's accurate.**
 24 **I know Commission employees.**
 25 **Q. Of course.**

Page 135

1 **knowledge of anything in the case other than watching it on**
 2 **the docket I assume.**
 3 **A. Mr. Hayes knew about the case because he contacted**
 4 **me, as I indicated. And whatever else he knows would**
 5 **probably be best addressed to him.**
 6 **Q. Well, for example, while he was policy adviser at**
 7 **the Commission, this case was pending. Has he offered any**
 8 **observations about, from that side of the fence, what he**
 9 **understood was going on and some of these rulings or**
 10 **deliberations?**
 11 **A. No, I don't know any of that.**
 12 **Q. Anyone else at the Commission?**
 13 **A. No.**
 14 **Q. Present or former employees or staff?**
 15 **A. That I've talked to?**
 16 **Q. Substantively about the Cornman Tweedy matter.**
 17 **A. No.**
 18 **Q. The same question as it relates to Robson**
 19 **Communities or any affiliated utility or company of the**
 20 **Robson family of companies.**
 21 **A. No.**
 22 **Q. One entity we all know well that I haven't asked**
 23 **about is RUCO.**
 24 **Any contact with any present or former staff at**
 25 **RUCO about any aspect of the Cornman Tweedy case?**

Page 134

1 **A. But in terms of have I discussed the substance of**
 2 **my testimony --**
 3 **Q. Or any aspect of the Cornman Tweedy, like what was**
 4 **really going on in 2005 on that filing.**
 5 **A. No, I haven't discussed my testimony, nor have I**
 6 **gotten into a substantive discussion relative to any facts**
 7 **in this case.**
 8 **Q. That's what I'm trying to narrow my question to.**
 9 **A. I don't recall -- well --**
 10 **Q. Not any context you would have had, because it's**
 11 **inevitable that you would have had several, but relating to**
 12 **this case.**
 13 **A. I'm trying to think what may have been discussed**
 14 **with Mr. Hayes, but that's the only name that comes to mind.**
 15 **Q. And I recall your answer being that you don't**
 16 **recall any substantive discussion with him. He hasn't been**
 17 **party to the case. I'm sure he's been watching it. But**
 18 **what do you recall, any briefing of any nature substantively**
 19 **about the Cornman Tweedy case from Mr. Hayes?**
 20 **A. I know Mr. Hayes is aware of this case and what's**
 21 **going on in this case, and I think in terms of my**
 22 **communication with Mr. Hayes it's been mostly through**
 23 **Mr. Crockett.**
 24 **Q. I understand Mr. Crockett's role and knowledge of**
 25 **the case. I'm less familiar with Mr. Hayes' involvement or**

Page 136

1 **A. No, sir.**
 2 **Q. Any contact with them concerning any of the issues**
 3 **about integrated water and wastewater utilities?**
 4 **A. No.**
 5 **Q. You mentioned a number of trade groups, primarily**
 6 **NARUC, but others. Have you had any contact with any of**
 7 **them specifically related to the opinions you've reached in**
 8 **this matter, other than the generic attendance at their**
 9 **seminars?**
 10 **A. I've attended in meetings where these topics were**
 11 **at different intervals, water and wastewater, and thank you**
 12 **for reminding me this, where these discussions were**
 13 **discussed.**
 14 **In particular, Mr. Paul Walker on behalf of**
 15 **Global, at that time anyway, he made numerous trips to my**
 16 **office, and to the utilities division, along with Trevor**
 17 **Hill -- what was the other, Simmons?**
 18 **Q. Graham Simmons?**
 19 **A. Yes, that gentleman.**
 20 **There were others, in fact, who spent a lot of**
 21 **time educating me regarding integration of water and**
 22 **wastewater issues, and seeking to persuade me in terms of**
 23 **taking a policy position regarding the integration of water**
 24 **and wastewater issues.**
 25 **And Mr. Walker led, was the one who I recall was**

1 instrumental in setting those meetings with the staff on
 2 behalf of Global.
 3 I think Mr. Walker -- I think I did scan -- when
 4 you asked me about other things, I think there was a
 5 publication.
 6 I think Global, I think, has information out there
 7 regarding integration of water and wastewater and the whole
 8 purple pipe thing. And I think I may have reviewed
 9 something like that.
 10 **Q. As a result of the meetings while you were at the**
 11 **Commission, did you -- I assume that was during your**
 12 **directorship of the utilities division as opposed to being**
 13 **executive director.**
 14 A. Correct.
 15 **Q. Did you suggest the adoption of a policy or start**
 16 **any discussions about the adoption of policy regarding a**
 17 **so-called integration issue?**
 18 A. No.
 19 **Q. Do you know if those visits were during the**
 20 **pendency of the Commission complaint proceedings between**
 21 **Arizona Water and Global?**
 22 A. I don't know.
 23 **Q. Did anything come of your meetings with the Global**
 24 **folks and Mr. Walker?**
 25 A. Not that I know.

1 sources, both locally and nationally.
 2 I've gained that through just generalized reading
 3 or listening as well.
 4 So, I'm trying to remember -- yeah, I think, I
 5 think that covers it.
 6 **Q. You mention in your testimony a familiarity with**
 7 **the Woodruff docket, which is a footnote. So I assume you**
 8 **looked at that docket in reaching your opinions.**
 9 A. Yes.
 10 **Q. Since that case arose during your tenure with the**
 11 **Arizona Corporation Commission, do you have any independent**
 12 **recollection of any involvement as director of the utilities**
 13 **division?**
 14 A. I don't really remember that.
 15 I went and reviewed the decision as I recall in
 16 that case.
 17 **Q. Do you recall having any input into any policy**
 18 **decisions relating to Woodruff?**
 19 A. I really don't recall.
 20 **Q. I take it if I asked the same questions about**
 21 **input into the briefing and staff positions that were filed**
 22 **in Woodruff, that the answers would be the same, you don't**
 23 **recall.**
 24 A. I just don't recall.
 25 **Q. I think we discussed your educational background**

1 It's no different than meeting with Mr. Garfield
 2 or any other water company.
 3 We had -- we had the folks who took over Chaparral
 4 City. Is that --
 5 **Q. Algonquin?**
 6 A. EPCOR, right.
 7 **Q. It's now EPCOR.**
 8 A. We met -- I've met probably with lawyers and
 9 representatives of EPCOR, Johnson of course, Arizona Water,
 10 what is it, the Lipsco --
 11 MR. CROCKETT: Liberty.
 12 THE WITNESS: Thank you, liberty. I've met with
 13 all of those people and at some point during my service at
 14 the Commission. And they've shared their vantage point
 15 regarding water and wastewater issues and things that were
 16 important to them.
 17 They may talk about something that was going to be
 18 filed or submitted or what was going on.
 19 BY MR. HIRSCH:
 20 **Q. Again, I take it as a result of those visits you**
 21 **haven't been involved in the implementation of any policy in**
 22 **that regard.**
 23 A. I have been involved in gaining an understanding
 24 of what are the issues that are facing the water industry.
 25 And I've gained that information from a number of different

1 **in terms of a journalism degree from Oklahoma and then a**
 2 **juris doctorate from Oklahoma.**
 3 A. Yes, sir.
 4 **Q. You don't consider yourself an engineer, do you?**
 5 A. No, sir.
 6 **Q. You don't hold any engineering certifications.**
 7 A. No, sir.
 8 **Q. And specifically you don't hold any certifications**
 9 **in terms of an operator of a water plant or wastewater**
 10 **plant, do you?**
 11 A. No, sir.
 12 **Q. Have you ever sat for an exam in those areas?**
 13 A. No, sir.
 14 **Q. And you haven't received any training or education**
 15 **in the operational area of either standalone water,**
 16 **wastewater, or integrated water and wastewater; right?**
 17 A. That's probably not true.
 18 **Q. What training have you received?**
 19 A. I have been on site, I think it was, maybe it
 20 was -- it wasn't Arizona Water, maybe it was EPCOR when they
 21 were Arizona American maybe. The one that's up on 17.
 22 There was -- I'm trying to remember.
 23 I've been on site at the water facilities so I
 24 can, in fact, gain an understanding of the functionalities
 25 of those facilities.

Page 141

1 I've had information during my tenure at the
 2 Commission provided by people for my review, which as I
 3 recall it was a general information, so I would have
 4 reviewed that.
 5 And that was -- I think I even traveled out to the
 6 Global. They were out in -- what's the west of Chandler?
 7 MR. CROCKETT: Maricopa.
 8 THE WITNESS: Maricopa. I think I visited on site
 9 out there, and was given a tour and given instructions. So,
 10 just so you know that I have had those experiences as well.
 11 BY MR. HIRSCH:
 12 Q. But you don't consider yourself to be qualified as
 13 a water/wastewater operator; correct?
 14 A. I do not.
 15 Q. It's one thing to attend a tour and another one to
 16 actually go in and start twisting the dials and turning the
 17 valves.
 18 A. Probably wouldn't want to be doing that.
 19 Q. The same question as to financial certifications.
 20 You don't hold any accounting or financial analysis
 21 certifications of any sort, do you?
 22 A. I have -- no, I don't hold any certifications,
 23 other than -- I don't hold any certifications in that area.
 24 I have the experiences that I've gained over
 25 25 years.

Page 143

1 you're free to take on such matters?
 2 A. I do not see a time frame stated in this rule.
 3 Q. Would you agree that that what you've done in this
 4 case to date, specifically the filing of your testimony
 5 constitutes an appearance in the case under your
 6 understanding?
 7 A. No. I don't know that I've made an appearance in
 8 this case.
 9 Q. So is it your position that your submitting
 10 rebuttal testimony on behalf of Cornman Tweedy and
 11 presenting evidence to the Commission is not the type of
 12 appearance that's addressed in R14-3-104G.
 13 A. I don't know that it is or is not.
 14 I don't believe -- when I think appearance, I
 15 think counsel make an appearance.
 16 Q. So you think the rule applies only to attorneys.
 17 A. I think the Title 38 is the -- would be -- as I
 18 understand things explained by various counsel, that in
 19 terms of their requirements, the requirements are contained
 20 in Title 38.
 21 Q. You think Title 38 then would trump the language
 22 or supersede --
 23 A. Well, as a matter of fact, as a matter of fact, I
 24 think that the Commission has taken that position over
 25 30 times, that the requirement for employee post-activity

Page 142

1 Q. And that relates to your role at the Commission, I
 2 assume, reviewing rate cases from time to time.
 3 A. I've probably done more than from time to time.
 4 I've done a lot of rate cases over the years.
 5 Q. Have you ever testified as a rate design expert in
 6 a rate case?
 7 A. No, sir.
 8 Let's mark this as Exhibit 2.
 9 (Deposition Exhibit No. 2 was marked for
 10 identification by the reporter.)
 11 BY MR. HIRSCH:
 12 Q. I'm going to direct your attention to R14-3-104G,
 13 former employees, which is on Page 2 of this section of the
 14 Arizona Administrative Code. And give you a second to look
 15 at that. And ask, first off, were you aware of that Arizona
 16 Administrative Code rule as part of the Commission's rules
 17 of practice and procedure?
 18 A. I don't know that I have reviewed this particular
 19 rule.
 20 What I have reviewed is Title 38. And this seems
 21 to track Title 38. That would be my assessment of this
 22 rule.
 23 Q. Do you see any time sunseting provisions in the
 24 Commission rule as opposed to the Title 38 statute? In
 25 other words, any time at which the prohibition ends and

Page 144

1 would be 12 months.
 2 MR. HIRSCH: Okay.
 3 Thank you. I think that's all I have.
 4 Mr. Johnson, you may recall from your other
 5 deposition experience you have the opportunity to read the
 6 transcript and to make corrections thereon and to sign it.
 7 Or you can waive that. It's up to you.
 8 THE WITNESS: I don't recall. And so if you're
 9 asking me --
 10 MR. HIRSCH: What's your -- I can outline those
 11 are the options available to you here. You can waive your
 12 signature, or you can read it and catch any corrections and
 13 make any corrections you feel that where the transcript and
 14 the testimony was not taken down accurately, which is a
 15 choice most witnesses make.
 16 THE WITNESS: Sorry, which choice?
 17 MR. HIRSCH: To read and review and sign this.
 18 Mr. Crockett may have some advice for you.
 19 MR. CROCKETT: Yes.
 20 THE WITNESS: Yes.
 21 MR. HIRSCH: All right. It sounds like you wish
 22 to review and sign. And that is the typical course.
 23 THE WITNESS: Thank you.
 24 MR. HIRSCH: So we'll make those arrangements
 25 probably through Mr. Crockett.

1 And any questions, Mr. Crockett?
 2 MR. CROCKETT: I don't believe so. No.
 3 MR. HIRSCH: All right. Thank you for your time,
 4 sir.
 5 THE WITNESS: Thank you.
 6 (Whereupon, the deposition concluded at 2:47 p.m.)
 7
 8
 9

10 _____
 11 ERNEST G. JOHNSON, SR., ESQ.

12 *****
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

1 STATE OF ARIZONA)
) ss.
 2 COUNTY OF MARICOPA)
 3 BE IT KNOWN that the foregoing deposition was
 4 taken before me, Marty Herder, a Certified Court Reporter,
 5 CCR No. 50162, State of Arizona; that the witness before
 6 testifying was duly sworn by me to testify to the whole
 7 truth; that the questions propounded to the witness and the
 8 answers of the witness thereto were reduced to typewriting
 9 under my direction; that the witness elected to read and
 10 sign the deposition transcript; that the foregoing 145 pages
 11 constitute a true and accurate transcript of all proceedings
 12 had upon the taking of said deposition, all done to the best
 13 of my skill and ability.

14 I FURTHER CERTIFY that I am in no way related to
 15 any of the parties hereto, nor am I in any way interested in
 16 the outcome hereof.

17 DATED at Chandler, Arizona, this 10th day of
 18 August, 2014.
 19
 20

21 _____
 22 C. Martin Herder, CCR
 23 Certified Court Reporter
 24 Certificate No. 50162
 25

A				
\$300 119:19 130:8 130:10	activities 101:8 111:3	adviser 118:4 135:6	amend 42:3	APPEARING 3:7
a.m. 1:14 3:2 4:2	actual 119:13	advisers 104:8	amended 76:4	appears 19:21,23 58:22
ability 85:11 146:13	ad 35:20	advisory 80:2	amendments 81:12	application 1:3 27:4,13,16,24 28:13 30:21 36:22 37:6,10,25 38:8 39:4 43:2,8 44:3,3 50:1 53:2,10 55:17 56:24 57:1 57:1 63:19 78:13 83:10 87:15 93:18
Abinah 62:5,23,24 124:9	addition 49:21 126:11 128:23	affect 130:17	American 140:21	applied 21:23 28:14,15 92:4,6
Abinah's 62:16	additional 25:17 44:18 48:22 54:14	affiliate 70:4 71:2	amount 129:23	applies 16:17 143:16
able 30:1 58:10 72:8 101:11	additionally 126:24	affiliated 114:12,17 130:17 135:19	Anaheim 128:17	apply 49:20
absence 53:25 54:5	additions 42:21	affiliates 114:10	analysis 67:14 87:3 90:1,13 141:20	applying 109:16
absent 27:17 56:12	address 4:13,14,14 4:15,16,20,20,22 86:18 96:19 123:3 131:18	affirmatively 48:1	analyst 83:22,25,25 98:4	appointment 10:14
Absolutely 125:5	addressed 33:12 42:8 64:23 77:4 89:10 96:22	afternoon 84:9 85:9	analyzed 63:10	appreciate 33:25 80:22 94:14
accept 55:4 64:8	addresses 71:10	agency 18:5,11 19:5 60:11 99:19 101:17 109:3	answer 5:20 6:5,24 11:21 13:22 20:3 21:7 23:16 32:1 34:22 35:12 60:7 60:7,24 61:7 88:1 95:21 96:23,24,25 97:4 105:25 111:18 134:15	appraise 14:25
acceptance 50:19 50:24	addressing 96:8	agenda 80:11,15,16 95:13 97:8 106:7 106:13 128:1	answered 77:6 107:16	apprised 50:15 51:5
accepted 48:4	adequate 41:5	ago 5:4	answering 6:2 60:12	approach 26:20 80:8 91:7 133:2
access 30:7 38:13 38:16	adjudicative 18:5 36:4	agree 8:1 14:20 50:13 51:9 53:3 55:20 58:16 63:24 69:6 72:25 83:12 84:3 85:22 86:5 86:15,22 87:12 95:24 96:6 143:3	answers 6:9,13 12:4 16:13 42:22 81:12,13 90:25 93:21 139:22 146:8	approached 92:5 113:6
accomplish 24:9	administrative 2:10 38:25 99:16 102:18 142:14,16	agreed 65:23 66:17 82:5	anticipated 16:6 130:13	appropriate 42:11 53:14 55:1 80:9
accomplished 51:16	admission 21:23	agreement 46:9 82:11 90:5 124:14	answering 6:2 60:12	approval 40:10,13 40:16,23
accounting 22:7 141:20	admitted 21:14	ahead 19:13 62:14 131:22	answers 6:9,13 12:4 16:13 42:22 81:12,13 90:25 93:21 139:22 146:8	approved 127:6
accuracy 19:21	adoption 110:18 137:15,16	aid 120:11	answered 77:6 107:16	approving 40:18,23
accurate 9:22 29:21 30:15 33:20 47:13 57:20 133:23 146:11	admissible 89:12	Albuquerque 128:25	answering 6:2 60:12	approximately 9:11 21:1 24:25 44:17 109:8 127:5
accurately 57:18 100:9 144:14	admission 21:23	Algonquin 138:5	answers 6:9,13 12:4 16:13 42:22 81:12,13 90:25 93:21 139:22 146:8	approached 92:5 113:6
achieve 122:13	admitted 21:14	alignment 37:17	answered 77:6 107:16	Approaching 129:24
achieved 92:3	adopted 94:17	ALJ 29:3 54:25 55:23 95:16	answering 6:2 60:12	appropriate 42:11 53:14 55:1 80:9
acknowledgment 63:2	adoption 110:18 137:15,16	ALJs 28:23 102:1,3	answers 6:9,13 12:4 16:13 42:22 81:12,13 90:25 93:21 139:22 146:8	approval 40:10,13 40:16,23
acting 22:19,24 33:23 34:1	advice 83:16 106:3 144:18	allowed 26:2 52:14	answered 77:6 107:16	approved 127:6
action 44:23 76:2 76:18 77:19 79:13	advise 46:22 124:12	alter 42:3	answered 77:6 107:16	approving 40:18,23
actions 72:7 112:11	advised 5:18 124:9 124:10	alternative 101:3	answers 6:9,13 12:4 16:13 42:22 81:12,13 90:25 93:21 139:22 146:8	approximately 9:11 21:1 24:25 44:17 109:8 127:5
active 21:16 85:21 92:11 106:2 118:7 127:23		Alward 49:5 60:3,4 61:16 66:8,9	answered 77:6 107:16	April 44:11 52:18 53:19 57:23
actively 26:19		Amanda 54:25	answered 77:6 107:16	APS 101:5
			answered 77:6 107:16	area 32:22 41:6 46:10,21 61:9 111:13 125:19

<p>140:15 141:23 areas 140:12 argue 11:1 argument 77:3 93:2,3,4,16 arguments 77:3 arid 125:20 arised 24:13 Arizona 1:1,3,5,13 2:10 3:4,8,10,12 3:13,17,21 4:1,18 5:10,13 7:3 16:7 17:18 18:4,25 21:21,22 22:13,15 22:18,25 23:3 28:13,14 30:17 37:6,25 38:7,15 52:9 61:8 63:12 67:4 71:10,12,22 71:24 72:8 74:14 75:5 81:22 82:12 82:19 87:9 104:17 107:24 108:1,3,15 109:15 111:4,6,6 111:7,17 112:14 112:16,21 113:1 113:15 115:12 125:18,20 127:7 129:2 132:18 137:21 138:9 139:11 140:20,21 142:14,15 146:1,5 146:17 arose 139:10 arrangements 144:24 arrival 24:11 arrived 15:17 22:18 24:19 25:21 articles 128:13,15 as-needed 101:2 aside 36:22 asked 10:8 11:25 12:16 16:1,13 42:2 78:21 79:21</p>	<p>115:20 117:8 123:3 125:3 132:5 133:14 135:22 137:4 139:20 asking 6:25 7:1 13:2,5 31:5 35:3 46:20 47:22 55:4 73:12 82:15 90:9 90:12 105:21,22 111:24 132:10 144:9 aspect 133:12 134:3 135:25 aspects 82:13 assertion 61:7 70:23 assertions 16:20 59:8,14 60:5 61:3 66:17,22 71:15 assessing 82:18 assessment 84:10 90:22 142:21 assigned 31:4,7 78:5 130:13 assignment 7:4 18:21 32:11 114:17 117:9,11 119:1 124:23,24 assist 20:21 assistant 51:25 52:2 62:5,7 95:2 100:21 associated 47:21 51:14 127:17,18 127:19 Association 111:10 126:1,12 127:7 associations 127:16 assume 6:25 47:22 62:4,20 65:8 90:17,18 135:2 137:11 139:7 142:2 assumed 34:3 92:10 102:15</p>	<p>assuming 75:9 91:16 assumption 90:24 93:2 assured 46:6 64:21 attached 60:20 attachment 2:9 19:19 attempted 111:19 attend 102:21,24 103:7,12 125:25 141:15 attendance 73:21 73:22 94:25 105:1 105:22 106:1 115:25 136:8 attendances 125:23 attended 108:21 115:2 116:4 125:23 126:11 127:3,5,10,14,25 136:10 attending 73:19 103:6 106:4 126:9 130:13 attention 28:11 42:9 49:17 52:22 52:24 57:4 78:10 142:12 attorney 84:12 114:21 attorney-client 10:24 11:6,16 attorneys 143:16 audibly 5:20 augment 25:13 augmenting 25:20 August 1:13 3:2 4:1 27:14,19 28:15 29:12 30:22 32:12 37:4,22 63:18,20 92:8 127:8 146:18 Austin 121:5 author 42:2 110:1 authored 90:16</p>	<p>authority 54:4,7 96:6 102:1 authorization 7:3,7 authorized 26:5 authors 110:4 available 24:16 30:11 62:20,21 96:19 144:11 Avenue 3:3,10 aware 17:2 27:6 31:18,22 35:1 56:21 57:21 58:1 58:9,11,14 60:14 61:13 73:14 76:5 76:22 79:12 81:8 82:8 107:1 130:15 134:20 142:15 awareness 91:1 94:9 AWC 61:7 90:1 92:20 AWC's 56:13 93:11 Az 1:19,24</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>B 2:8 back 16:3 28:19 33:14 42:2,20 46:25 49:8 100:1 100:13 101:12 105:16 118:14 122:24,25 124:16 background 19:12 21:8 52:3,4,6 62:16 90:14 109:18 116:8 125:10 128:5 139:25 backup 120:15 ballpark 25:5 bar 21:9,14,19,21 21:22 127:7 based 101:9 111:16 122:14 basic 24:13</p>	<p>basically 14:21 16:1 23:24 48:21 55:1 63:21 75:16 89:19 111:2 112:7 117:20 118:25 119:3,4 basis 11:21 101:2 103:11 119:23,25 128:11 bear 67:15 bears 94:14 beck 34:12 becoming 91:24 98:16 began 47:9 beginning 81:18 behalf 31:19 33:12 33:13 39:23 52:20 60:5 92:25 97:18 99:19 113:19 125:8 136:14 137:2 143:10 believe 7:17 34:4 84:25 93:10 129:5 143:14 145:2 believes 89:19 belt 77:15 bench 96:1 best 23:23 25:4 30:1 133:2 135:5 146:12 better 33:7 beyond 32:4 71:24 86:13 107:12 108:16,18 112:12 115:7 billed 119:23 billing 119:21,22 bit 7:21 45:22 110:16 bits 133:10 Black 3:13 blessing 65:7 board 49:20 body 18:5,12</p>
---	--	---	--	---

bottom 20:2	108:17,19 110:24	34:16 49:21 52:2	change 32:7,13	64:3 73:7 93:25
boundaries 90:6	110:25 111:6	67:15 85:7,11	48:16	94:3 102:16
Box 4:18	114:16	110:19 142:2,4	changed 34:24	111:18 116:19
Bozzo 38:22	bye 102:7	catch 123:7,7	48:23,25 54:11	clearer 83:8
break 13:10 42:12		144:12	55:3	Clearly 95:16
42:15,19 45:21	C	catchall 73:12	Chaparral 138:3	Clearwater 127:1,1
105:16 129:6	C 146:21	category 32:22	character 13:5	client 11:2,17 84:13
131:23	calculate 10:13	caused 71:23	92:20 116:8	84:14,15 115:8
breaking 105:6	calendar 20:14	CAVE 3:3,9	characterization	client's 12:12
Brian 24:5 33:22	call 34:12 35:23	cc 30:23 38:10	55:4	clients 110:2
38:22	96:24 122:15	CC&N 44:2 45:2	characterize 83:17	climbed 102:9
brief 42:17 65:20	called 4:5 46:22	53:10 98:3	charged 24:7	clock 79:12
66:10 67:9,20,22	64:13 85:21	CCN 27:24 49:21	Charles 90:16	close 79:11 130:3
68:4 81:21,22	calling 122:12	52:19 56:25 61:9	chase 124:1	closer 7:24
82:12,23 83:15	calls 10:24 95:20	63:21 65:12 70:3	chat 118:15	closing 133:8
84:20 85:1,5,8	candidly 78:17	70:19 74:14 75:4	check 62:22	Code 2:10 142:14
87:9,22 88:18,21	Canyon 3:13	76:11 83:25 86:14	chief 29:3 30:9,10	142:16
89:17 90:16 91:9	capacity 20:21 41:6	89:25 90:2 92:21	30:14,24,24 38:25	combined 41:5
91:13 92:14 94:7	career 18:22,24	93:9,11	choice 144:15,16	come 13:14,15
131:25	CASA 1:5	CCNs 67:16	Chris 103:4	28:10 33:1 43:12
briefing 59:22	case 7:5 11:4 16:7	CCR 1:20,21 146:5	Christopher 30:23	43:19 45:6 48:7
65:18 67:8 85:3	16:17 26:8,15,21	146:21	chronologically	49:16 52:14 80:11
91:11 98:17	26:21 32:11 34:21	Central 3:3,10	42:24 52:17 54:18	81:1 97:10 99:17
134:18 139:21	35:5,8 44:1,10	certain 33:24 41:3	113:6	100:23 103:11
briefs 83:19 94:5	45:16 46:14 47:5	51:16 52:1 58:13	circulated 77:17	107:11 118:14
bring 31:8 132:6	48:14 49:21 57:11	82:13 111:2	78:4	137:23
bringing 125:12	67:14,15 68:12	certainty 70:2,19	circumstance 19:4	comes 77:16 79:8
brings 32:7	73:1,2,5 78:5,7	certificate 1:4 27:5	40:17,21	96:5 134:14
broad 7:11 18:12	79:24 83:2,6,11	32:6 45:1,13	circumstances 29:4	coming 52:7 71:7
broken 81:17	83:22 85:1,25	58:10 85:24	55:3 69:10 71:22	74:8 90:25 107:18
brought 43:12	87:3 98:1,2	146:22	cite 131:4	125:20
49:22 52:22,24	100:10 101:5,5	certificates 45:17	cited 130:25	comment 46:22
53:11 57:18 78:10	117:19,22 119:4	69:9	cites 69:19	96:14
BROWNSTEIN	119:10,14,16	certifications 140:6	citizens 35:9	commentary 47:12
3:16	120:3,8,9,20,21	140:8 141:19,21	city 18:11 138:4	comments 14:18
BRYAN 3:3,9	120:22 122:14	141:22,23	Civil 3:5	95:7,8
budget 25:24 26:2	131:9 133:12,20	Certified 1:20 3:4	claim 58:10	commission 1:1,20
101:22 102:13	134:7,12,17,19,20	146:4,21	clarification 7:1,10	5:11 7:4 17:18
building 23:20	134:21,25 135:1,3	CERTIFY 146:14	22:22 33:25	18:5,9,25 19:1
73:22 113:13	135:7,25 139:10	cetera 60:20 133:22	clarify 23:14 86:7	20:5,16,17,19
built 23:21	139:16 142:6	chairman 105:4	clarifying 19:6,11	21:3 22:15 23:19
bullet 18:20	143:4,5,8	challenged 74:22	19:25	23:25 29:23 30:5
bunch 45:3	case-by-case 26:20	chance 68:13	CLE 127:22,24	30:14,16,17 31:24
business 4:14,16,19	case-related 101:24	Chandler 4:18	clear 5:21 6:16	32:17 33:13,17
4:20 20:18 107:13	cases 32:6 33:5,6	141:6 146:17	32:1 47:16 60:9	34:13 37:14 45:11

45:11 46:17 47:2 47:9 49:13 52:5,7 52:9,10,11 55:22 60:5,10 68:25 69:1 77:8,21,22 78:24 79:10 80:3 85:10 87:2,11 90:7 94:21,25 95:4,20 101:14 102:17 104:17,19 104:24 106:12 107:2,13,13 108:2 108:4,6,17 109:2 109:5,9,14,15 110:14,15,20 111:4 112:3,7,9 112:21 113:2,11 113:16,20,23 114:1,4,21 115:15 116:2,13,16 118:3 118:7,11,14,15 122:5,5 123:16,16 125:13 129:2 130:8 131:15,21 132:17 133:4,9,16 133:24 135:7,12 137:11,20 138:14 139:11 141:2 142:1,24 143:11 143:24 Commission's 31:23 70:3 74:4 91:2 142:16 commissioner 35:21,23 80:11,15 105:3 118:5 126:1 133:17 commissioner's 80:19 commissioners 24:23,24 35:13,15 35:18 64:18 77:18 79:25 80:8 95:8 96:8,19 97:4 103:10 104:7,18	104:23 105:6,15 111:11 115:1 commissions 109:22 committee 126:2 common 126:18 communicated 24:17 communication 80:2 108:23 120:18,19 124:5 134:22 communications 12:14 15:10 67:14 79:18,18,25 100:15 106:11 107:4 111:10 132:12 Communities 3:19 3:20 52:20 57:23 58:21 59:3 114:9 114:16 130:18 135:19 companies 114:12 115:17,24 135:20 company 1:4 3:8 3:12 28:14,15 37:6 44:20 45:25 46:15 61:8 82:12 83:11 107:24 108:2 126:12 135:19 138:2 company's 27:12 37:25 38:7 43:8 61:21 71:23 81:22 82:19 compelling 93:11 complaint 137:20 complete 80:20 completed 121:14 121:17 compliance 38:23 65:1 74:14 75:18 75:19 complied 87:5	comply 44:19 61:21 compressed 7:21 concept 70:1 131:7 concern 25:23 50:16 88:8 concerned 58:19 concerning 12:19 16:19,23 19:12 37:6 39:3,22 43:8 45:11 53:6 54:14 59:14 60:5,18 63:25 65:10 69:8 70:3,9 72:9 73:15 83:16 104:18,23 106:12 126:25 136:2 concerns 123:5 concluded 145:6 conclusion 41:16 89:22,24 conclusions 68:11 68:14,16 69:15 86:3 95:22 121:12 122:10 condition 87:4 conditions 46:15 51:17 60:19,20 64:2,4,23 71:23 74:14 75:19 86:21 conduct 87:2 104:11 122:9 conference 79:13 conferred 56:25 confirm 19:20 confused 22:25 connected 114:16 connotation 47:21 cons 17:7,9 consequence 44:4 consequently 56:2 consider 47:9 68:24 78:25 124:22,24 125:11 140:4 141:12 consideration	50:15 84:4 considerations 64:2 78:14 82:4 considered 85:24 103:16 110:12 considering 64:25 75:3 76:10 consistent 89:20 93:20 constitute 146:11 constitutes 143:5 consult 8:10 83:15 84:2,14 98:13 101:2 104:18 consultation 66:8 87:24 104:23 132:21 consulted 44:5 60:16 83:21 consulting 4:19 contact 58:16 102:10 120:24 132:16 135:24 136:2,6 contacted 58:8 114:8 115:14,20 117:11,13,14,15 117:16 132:9 135:3 contacts 111:9 contained 40:14 65:6 143:19 contending 11:2,3 contest 63:25 contested 26:7,13 29:23 30:4 31:3 32:6,17 36:11 53:10 57:1 63:22 73:1,2,15 79:2,23 85:24,25 88:7 94:10 95:6 context 6:1 45:4 48:19 81:24 82:10 134:10 continue 11:14	92:21 continued 40:7,8 92:11 103:17 104:2 continues 40:9 61:8 71:12 contrary 55:2 control 30:10 31:4 38:10 39:7 53:19 54:8 61:23 71:24 controls 112:1 CONVENIENCE 1:4 convention 45:15 46:25 conversation 15:15 15:22,24 48:16 55:13 57:15 71:16 87:20 conversations 14:16 15:9 36:20 57:13 58:11 123:11 cooperative 23:22 copied 38:18 copies 28:3 54:19 77:24 78:1,3 copy 1:18 12:8 27:12 43:5 54:21 59:25 68:10 73:24 78:7 cordial 115:6 Cornman 3:15 7:4 11:18 16:17,20,24 27:3,3 37:3 42:25 55:23 56:3,13 63:12 71:24 72:23 75:3 76:10,19,22 77:9 78:16 85:1 85:14 87:8 88:7 93:10 97:13 105:18 106:6,13 106:24 130:24 134:3,19 135:16 135:25 143:10
---	--	--	--	--

Cornman's 71:1 72:7 82:13	courtesy 124:8,11	67:9 68:8 91:13	delegated 98:1	determined 63:9
Corporation 1:1,20	courtroom 103:8	92:15 146:17	deleted 75:4 76:11	109:6
5:11 7:4 17:18	cover 2:9 10:21	dates 14:8 99:10,12	deleting 93:9	determining 71:4
18:4,25 22:15	19:18 40:4,6,16	day 20:18 52:19	deletion 89:20,25	92:25 100:6
30:17 52:10	98:21 99:3	57:23 146:17	90:8 91:4,4 92:21	develop 110:24
104:17 109:14,15	covered 11:5 123:5	day-to-day 28:21	93:11	111:19 128:21
111:4 112:3,21	125:6,10 133:10	102:10	deliberations	developer's 46:5
113:16 129:2	covers 139:5	days 7:23 46:5,10	135:10	developing 110:25
131:21 133:8	crafting 50:2	53:17 117:24	delineation 26:18	111:6 121:6
139:11	credit 110:7	121:9 124:10	demonstrate 93:9	dialogue 16:12 66:7
corporations 87:16	Crockett 3:16 8:10	deadline 75:18	demonstration	67:5,24 80:7 98:8
correct 5:15,16	8:15,19,25 9:1,15	deal 25:14,19	56:12	105:20
14:1,14 17:21	10:4,21,23 11:3,8	dealing 25:19 133:2	departure 109:14	dials 141:16
18:1 20:7 22:21	12:11,14,16 13:4	dealt 44:25	depend 26:24	Diego 127:10
33:17 37:15 39:7	13:7,18,23 14:2,9	debate 64:1	depended 35:21	different 13:23
43:25 82:1 91:5	14:16 16:16 17:6	decade 126:8 127:3	depending 29:19	47:10 53:21 62:1
91:16 113:3	42:10 54:20,22	December 103:3	78:9	62:11 71:4 78:21
123:25 133:18	89:1 103:14,24	decided 80:23	depends 28:7	94:9 108:22
137:14 141:13	109:17 114:19,23	88:25	depicted 100:9	111:16 129:18
correcting 72:15	117:17,17,25	decides 79:12	depleted 25:2	130:7 133:10
corrections 144:6	118:20 119:9,12	decision 23:25 30:8	depletion 25:14,20	136:11 138:1,25
144:12,13	120:10,19 121:7	31:6 32:25 44:10	deposed 7:24 8:2	differently 27:4
correctly 91:18	121:12,22 123:6	44:14 46:16 51:6	8:13 15:8	digestive 85:12
cotton 128:7	124:19 134:23	52:19 54:13 55:11	deposit 119:20	direct 37:19 82:14
council 18:11	138:11 141:7	61:22 70:5 71:20	deposition 1:10 3:1	84:1 85:3 95:9
counsel 3:7,12,20	144:18,19,25	73:23,24 74:3,4,8	5:3,15 7:9,14,16	142:12
30:8,9,10,13,18	145:1,2	74:13,15,18,23	8:11,14,14,21,25	directing 88:15,17
30:23,24,24 31:18	Crockett's 120:14	75:5,10,19 76:6	9:5,6,21 15:17,25	98:11,23
37:6 60:13 64:14	121:25 134:24	76:20 77:22 79:8	19:14,17 42:22	direction 61:14,15
65:23 88:3,23	currently 21:10	81:18 88:19 94:18	74:1 117:8 130:1	84:15 91:2 97:19
96:3 108:8 143:15	48:24	98:20 101:11	130:5 142:9 144:5	104:9,12 110:25
143:18	customers 41:7	139:15	145:6 146:3,10,12	129:24 146:9
COUNTY 1:5		decisions 53:7 63:8	describe 23:12 26:1	directions 97:18
146:2	D	65:12 86:2,12,14	26:7 30:1 47:14	directive 30:11
couple 19:11,25	D 2:1	86:19 96:5 131:14	108:14	87:17
33:23 36:23 55:14	Daily 100:16	139:18	described 32:10	directly 33:16 86:4
89:8 92:14 108:13	Dallas 108:21	deemed 46:16 51:3	description 110:1	96:22
115:12,24	date 7:15 18:8	87:5	design 84:5 142:5	director 12:21,25
course 100:14	21:17 37:4 61:25	defined 15:1 26:17	desire 102:16	13:8,13,19,21
108:5 133:25	81:13 91:17 92:7	61:8	detail 84:4 86:19	15:1,4,6 20:9,12
138:9 144:22	111:22 143:4	definition 112:19	details 26:4	22:16,19 23:4,13
court 1:20 3:5 5:18	dated 30:22 37:4	degree 22:10 48:5	determination	23:17 24:6 25:9
18:5 34:25 146:4	38:4 39:2 43:3	140:1	37:24 38:3	26:12 27:20 28:11
146:21	52:18 53:19 54:24	degrees 22:1,5,8	determine 32:19	28:22 29:13 30:3
	61:24 63:16 65:20	Del 38:17	93:7	31:20 32:5,14,17

33:3,17 34:2,6,7 34:14,18 35:14 36:10 40:5,10,22 43:5 45:18 48:6 49:9,11 50:9 51:25 52:2 61:11 62:5 73:4,9,10 81:25 82:18 85:2 87:18 90:13 91:24 92:3,8,12,13 93:22 94:20 95:15 97:19 98:16,22 99:7,8,18,25 100:2,13 101:12 101:17,18,21,25 102:4,5,16,22 103:8 104:5,10,17 105:15 106:1,24 106:25 107:3,3,8 137:13 139:12 director's 26:9 directors 33:21 62:7 95:2 directorship 20:13 91:16 102:10 137:12 disagree 56:14 disagreement 14:22 56:5,17 71:15 disclosure 10:24 discuss 12:4 74:21 84:14 94:5 discussed 11:5,10 17:9 34:10 49:15 54:17 58:1 84:25 97:15 102:25 106:16 126:7,22 134:1,5,13 136:13 139:25 discussing 11:8,10 123:18 discussion 16:14,19 16:23 17:11,13 27:9 34:20 36:4	45:19 49:19 53:5 53:13 56:22 57:8 58:13,15 59:5 60:18 63:11 68:21 70:22 71:25 72:4 75:12,23 78:15 80:19 81:1 83:1 84:3,19,22 86:23 88:2 97:11 118:17 123:19 134:6,16 discussions 8:24 13:23 15:5,20 17:6 35:4,15 36:12 39:21,25 45:10 46:23 54:12 55:9 56:18 58:14 59:12 60:4,14 65:9 66:20 71:6 71:14 72:6,20 73:15 76:15,17 78:18 80:17 84:1 123:10,15 136:12 137:16 dispute 48:14 85:15 89:12 disseminated 45:7 distinction 94:13 distinguished 62:11 distribution 43:14 77:24 division 15:6 23:3 23:13,17,20,21 24:18,20,21 25:1 25:11,21 26:3,8,9 26:13,13 27:20,25 28:4,5,22,22 29:13,15,19,21 30:3,7,11,14 31:2 31:13,19,20,23 32:5,16,20 33:4 33:13 34:7,17 35:14,25 36:9,10 36:11,12,21 37:15 40:5,22 41:20,22	42:4 43:6,19 44:7 45:18 46:23 48:6 48:20,21,21 49:2 49:3,9,10 50:6,7,9 50:11 51:10,11,23 53:17,20 54:6 55:9,10 58:2 59:13,13,19,22 60:4,13,22,22 61:14 63:14 64:12 64:13 65:6,11 66:8,16,21,22 67:21,25 70:10,22 72:1,7,21 73:4,9 73:10 75:13,24,25 76:3,14 77:7,18 78:2,4,6,20,22 79:15,23 80:7,24 81:25 82:18 83:20 84:23 85:5 86:5 87:18,25 88:3,15 88:18 90:14 91:2 92:11 93:17,23 94:2,5,5,20 95:15 95:16 96:7,21,21 97:18 100:2,14,22 100:24 101:15,19 101:20 102:4,6,8 106:17 107:3 108:5 131:15,20 133:17 136:16 137:12 139:13 division's 29:22 43:23 56:17 63:6 divisions 77:17 101:14,17 104:6 docket 1:3 7:19 17:2,3 27:6,11,17 28:2,3,20 36:24 37:2 38:10,14,16 39:2,7 41:4 42:25 43:12 44:2,8 52:16 53:19 54:8 54:24 55:5,19,21 56:20 57:7 58:12	58:13,20 61:23 68:14 74:2,11 76:25 77:5,24 79:6 82:5 86:13 87:2,13 97:3 99:16 106:24 120:4,5,6,16 121:15,18,19 133:13 135:2 139:7,8 docketed 7:17 27:13 30:4,5 37:4 44:20 52:19 53:18 61:2,18,24 73:24 114:5 117:2 121:10 docketing 40:11 59:4 83:9 dockets 130:17,21 131:3 doctorate 140:2 document 39:10 40:15 54:8 62:20 62:25 63:5 65:6 66:18,19 68:18 69:1,3 74:10 78:4 81:20 84:6,8,9 85:18 89:10 99:9 131:1 documented 124:13 documents 86:24 120:7 122:18 130:21,23 Dodge 67:15 doing 5:17 8:8 42:25 99:6 109:18 111:1 126:7 141:18 Dorothy 39:25 43:15 double 62:22 draft 121:16 122:2 122:10 123:4 129:9,13	drafting 130:9 drafts 122:24 drawn 121:12 drop 131:4 dropping 47:10 due 65:1 82:3 duly 4:5 146:6 duties 19:2 23:12 23:19 25:9 32:5 54:5 96:17 99:18 duty 40:5 dwell 41:1 109:25 <hr/> E E 2:1,8 4:8 e-docket 49:4,7 120:7 121:19,20 122:8 EA 62:4 earlier 57:6 71:20 88:1 107:16 111:18 125:6 early 18:8 20:5,23 easier 129:17 East 3:17,21 Ed 107:4 edits 123:4,7 educating 136:21 education 90:14 109:18 140:14 educational 21:8 139:25 effect 48:15 49:5 51:1,4 60:19 70:18 131:16 eight 85:22 either 18:24 50:19 56:12 59:13 61:14 103:19 107:2 123:17 140:15 elaborate 22:3 elected 146:9 electric 128:6 Eli 62:10 65:10 Elijah 62:5
---	--	--	---	--

elsewise 59:14	environment 23:22	100:7	18:14,20 19:2,8	140:24 143:23,23
emerged 98:17	EPCO 67:15	exclude 12:8 13:24	19:23 47:25 48:2	factor 16:5
employed 109:5	EPCOR 138:6,7,9	14:3,10,17,19,20	111:21,24 113:1	factors 26:22 33:1
112:4 129:1	140:20	excluding 70:1	116:8 133:13,14	69:19
employee 11:18	Ernest 1:10 3:1 4:4	excuse 19:23 64:12	142:5	facts 33:6 69:20
24:12 34:11 37:14	4:12 11:2 39:8	100:5	expertise 112:20	83:11 93:8,10,18
108:4,6,16 123:16	53:19 61:24	execute 54:5	125:12 128:10,11	95:22 134:6
133:16,17 143:25	145:10	executed 62:25	explain 24:13	fail 6:17
employees 25:1,8	erode 70:2	executive 12:21,25	explained 23:20	fails 46:15
25:10,20 110:10	eroding 70:19	13:5,8,13,19,21	143:18	fair 8:23 45:23
133:24 135:14	Esq 1:10 3:1,9,12	15:1,4 20:9,12,13	expressed 33:12	50:12
142:13	3:16,20 4:4	24:6 32:14 33:17	expression 53:1	fairly 89:11
employment 5:8,9	145:10	33:21 34:2,6,14	extend 1:4 27:24	familiar 33:6 95:2
20:4 109:4 110:15	establish 99:10,12	34:17 41:2,11	75:18	117:1 122:4 127:7
encompassed 97:12	109:7	73:3,9 91:16,24	extended 83:1	134:25
encompasses 60:10	established 111:17	92:3,8 98:16,21	extension 27:5	familiarity 139:6
encountered 25:21	112:25	99:7,8,18,25	28:14 39:19 43:8	family 114:15
ended 40:17,22	et 60:20 133:22	101:12,17,18,21	44:3 45:3 46:9,10	135:20
ends 142:25	evaporate 69:9	101:25 102:10,15	49:21 53:10 56:25	far 5:17 42:22
energy 52:4,6	eve 91:16	102:21 103:8	61:9,21 63:19,25	FARBER 3:16
62:17 128:4,21,24	event 55:7 106:4	104:5,10,16 105:7	65:12,25 66:1,4,6	Farmer 38:24
enforceability	events 122:22	105:9,12,15,16,23	69:20,21 74:15	favor 69:19 127:12
67:17	eventual 53:6	106:1,5,9,13,16	75:4 76:11 86:14	February 81:21,25
engage 23:20	eventually 47:11	106:18,23,25	92:22	82:24 85:1,14,25
engagement 18:15	91:11	107:3 137:13	extensive 52:3,4	87:23 88:7 89:9
112:14,14,16	everybody 36:23	exercised 54:7	extent 10:23 54:16	104:2 105:2,3
114:20,22,23	44:12	Exhibit 19:14,18	93:8 97:12 125:2	106:7,14,19
119:9,13,18,24	evidence 72:7	20:3 142:8,9	exterior 79:16	109:10,11 113:25
124:15	143:11	exhibits 74:1	eyes 41:14	114:3,25,25
engagements	evidentiary 54:14	existing 27:24 41:6		fee 130:10
112:18 113:17	56:6,15	123:17	F	feel 6:8,17,21 87:17
115:8	exact 7:15 25:4	expand 14:15	face 9:15,15 15:9,9	113:4 144:13
engineer 40:1	48:24 117:21	expanded 32:4	27:13 103:2	feels 78:22
83:24 140:4	124:11 128:18	expansion 85:24	118:20,21 126:18	felt 57:14,15 100:9
engineering 22:7	exam 21:21 140:12	expansions 42:21	face-to-face 9:24	fence 135:8
38:21 41:19 84:5	examination 2:2	81:12	10:3	FERC 128:20
140:6	92:22	expect 60:16	faced 103:24	field 104:19 116:9
ensued 73:19	examined 4:6	expecting 122:5	facetiously 109:17	fifth 18:20
entail 35:15	example 17:8 86:19	experience 21:8	facilitate 68:20	figure 25:22 64:16
entered 59:19 72:5	94:16 95:5 101:3	101:10 125:19	facilities 140:23,25	85:12 133:1
73:23 86:2	135:6	128:9 144:5	facing 104:19	file 46:5 49:4 52:17
entitled 81:21	exception 58:23	experiences 141:10	138:24	80:24 81:2 104:3
83:14	exceptions 44:7,9	141:24	fact 27:9 48:17	120:14 129:20
entity 18:12 71:13	56:21,22 79:1,6	expert 11:12 17:15	65:1 71:20 86:3	filed 19:24 27:16
109:6 135:22	80:24 98:23 99:13	17:20,22 18:2,13	110:24 136:20	28:18 44:7,9 49:5

52:22 53:17 55:18 56:21,22 57:6 59:17 63:18,20 68:3 76:19 77:23 82:12 85:8 87:23 98:23 104:22 119:5 120:2,8 125:8,8 138:18 139:21 files 120:21 122:18 filing 2:9 19:18 28:2 44:19 46:1 60:6,18,23,25 61:6 65:1,22 74:22 84:14 94:7 121:25 122:23 134:4 143:4 filings 31:19,24 45:1 fill 119:10 final 76:7 finalizing 121:7 finally 76:6 financial 83:24 119:17 141:19,20 find 48:22 74:13 finding 38:7 41:4 42:3 55:17,22 69:19 70:21 71:3 71:10,21 72:2 74:22 75:9,14 76:8 findings 39:22 41:3 55:14 58:23 68:11 68:16 69:18 70:10 71:20 75:2 86:3 87:3 fine 25:6 42:14 132:4 finish 6:4 finished 6:3 42:2 fire 102:1 firm 114:19 firms 31:12 114:20 first 4:5 8:1 15:14	15:16,18 18:21 25:22 27:15 44:10 52:5 61:6 75:16 105:3 107:17 112:14,16,25 117:10 119:15 120:4 122:10 129:8,9,12,13 142:15 Fischer 37:5,13,19 38:5 39:22 43:15 57:12,22 58:2,8 58:17 98:5,6,9,10 124:3 fit 37:17 71:11,12 90:1 five 10:15,22 16:3,9 42:15 85:22 127:15 130:6 Florida 126:25 127:2 flow 42:20 flows 69:15 focus 15:3 16:11 17:13 18:8 27:2 27:18 55:14 83:17 89:13 95:18 97:8 100:8 101:13 110:22 111:5,8 117:17 focused 12:24 32:5 97:7 110:23 111:7 111:9,12 112:24 126:10 127:11 focusing 52:13 113:15 foggy 48:10 folks 33:5 37:17 45:7 81:1 102:6 107:11 115:16 137:24 138:3 follow 76:21 120:13 follow-up 21:6 followed 58:20	follows 4:6 football 118:16 footnote 123:8 131:4 139:7 foregoing 146:3,10 form 17:20 93:2 99:24 122:5 123:4 forma 85:23 formal 6:1 format 17:24 121:24,25 122:1,3 133:11 formation 109:13 formed 111:5 former 37:14 108:4 108:15 118:4 123:17 135:14,24 142:13 forth 75:19 89:15 90:17 92:19 110:3 122:24,25 125:11 forties 25:7 forward 18:8 23:23 44:17 50:1 52:14 53:11 61:19 113:25 120:2 132:6,21 forwarded 54:8 124:15 found 80:14 four 37:20 41:3 63:1 127:5,9 fourth 41:4,10 frame 7:21 9:10 14:11 24:25 28:19 29:12 44:25 45:9 51:16,20 84:17 88:7 121:1 123:9 124:11 129:18 143:2 frames 14:6 46:24 framework 65:16 frankly 61:17 80:4 85:11 109:20 120:3	free 6:17,21 112:2 143:1 Friday 7:17 front 89:16 119:21 Frontier 132:9,11 fulfilled 74:15 75:20 full 4:10 6:9 full-time 34:2 fully 73:1 97:25 function 31:16 36:3 99:8,16,20 101:16 104:15 116:5 functionalities 60:11 140:24 functionality 104:15 further 46:14,17 55:3,12 59:5 67:8 109:25 146:14 future 53:7 65:12	37:5 50:1 54:3,4 60:13 62:16 64:14 67:16 88:3,22 96:17 107:9,23 130:19 141:3 generalized 139:2 generally 5:5 7:22 14:8 19:20 24:16 26:16 27:6 28:2 32:10,12 35:24 43:16 52:14 53:3 53:8 68:14 73:21 78:5,8 80:11 83:12,20 94:23,24 95:3,9,14 97:1 117:18 120:1 125:1 132:20 generating 55:13 generation 129:9 129:12 generic 136:8 generically 67:18 85:19 86:18 101:13 gentleman 107:19 136:19 Georgia 111:13 Gerstman 3:20 8:10,20 10:17 15:11,14,15,19,20 52:20 58:3,8,21 59:5,9,14,23 72:13 107:17 120:24 123:10 124:16 getting 23:11 124:1 gins 128:7 give 4:10,17 6:8 14:22 18:10 25:5 27:2,12 83:16 90:21 110:7 120:14 121:11 125:3 133:14 142:14 given 6:13 16:13
---	--	---	--	--

informal 6:12 information 8:5 10:25 12:18 28:8 43:19 45:6 64:17 68:23 120:15 137:6 138:25 141:1,3 informed 124:6,7 initial 7:16 18:1 24:19 25:23 27:13 37:10,25 40:3 41:24 43:2 53:1 54:1 65:5 initialed 40:18,24 54:8 initially 17:4 22:19 103:16 initials 39:10 53:21 53:22,23,24 62:1 62:3,4,5,19 input 12:11 39:14 43:23 49:10,18 50:11 59:8 60:3 60:21,24 63:14 66:7 73:14 77:8 77:17 78:9 79:17 82:22 83:4 84:15 85:3 92:24 100:22 139:17,21 inquiry 47:3 99:11 inside 113:13,18,18 insights 110:2 122:13 124:2 instance 31:22 35:7 42:1 instances 32:2 54:6 instructions 141:9 instrument 82:10 instrumental 137:1 intake 32:11 integrated 136:3 140:16 integration 131:7 136:21,23 137:7 137:17	intended 49:25 51:14 intending 35:1 intention 110:23 interact 102:5 interacting 5:25 interaction 28:21 29:2,12,14,18 33:15 34:5,9 36:15 57:22 67:21 94:1 101:20 115:1 115:11 117:5 133:21 interactions 29:5 31:9 interest 26:14 35:8 88:25 90:1 interested 64:10,12 146:15 interface 102:3 interim 23:6,8,10 interims 33:23 34:1 internally 66:21 71:7 interpret 62:2 interpretation 131:15 132:24,24 interrupt 62:13 132:3 interrupted 10:14 intervals 136:11 intervention 55:18 interview 119:1 122:15 interviewing 122:12 intimately 33:6 introduced 24:21 24:24 investigation 122:9 invitee 126:24 involve 112:20 involved 11:17 26:19 28:7 34:17 37:12 39:16,20	52:8 75:24 88:9 88:10,15 91:1 93:5 98:10 101:6 101:9 104:13 138:21,23 involvement 26:23 37:8,9,24 38:6 39:13 43:23 47:6 67:21 70:7 82:17 85:2,16 92:24 101:24 102:14,19 134:25 139:12 involves 132:16 involving 59:5 67:4 106:9 112:3 issue 5:8 11:15,16 11:19 13:13 29:19 45:16 46:13 48:4 48:10 49:3,14,15 49:16,19 51:13 53:11 69:7 70:3 77:4 88:16 89:3 89:10 94:8 99:19 103:10 125:21 132:13 133:3 137:17 issued 44:15 68:7 73:5 74:19 98:19 99:22 issues 12:6 16:7 26:13 34:13 42:8 52:8,13 57:2,13 59:18,22 60:23 63:10,15 67:11,22 67:25 68:11 72:9 77:9 78:10,12 82:4,19 84:25 91:10 96:8 100:8 101:10,23 102:12 102:14 110:13 112:20 122:14 123:2 125:17 126:10,20,21,21 126:21 127:13 128:24 129:4	131:18 136:2,22 136:24 138:15,24 issuing 98:22 item 50:22,22,23 57:4 64:15 80:11 104:2 106:14 items 58:13 <hr/> J <hr/> J.D 22:2 James 77:2 83:1,5 83:11,17 84:3 87:10,15 88:16 Janice 49:5 60:2 January 39:3 Jeff 117:21 Jeffrey 3:16 Jibilian 65:16 Jim 37:4,13 43:15 57:22 107:6 124:3 job 5:17 19:2 109:16 Joel 108:4,5,16 124:6 Johnson 1:10 3:1 4:4,12 6:7 11:2 13:11 19:17 37:9 39:8 42:16,19 53:20 61:24 67:20 81:7 93:15 132:2 138:9 144:4 145:10 join 22:15 23:3 joined 23:19 journalism 22:11 140:1 judge 39:1 65:16 65:17 67:1,1,4 68:8 69:18,24 72:3 77:4 87:10 95:21 98:19 99:16 July 7:17 8:2 65:17 67:2 72:16 74:3,8 118:23,24 120:18 121:3,10,11	122:10,23,23 125:8 129:8,13 jump 6:2 June 61:24 63:17 68:9 91:11,13,17 91:20,22 92:15 119:15 120:2,17 juris 140:2 jurisdiction 90:7 132:17 justification 89:25 justify 93:11 <hr/> K <hr/> keep 18:11 54:18 keeps 72:15 Kempley 30:23 31:3,5,6,14 Kempley's 31:8 kept 21:16 kicked 53:5 kind 35:24 69:14 73:12 80:20 102:9 105:20 116:4 126:7 129:6,19 133:1,7 knew 7:23 15:8 96:22 108:5 118:13 135:3 know 6:11 9:10 11:17,19 15:7,7 17:1 20:21 23:9 23:15 26:17 27:3 29:24 31:15,15,21 31:25 32:2,3 38:17 48:9,23 50:13 53:8,12 54:15,15,16 57:21 68:14,25 69:2 70:1 74:6 78:17 79:11 80:4 88:6 94:24 95:11 96:23 97:16 105:21 107:5,21 109:16 109:21 110:21
--	---	---	--	---

113:18,19 118:1 118:12 120:5 121:10 127:21 128:4 129:22 130:19 133:1,24 134:20 135:11,22 137:19,22,25 141:10 142:18 143:7,13 knowledge 73:5 88:13 116:13 118:10 134:24 135:1 known 30:17 37:3 118:2 146:3 knows 52:12 127:14 135:4	lawyer 29:22 31:2 31:5 90:17 lawyers 30:5,7 31:12,14,23 84:18 87:23 127:25 138:8 lead 33:9 122:18 leading 9:7 57:23 129:25 133:11 learn 7:13 learned 8:1,13 63:1 leave 20:16 leaving 116:16 127:21 led 22:13 89:14 106:20 109:13,19 117:11 118:19 136:25 left 17:18 18:9 20:17,17 109:2,5 109:9 112:7 113:2 113:7 115:14 116:2 133:8 legal 11:20 16:7,20 16:24 17:7,11 29:13,14,18,21 30:14 31:23 47:21 47:22,25 48:2,18 48:21,21 49:2 50:7,21,23 51:1,3 59:13,17,20,24 60:4,17,21,22 61:3 64:13 66:8 66:22 78:6 80:7 83:20 84:19 85:4 88:18 90:9,17,18 91:2 93:3,4,7,16 93:16 94:1,5,5 96:2 97:17 106:3 106:17 111:24 125:3,7,9 131:15 131:18,20 133:17 lends 125:12 length 100:11 lesser 125:1	let's 11:20 13:11 14:15 18:8 19:13 27:2,18 32:24 33:14 42:24 44:17 52:16 53:16 54:18 54:20 61:19 69:15 70:20 73:23 77:12 81:4 85:19 91:8 93:6 95:14 97:17 98:15 101:12 114:24 115:20 129:6 131:22 142:8 letter 17:23 37:3,22 38:4 52:18,21 57:6,23,24 58:21 59:2,4,9,15 124:15 letterhead 59:4 letters 36:24 level 26:5 57:8 60:3 63:14 75:13 85:2 88:8 97:14 125:17 125:17 levels 37:20 42:6 liberty 138:11,12 license 21:16 liked 69:1 limitations 25:25 111:3 limits 63:8 line 20:4,8 22:23 55:25 56:1,11 57:3 59:21 61:6 66:3,4 74:12 75:17 93:8 103:20 lines 14:25 23:21 56:9 70:16 71:21 75:1 76:8 87:21 89:17,18,24 92:15 131:8 Lipsco 138:10 listen 103:20 listening 72:18 103:20 105:1	139:3 litigants 67:11,12 79:24 litigated 63:13 Litigation 1:19,24 little 12:23 27:2,4 45:22 53:21 83:8 91:9 110:16 112:23 lived 5:13 LLC 1:19,24 3:15 LLP 3:3,9,16 lobby 9:16 15:17 115:8 local 127:15,16 locally 127:15 139:1 located 5:1 long 10:12 13:11 21:1 52:12 85:12 longer 11:13 64:25 85:23 98:10 look 8:9 19:20 30:21 41:2 45:25 53:21 55:16 69:15 69:17,25 71:18 74:12,25 75:16 89:16,21,22 122:18 142:14 looked 37:7 94:18 131:4 139:8 looking 37:22 44:1 50:10 63:1 70:6 70:14,15,25 98:17 120:20,20 122:8 122:14 loop 80:20 loose 120:16 lot 11:20 29:9 35:8 118:17 136:20 142:4 lump 119:20 lunch 81:5,7 94:18 115:15,16,17,23 116:3 117:16	118:22 119:2 ly 85:11 Lyn 38:24
				M
				M 3:20 4:8 main 23:19 46:9 makers 23:25 77:22 makeup 67:16 making 31:23 47:3 51:7 59:9,14 66:23 68:10 101:6 123:4 125:15 makings 36:2 manage 25:12 managed 98:2 management 24:15 26:8 manager 38:21,23 78:8 83:22 manner 96:8 March 43:1,4 44:18 45:9 46:1 Maricopa 141:7,8 146:2 mark 19:13 27:10 142:8 marked 19:14 73:25 142:9 marking 74:1 Martin 146:21 Marty 1:20 3:4 146:4 Maryland 111:13 materials 120:11 matter 1:3 5:6,7 28:7,13,17 30:4 31:7 33:11 36:25 38:1 39:2,15 43:20 44:5 45:8 48:16 49:1 52:13 55:24 56:3 57:5 60:17 63:13,18,19 63:22,22 65:15

68:24,24 74:5 88:8 94:10 95:3,5 95:6,8 96:15 98:3 101:4,11 105:18 106:6 113:2 122:16 125:4 127:12 129:10,25 130:14 132:17 135:16 136:8 143:23,23 matters 26:7 27:1 28:10,12 29:23 31:3 33:8 36:1,5 36:11,13,21 39:20 45:1 52:15 60:19 86:4 100:21,23,25 101:1 102:20 104:13,18 110:13 110:20 112:3,21 113:15,20 118:8 143:1 Mays 103:4 McGuire 116:12 125:2 McGuire's 16:8 McNeil 24:5 33:19 33:22 34:21 35:4 mean 52:9 70:15 84:8 88:15 105:13 means 48:19 meant 56:9 73:10 87:10 medically 6:7 meet 8:10,10 9:15 24:12 46:15 71:23 78:25 107:7 115:15,20 118:20 119:9 meeting 9:22,24 10:3,12,17 11:5 12:24 15:16 24:20 29:7,8 35:10 69:4 70:9 71:8 72:6 73:6,17,19 80:12 80:17 94:16,25	95:6 96:14,18 97:2,6,8,15,23 98:24 99:13 102:24 103:1,2,5 103:6,8,15,15,18 103:21,24 104:2 105:2,2,4,7 106:7 107:9 108:1,20 115:3 119:2,12 123:24 125:23 126:2,24 128:18 138:1 meetings 35:15,17 35:19 96:7 97:2,7 102:21 108:7 115:3 125:23 126:1,6,9,13,19 126:23 127:15 136:10 137:1,10 137:23 meets 79:10 member 21:9 123:19 members 78:5,8 80:1 84:22 memo 61:18 63:16 65:5 memorandum 53:16,18 54:13 55:2 59:17,20,24 61:4,23 memory 48:9 73:21 mention 139:6 mentioned 86:9 136:5 met 15:14,19 24:15 107:17,22,25 108:8,9,12 138:8 138:8,12 Mexico 128:25 mid 103:3 mid-June 117:13 middle 21:7 61:20 military 33:24 mind 31:8 50:21	56:25 80:19 94:8 121:8 134:14 mine 22:12 minus 14:13 77:13 117:10 minute 28:20 minutes 107:18 mirror 76:8 misassumes 89:2 mischaracterizes 89:2 misread 91:21 mission 24:7 25:13 25:16 misspoken 73:8 mistake 70:17 mix 57:18 model 128:19,21 moment 115:6 month 54:18 96:6,6 97:4 129:18 monthly 97:1 119:23,25 months 26:1 59:21 61:19 68:7 111:3 112:8,12 113:7,13 144:1 morning 8:20 9:16 15:14,16,23 16:1 64:14 72:22 78:13 86:13,24 107:17 111:19 motion 12:8,12,15 12:17,19,19 13:24 13:24 14:2,9,17 14:19,20,23 21:24 74:21 76:19 77:9 77:16,23 78:16,23 79:9,13 81:22 82:12,19 89:14 104:21 motions 77:12 80:6 80:10,14 move 22:13 42:24 44:17 52:16 53:16	89:6 91:8 98:15 132:21 moved 21:23 76:22 moving 54:18 75:13 multiple 85:6 MXA's 64:25 <hr/> N N 2:1 4:8,8 name 4:10 31:8 67:2 134:14 named 22:24 narrow 134:8 NARUC 115:3,3 123:24 124:6 126:24 127:25 128:17 133:22 136:6 national 111:10 125:25 126:12 127:22 nationally 139:1 natural 128:6 nature 15:24 18:6 22:8 34:5,9 35:22 58:23 73:16 92:16 107:9 113:16 122:1 123:11 125:4 132:20 134:18 nearing 131:23 necessarily 84:2 95:12 97:7 105:18 NECESSITY 1:5 need 7:10,25 10:13 22:22 26:25 27:11 32:21 40:20 44:4 45:21 55:3 57:15 64:17,23 69:11 78:3 80:18 83:7 90:9 102:6 119:6 124:1 131:20 needed 23:21 28:6 31:2 33:12 48:22	51:15 72:9 101:10 101:22 neither 55:23 56:2 never 15:15 21:22 31:5 107:22 new 45:12 49:11,20 49:25 50:3 70:4 128:25 news 9:20 nod 5:19 Nodes 77:4 87:10 98:19 non-adjudicative 36:3 non-expert 112:19 non-testifying 112:19,20 nonlegal 65:11 90:21 95:25 96:20 norm 94:6 normal 85:4 91:7 94:4 98:8 100:14 North 3:3,10,13 Notice 2:9 19:18 noticed 7:17 9:6 notion 64:24 November 38:4 59:20 102:25 103:16 null 45:12 46:16,24 47:19 48:7,17 51:3,18 53:2,6 58:4 60:20 64:1,4 69:8 78:14 86:20 86:25 number 12:6 25:8 33:1 35:8 54:19 61:19 75:20 94:19 101:8 120:5,5,6 126:21 136:5 138:25 numbers 25:3,7,14 25:14 numeral 65:24,25 66:3,5
---	---	--	---	--

numerous 100:21 136:15	96:12,16 98:7,15 108:25 120:23 126:16 133:6 144:2	141:13	P	99:15,17 100:20 102:14 111:1 116:25 128:1 129:11 130:16 142:16
O		opined 131:8	P 77:2 83:1,5,11,17 84:3 87:10,15 88:16	participant 36:16 106:2
O 4:8	Oklahoma 18:25 21:13 22:13,25 111:12 118:16 125:18,21 140:1,2	47:23 48:18 76:23 90:10 96:14 122:14	p.m 145:6	participants 95:21 95:21
o'clock 85:8	old 49:12 103:17	opinions 17:22 18:10,13 83:2 97:24 116:7 120:2 122:19 125:3,7,9 125:13 131:7,12 133:13,14 136:7 139:8	P.O 4:18	participate 105:12 105:13,19
oath 6:11,13 81:8	Olea 43:15 51:12 51:19 52:3,11 54:7,12 55:9 57:13,14 62:8,11 62:12,21,25 64:20 65:10 66:21 67:5 67:24 71:6 98:6,9 98:11 100:15,25 101:9 102:11 124:2,7	opportunities 98:12	page 2:2 16:5,5 20:2,3 21:7,7 22:23 30:21 43:6 44:14,21 45:25 55:8,16 61:6 63:2 64:24 66:3,4 68:10 69:16,17 70:14,15 71:1,18 71:19,20 74:12,25 75:17 76:6,7 89:16,24 92:15 93:6 142:13	participating 35:9 67:3 84:23 105:9
object 10:23 11:8 56:13 89:1	Olea's 51:23 54:9 63:2	opportunity 24:13 45:24 81:11 97:23 123:6 144:5	page-by-page 16:15	particular 28:20 32:22 34:16 35:7 39:4 41:1,4 45:8 52:1 62:10 68:11 69:6 95:5 98:12 103:10 136:14 142:18
objection 50:16 61:15 75:14	once 11:12 49:23 53:9 101:20 106:19 109:5 120:6	opposed 109:16 137:12 142:24	pages 41:2,3 56:4,8 63:1 69:25 70:12 146:10	particularly 31:11 118:13 128:2
objections 55:17	one-year 112:2 114:24	opposing 76:15	paid 119:19	parties 17:12 55:24 56:3 82:5,11 92:16 95:18 98:22 146:15
observation 69:14	ongoing 108:23	options 144:11	paper 120:15	party 78:23 134:17
observations 12:19 135:8	open 29:8 35:10 69:4 70:9 71:8 72:6 73:6,17,19 80:17 92:4 94:16 94:25 95:6 96:7 96:14,18 97:2,8 98:24 99:13 102:21,24 103:8 103:15,24 104:1 105:2,7 106:7	order 7:22 43:24 46:17 59:18 75:16 75:18 76:3,16,23 98:19 105:20	papers 8:9 72:9	party's 17:8,10
obviously 12:22	opening 92:6	ordered 46:14	paragraph 41:4,10 55:16 56:9,10,12 69:18 70:25 71:10 71:17,18 74:12 75:1 76:8	pass 73:24
occasion 5:14 17:19 17:22	opened 92:6	ordering 46:1 75:17,25 76:7	paragraphs 46:2 70:6 75:17	passed 44:11
occasions 106:1	opening 65:20 66:10	orders 69:15	paralegal 109:17	path 102:9
occur 32:11	operate 4:20	Oregon 111:15	paraphrase 55:1 89:17	Patterson 127:18
occurred 57:19 58:6 67:8 106:6	operated 45:5	ought 70:22	paraphrasing 46:14 71:22	Paul 77:2 83:2,5,11 83:17 84:4 87:10 87:15 88:16 115:13 119:5 125:1 136:14
October 23:2 67:9 68:3	operational 140:15	outcome 146:16	parcel 29:24	payroll 21:3
offer 33:4 81:12	operator 140:9	outline 144:10	parceled 28:6	penalties 6:14
offered 135:7		outlined 58:3	parking 29:9	pendency 7:20 137:20
offering 48:18 64:7 96:13 125:9		outside 6:1 31:12 31:16,18 111:6,7 111:17 113:4,9 116:22 125:12	part 24:1 25:13 68:13 70:18 71:15 72:4 74:6 75:1,9 76:16 89:10 99:11	pending 34:16,21 35:5 36:13,21 69:7 80:24 110:14 110:20 112:4,21
office 6:12 10:6 30:7,13,18 57:9 59:6 60:13 64:13 88:2,22 97:21 100:17 120:14 121:25 136:16		overall 117:8		
officer 29:3 95:10		owner 70:4		
officers 108:1,15				
offices 3:2 104:8 107:14				
official 19:5 92:7				
Oh 85:17				
Okay 6:5 10:10,16 13:18 19:10 41:12 45:23 61:1 62:15 64:9 69:13 79:22 81:15 86:12 93:14				

113:20,22 132:19 135:7 penmanship 54:9 54:10 people 23:22 43:16 79:15 97:3 108:13 112:6,13 115:3 118:6,17 138:13 141:2 perceived 32:21 percent 82:6 perform 87:4 100:1 performed 92:13 performing 33:24 period 20:24 24:22 28:24 35:18 45:3 45:5 54:16 63:16 79:11 80:23 85:12 101:6,7 111:3 112:2,8 113:9,18 113:21,23,24 114:24 115:20 121:19 123:1 130:11 periodic 29:18 periodically 97:5 108:6 periods 33:24 63:7 perjury 6:14 permanent 34:2 permission 19:5 person 20:22 30:10 38:15 42:20 personal 28:10 37:24 44:13 50:2 67:20 85:15 107:4 108:18 personally 24:11 26:19 33:9 57:21 personnel 5:6 101:23 102:12 perspective 27:25 46:20 49:10 50:12 63:6 64:7 65:11 70:10 90:18,19,21	92:17 100:9 131:19 persuade 136:22 pertain 11:4 Peter 3:20 15:10,14 15:15 72:15 phase 37:10 82:6 85:21 100:13 129:8,12,20 phases 129:7,19 Phelps 67:15 phenomena 5:24 Phoenix 1:13 3:4 3:10,13,17 4:1 phone 118:21 123:11 phoned 9:1,3,20 phrase 64:3 phrasing 51:21 physically 4:21,22 20:17 pieces 133:11 Pierce's 105:3 PINAL 1:5 pipe 137:8 place 25:24 33:16 40:7 45:4 47:2 67:1 77:25 84:22 88:14 98:8,9 106:12 111:15 placed 6:11 74:14 places 111:12,16 plan 25:19 plant 140:9,10 play 26:12 48:8 pleadings 31:3 120:9 please 4:11,17 5:20 6:4 68:22 plus 14:13 77:13 112:6 117:10 125:23 point 18:20 24:11 28:1 30:25 31:10 45:12 48:7 51:24	57:14,18 63:11 69:11 71:8 77:13 77:20 78:9,11,22 79:17 81:17 82:3 86:16 87:14 89:7 90:5 97:13 100:12 109:23 117:4 119:4,12 124:3 138:13,14 points 89:8 94:9 policies 86:9 policy 16:8 26:18 32:22 33:11 34:13 46:20 48:7,8 49:13,19,20 50:22 51:10 53:5 54:3 54:13 57:1 60:3 63:10,15 64:1,2,4 64:7 65:5 69:9 77:13 78:14 79:16 83:16 84:4 86:4 87:17 90:12 95:22 96:5,20 97:15 101:11 104:8,18 110:12,18 111:25 115:9 118:4 119:6 125:15,17 126:20 126:25 128:5,9 131:19 135:6 136:23 137:15,16 138:21 139:17 Pope 54:25 55:23 portions 101:1 posed 13:9 position 11:14,22 17:8,10 26:6,10 30:4 33:7 45:19 58:23 61:15 66:16 67:10 70:23 83:5 84:13,16 88:18,20 90:6,15 91:3 92:3 92:10,18,25 93:7 93:17,21,22 96:21 102:15 104:23 115:9 125:7	136:23 143:9,24 positioned 33:7 positions 16:24 17:7,12 60:22 63:6 66:10 83:10 89:15 139:21 possess 96:25 possible 12:7 18:12 23:24 35:11,11 63:23 97:16 100:24 115:2 117:22 post 65:18 98:15 post-activity 143:25 post-decision 77:21 post-graduate 22:7 potential 12:4 77:18 119:9 potentially 29:6 77:4 Poulos 72:2,12,13 72:16,22 82:4 107:6,7 practice 39:15,19 40:7 42:7 45:11 94:4 112:10 142:17 practices 128:20,21 pre-filed 82:7,13 114:5 pre-filing 123:1 preceded 112:7,13 preceding 76:9 preference 70:4 71:1 prehearing 81:21 82:11,23 83:15 preparation 106:21 130:22 prepare 7:9 8:11 8:14 11:9 97:4 prepared 1:19 83:19,20 94:21 preparing 8:19,21	70:9 97:1 130:1,5 present 3:24 10:17 10:19 17:20,22 21:17 33:7 95:1 96:19 103:20 114:17 135:14,24 presentation 128:17 129:1 131:6 presented 41:23 67:6 93:1,2,10,16 131:19 presenting 143:11 presently 64:25 president 3:20 37:5 108:3 presume 47:25 90:18 presuming 54:7 presumption 60:12 pretend 22:6 pretty 7:11 15:3 36:25 48:12 54:11 previously 89:3 primarily 52:8 127:11 136:5 primary 45:7 83:22 principal 111:25 prior 18:15 23:10 67:2,19 68:24 90:24 91:23 93:20 94:7 97:13 109:21 112:10 114:20 125:19 131:13 privilege 11:6,14 pro 85:23 probably 5:18 29:9 32:21 43:14 50:4 50:6,7,17 57:10 57:12 62:24 64:16 65:2 76:25 80:15 93:5 94:6 116:6 117:24 125:19,22 127:3 128:18 129:15,23 131:1
---	--	--	--	---

135:5 138:8	propensity 6:2	purposes 8:19	questioning 95:4	reading 61:2 66:12
140:17 141:18	proper 55:24 56:3	18:12 29:22 40:11	questions 6:16 12:5	68:4 72:11 91:17
142:3 144:25	56:13 71:4,11,13	61:25 74:13 75:19	16:6,13 19:12	139:2
problem 103:9	90:2	76:9 81:8 83:6	20:1 91:8 94:10	readings 127:20
problematic 49:24	properties 70:1	100:6 113:8	94:21 95:9,17,22	realize 27:18
problems 49:12	property 70:4 75:4	127:23	96:1,8,20,21 97:4	really 57:4 104:13
procedure 3:5 5:14	76:10	pursuant 3:5 59:18	97:13,24 103:23	125:21 134:4
59:18 142:17	proposed 41:6 42:3	101:16	116:11 139:20	139:14,19
proceed 13:12	43:24 55:11,15,22	put 10:11 36:22	145:1 146:7	reason 6:7,8 43:18
proceeding 12:1,9	68:16 70:10,21	39:5 45:12 48:13	quick 36:25 42:11	66:3 74:1 95:12
15:21 16:21,25	proposing 50:3	67:8 68:8 81:24	quote 93:8	104:20 106:15
17:16 19:22,24	69:18	82:10 85:5 129:10	quoted 45:25	115:1 116:14
30:6 32:6 36:16	propounded 146:7	putting 23:23 39:22	quoting 89:25	reasonable 51:20
37:2,3,11 38:8,14	propriety 46:24			reasonableness
67:3 71:3 73:16	pros 17:7,9	Q	R	93:9
73:25 75:2 79:2	protected 10:24	qualified 141:12	R-O-O 43:8	reasons 65:24,25
79:23 81:19 83:3	11:11	question 6:2,4,18	R14-3-104G	66:4,5
89:11,20 90:7,8	protocol 79:16	6:19,22,24 7:10	142:12 143:12	rebuttal 19:21
91:4,5 92:20,21	provide 12:18	7:25 8:7 9:23	raise 97:24 100:8	82:14 143:10
98:12 100:12	16:16 18:19 71:2	10:1,8 11:21	raised 49:3 59:22	recall 7:15 8:22 9:9
106:20 107:20	71:5 110:2 120:10	12:13,23 13:3,9	67:11,22 77:9	9:11,14 10:4
113:8 116:12,22	123:6	13:15 14:7,15	82:19 85:2	13:18,20 14:5,6,8
125:13 130:10	provided 12:20	16:22 17:1 18:7	raising 78:23	15:2 16:14 17:13
proceedings 5:25	77:8 78:1 121:16	18:16 20:3,10	range 14:8	23:10 24:25 25:22
7:14 32:17 54:14	141:2	21:6,6 23:2,14	ratchet 129:18	26:24 28:4,17
56:6,15 82:6 95:9	provider 71:4	25:18 26:11 29:11	rate 35:7 101:5,5	29:10 30:8 32:2
106:20 137:20	providing 86:24	32:9 33:15 34:8	119:19,21,22	32:15 33:3 34:15
146:11	87:16	34:22,24 35:13	127:10 130:7,8	34:19,20,23 35:7
process 51:6 70:3	provision 111:20	39:25 40:20 45:22	142:2,4,5,6	35:12 36:6,20
99:15 121:6	112:1 113:1,5	50:20,21 52:21	rates 84:5 127:11	37:23 38:2,6
processor 121:16	provisions 142:23	55:6 56:16 59:2	rationale 111:1	39:12,21,24 40:2
procurement	proximate 100:17	60:2 63:11 66:7	reach 120:2 122:9	40:25 41:25 42:1
128:19,21	public 18:24 19:7,8	67:19 73:11,12	reached 58:2 82:11	43:7,22 44:6 45:3
product 11:19,23	35:8 70:2,19 71:8	77:6 78:21 82:15	136:7	45:5,9 46:22 47:1
23:24,24	87:16 90:1	83:7,14 84:11	reaching 68:14	47:2,5 48:12,20
production 41:5	publication 137:5	85:17 86:8 89:2,5	139:8	49:8 50:5 52:23
professional 21:8	published 128:13	90:23 91:23 96:2	reaction 61:3,10	53:11 54:12 55:6
22:1,5 118:10	128:15	96:4,10 97:20,25	66:12 68:5 75:8	55:13 56:19,23
professionally	purely 60:17 99:9	105:14 106:8	read 12:8 14:19	57:3 58:14 59:4,8
18:10	99:20	107:23 110:9,16	41:12,15 51:2	59:12 60:3,21,24
progress 97:5,23	purple 137:8	112:22 116:20	69:1,2 70:8,13,13	61:2,5,10 63:18
prohibition 142:25	purport 27:10	120:13 123:3	74:23 75:9,9 84:9	66:11,12,15,18,19
promote 115:9	purpose 19:2 75:3	130:19 131:12	89:18 107:22	66:20,24,25 67:3
promotion 5:6	76:10 106:3	133:7 134:8	144:5,12,17 146:9	67:5,7,20,24 68:4
pronounced 4:23	117:16	135:18 141:19	readiness 120:11	68:15 70:7,21,24

71:6,14,16,25	69:25	67:25 68:11 71:16	relationships 104:6	37:19 39:3,6,14
72:4,10,18,19,20	recommended	76:20 77:9 78:13	111:16	39:16,23 40:1,4
73:3,19 74:8,11	43:24 63:7	78:15 84:20 85:18	relative 31:6 33:8	40:11,14,18,23
74:18,20 75:12,23	recommending	86:4 95:7 96:14	39:2 48:11,14	41:1,23 42:2,5
76:14,17 77:7	64:25	96:21 104:9	58:13 134:6	61:20 88:24
82:17,22 83:18	reconsideration	110:13 123:19	relatively 6:12	101:14,17 121:11
84:19,23 87:20	74:21 76:23 80:6	125:24 128:9,19	relay 121:9	reported 1:19
88:4 90:25 92:24	80:10	132:13 133:19,20	relevance 125:14	33:16 35:3 104:6
98:2,14 102:20	record 4:10 5:21	136:21,23 137:7	relevant 63:10	reporter 1:20 3:5
103:4,6,15 104:1	7:16 11:2 27:9	137:16 138:15	reliance 70:2,19	5:18 19:15 34:25
105:1,5,6,8,9	43:3 52:25 58:25	regular 29:2 35:19	remain 32:8 36:18	142:10 146:4,21
106:10,15 108:1	61:25 73:13 81:4	39:20 103:11	53:14 60:8 106:17	reporting 37:18,21
113:10 117:10	93:25 106:19	regulated 86:5	remaining 130:12	81:2
118:6 119:3	recruit 101:22	87:16	remand 75:2 76:9	reports 111:21
122:20 123:18	recruited 22:14	regulating 51:11	81:18 83:6 85:20	represent 31:13
124:10 129:15,17	24:2 33:15	regulation 101:4	87:8 90:7 97:14	representatives
131:5 132:16	recruitment 24:4	regulatory 104:15	98:19 106:20	57:22 60:14 138:9
134:9,15,16,18	25:25 92:4	109:22 111:11	remarks 95:7	represented 99:21
136:25 139:15,17	reduced 146:8	125:16,17 126:1	remember 7:22	reputation 116:8
139:19,23,24	reference 20:4 25:4	128:9 131:19	26:4 29:7 37:9	request 39:19
141:3 144:4,8	57:6 70:12,16	reheard 76:4	44:22 48:10 49:2	44:18,20 47:5
receipt 55:7	86:25	rehearing 75:13	49:9,18 52:21	54:14 55:18 56:13
received 77:17	referencing 49:24	76:15,19,23 77:2	65:9 72:5,11 75:8	61:21 63:9 104:24
104:9,12 124:16	69:12 86:11 92:19	77:10,12,16,23	78:15,19,20 92:7	requested 80:15
140:14,18	referring 41:13	78:16,23 79:10,14	106:4 108:13	require 133:4
receiving 43:7 55:8	86:17	104:22,24	117:21 120:3	requirement 44:19
59:22,25 106:3	reflect 79:7 81:11	Reiker 108:4,16,20	121:3 122:11,12	143:25
recess 42:17 81:5	110:18	108:24 123:21,23	128:18,23 129:21	requirements
131:25	reflected 76:25	124:6 126:5	139:4,14 140:22	143:19,19
recipient 44:14,21	87:13 110:21	relate 5:5 12:5 86:4	remind 14:25	reread 8:16
recognize 54:9	reflects 7:19 44:8	110:13,19	reminded 132:5,6,8	research 122:9
recollection 27:16	49:4,4,7 51:18	related 5:6 15:21	reminding 136:12	130:9
42:20 44:13 59:25	55:21 104:3	78:14 83:5 106:6	removed 102:13	reserve 11:22
61:17 68:17,19	refresh 59:25	112:19 117:7	rendered 87:4	residence 4:14,15
74:24 89:9 91:6	refuse 41:24	136:7 146:14	repeat 7:25 16:22	respected 36:17
95:11 96:13	regard 6:17 32:14	relates 21:7 107:24	25:18 34:8 40:20	104:9
103:19,22,23	47:6 72:2 112:6	133:7 135:18	112:22	respective 87:10
104:4 105:11	138:22	142:1	repeating 94:3	respond 17:1 31:2
106:9 115:22	regarding 8:25	relating 83:10	replace 23:9	94:21 96:23 97:25
139:12	12:18,20 13:8,20	131:7,12 133:12	replaced 33:19	124:25 130:20
recommendation	15:12,13 17:11	134:11 139:18	replacement 20:19	responded 94:11
53:15 56:5 64:18	21:6 36:21,24	relationship 104:7	20:20	responding 12:17
78:24 97:6,15,23	38:7 44:5 47:3	107:12 108:14,16	reply 91:8,11,13	67:10 95:17
recommendations	49:5 54:3 57:16	108:17,18,18,19	92:14,16	response 12:12,15
23:25 56:14,17	61:20 66:19 67:21	116:1 118:9	report 17:23 25:10	64:6 67:9,22 68:4

81:22	reviewing 43:7,10	34:3 35:14 36:17	S	122:3 142:23
responsibilities	44:13 59:2 74:10	38:22 41:16 43:10	s 2:8 106:21	143:2
23:18 29:25 30:2	74:11,18 99:23	47:11 48:5,6,8	safety 126:20,21	seeing 28:17 31:8
54:5 62:10 96:18	142:2	50:2,18,24,24	San 127:10	107:13 108:17
responsibility	reviews 127:20	51:23 52:1 62:6	sat 21:21,22 94:20	114:21
25:11 31:17 36:18	revise 42:3	66:25 73:4 76:18	140:12	seeking 76:15
41:21 50:10,25	revision 42:6	82:17,22 92:13	saw 9:16 61:11	136:22
80:25 98:1	Riggs 3:21	95:14 99:23 100:1	79:6 82:5 108:20	seen 86:13 108:6
responsive 79:20	right 7:2,12,18 11:7	100:20 101:12	123:24	segment 79:21
96:11	12:3,22 18:16	102:17 104:10,22	saying 13:18,20	select 129:19
rest 73:11	19:7 27:8,11,21	106:5,23 125:15	31:15 65:24 78:18	seminar 127:6,8
restate 6:18,21 83:7	28:9 30:12 36:22	134:24 142:1	84:6 93:25	128:24
83:8 110:17	39:9 48:3 52:16	Roman 65:24,25	says 22:24 56:11	seminars 136:9
112:23	53:10,16 55:11	66:3,5	64:24 70:18	senior 24:15 97:3
restaurant 116:5	69:5 81:17 88:5	Ronald 66:9	121:18	sent 39:6 42:1
result 137:10	91:15 94:18 98:25	ROO 43:1,7 44:7	scan 137:3	121:13
138:20	99:2 100:18	54:24 55:1,7,13	scenes 79:19	sentence 41:10
retain 36:18	103:13 109:2	55:14 56:21 58:20	scheduled 98:24	92:19
retained 17:4 18:14	111:23 113:2,7,11	58:24 68:7,8,15	103:2	separate 4:19 94:8
19:1,5,8 31:13	114:2 118:18	68:17 69:7 70:8	schedules 124:19	September 65:21
117:19 123:23	120:1 122:21	71:7 72:5 73:5,16	scheduling 56:6	series 97:1
124:7,8,12	138:6 140:16	80:24 94:17 98:16	scholarship 11:20	serve 41:6
retainer 119:20	144:21 145:3	98:22 99:4,23	school 127:10	served 29:22 30:4
retention 124:13,14	rise 48:15	100:3,8 102:25	SCHRECK 3:16	33:21,22 34:3
129:8,12	risen 63:14 88:8	103:15,16	scope 23:18 62:12	service 19:7,9
return 9:2	97:14	room 79:16 103:17	89:19 90:14	33:24 71:3,5
returned 14:12	Rita 116:12 125:2	105:17 107:5	124:22,24	87:16,17 104:16
20:18	Road 3:21	ROOs 43:11 99:22	second 54:24 75:1	138:13
returning 81:7	Robert 3:12	100:12	81:4 85:20 97:14	services 18:19
review 16:15 17:3	Robson 3:19,20	rougher 122:1	142:14	110:2
42:6 44:18 50:18	11:18 52:20 55:23	routine 29:2 33:3	secretary 28:4	session 105:7,10,12
55:7 68:13 72:17	56:3,12 57:22	35:19 39:18,20	32:11 43:13,13,13	105:16,23 106:5,9
76:18 77:1 82:5	58:3,21 59:3 70:5	44:2,5 45:2 52:13	45:6	106:13,16,18
83:4 90:20 94:6	71:2 107:4,20	56:25 57:5 63:21	section 2:10 18:18	sessions 106:5
120:7 121:8,14,17	114:9,9,12,16,16	85:4 98:3	30:16 142:13	set 17:19 35:19
121:21 130:16,24	120:10,25 123:13	RUCO 135:23,25	securities 104:14	62:1 68:25 75:19
141:2 144:17,22	130:17,18 135:18	rule 36:2 101:6	see 20:6 30:22	92:19 99:18 110:3
reviewed 27:5	135:20	142:16,19,22,24	38:11 41:8 46:3,7	125:11
44:22 52:25 58:12	Robson/Cornman	143:2,16	46:11,18 56:4,7	sets 90:17
68:15,18 74:6	53:1	rules 3:5 100:5	63:16 65:12 66:2	setting 6:12 13:23
77:7 86:12 121:18	role 12:21,25 13:5	142:16	66:3 69:22 74:13	79:9 89:15 117:16
121:20 130:21	13:8,13,19,21	rulings 59:9 131:13	74:16 75:6,21	137:1
131:1 137:8	14:25 15:4,6	131:16 135:9	76:12 87:22 89:8	settled 26:6
139:15 141:4	20:24 26:7,8,12	run 22:6 93:21	90:3,4 93:12,13	shake 115:4
142:18,20	26:17 32:10,13	running 79:12	100:20 115:3	shaking 107:12

shared 14:21 132:14 138:14	58:5 59:16 62:3 63:4 69:23 72:24	sought 7:7	40:18,23 41:16,23	48:1 50:16 63:6
sheet 2:9 19:18 40:4,6,16 89:16	73:18 74:17 75:7 75:22 76:1,5,13	sound 7:18	42:2,5 53:15	110:23 111:13
98:21 99:4	76:21,24 81:3,10	sounds 144:21	56:20 57:10 59:17	113:25 119:17
shifts 95:18	81:14 82:2,9,25	sources 139:1	60:5,10 61:20	124:25 125:16,17
short 27:21 61:7	83:13 92:9 93:13	Southwest 128:24	63:2,7 64:10,11	128:20 146:1,5
shorthand 13:24	100:19 102:23	space 101:22 102:13	64:16,25 65:11	stated 40:19 56:17 65:13 143:2
show 7:16 36:23 56:20 59:25 81:20	108:11 109:12	sparkling 59:5	67:10,25 68:3	statement 50:13 56:4,11 65:5 69:12
87:6 106:19	111:22 114:14,18	speak 13:7 58:25 73:13 77:5 95:13	69:19 74:21 79:24	statements 66:19 95:22
showed 52:25	117:3,6 122:7	speaking 94:23,24 128:16 129:3	80:1,2,12 81:21	states 21:12 55:1 56:2 74:13 111:20
showing 8:8 19:17 53:18 59:19,24	123:14 136:1	speaks 63:5 67:13 112:5	83:9,17 84:20	stating 61:15 66:15 75:14 84:13
65:20 68:10 74:3	140:3,5,7,11,13	Spear 3:12	87:8,14 88:20	statute 15:1 101:16 112:5 113:5,10 142:24
91:13	142:7 145:4	specific 27:19 41:16 47:3,5	89:15,19 91:9	stay 21:3
shown 44:21 55:8	sit 59:3 73:3 88:6 94:4 104:1 130:12	49:18,21 52:23	92:18,25 93:9,17	stayed 112:11
shows 27:13 37:2 39:6 43:3,5 44:14	site 140:19,23 141:8	56:4 73:20,21	93:21 95:19 96:1	step 23:6,7,8 118:20
98:21	sitting 39:12 79:15	78:12 83:10,16	96:24 97:2,18	steps 8:4 24:9,19
side 52:4,4,6 105:17 115:12	six 10:15,22 16:3 16:10 21:2 130:6	89:8 96:13 114:22	99:23 118:13	Steve 42:10 43:15 51:12 54:7 89:1 100:15 107:20 124:2,7
128:3,4 135:8	skill 146:13	specifically 13:10 25:16 32:5 58:7	123:16,20 133:17	Steven 3:9
sign 40:6 144:6,17 144:22 146:10	slice 27:19	69:7 83:4 94:24	135:14,24 137:1	stop 97:20
signature 63:3 99:3 99:5,18 144:12	Smith 38:17	114:13 126:2,10	139:21	storage 41:6
signatures 76:7	so-called 45:12 86:20 137:17	130:23 136:7	staff's 55:2 56:5,14 56:17 59:20 61:3	Strategis 4:24,25 17:19 18:18,19 109:3,7,13,19 110:2,10,12,22,22 111:5,25 112:15 115:13 116:17
signed 30:23 58:21 60:2 62:24 66:9	social 133:21	140:8 143:4	65:20 66:10 67:9	study 84:5,5 82:20 89:14
significance 40:3	socially 118:13	specifics 48:10	71:11,15 81:21	styled 98:19
significant 33:11	sole 89:25	specified 46:16	82:23 83:5,14	
significantly 69:20	solely 36:15	spectrum 8:8,12	90:6 92:14	
signing 40:14 99:6	somebody 97:17	speed 89:23	stage 63:24 74:4 79:4 98:15	
silence 50:19	Soriano 107:20 120:25	spent 130:1 136:20	stages 106:21	
similar 64:2 129:23	sorry 13:3 23:1 59:11 62:13 70:17	spoke 8:15 48:21 53:6 96:6 108:21 117:25	stakeholders 47:8	
Simmons 136:17 136:18	72:15 75:24 85:22	spoken 14:2,9	stance 88:16	
simply 40:5,12 90:1	129:11 132:3	sponsored 127:6,15	stand 72:22	
sir 5:3 10:18,20 17:17,25 18:3,23	144:16	sponte 88:25	standalone 140:15	
20:25 22:17 23:1	sort 33:23 35:22 45:4 48:14 50:19	Sr 1:10 3:1 4:4,12 145:10	standard 48:13	
27:7 33:18 37:16	51:13 58:11 74:22	ss 146:1	standing 21:19 56:13	
38:9,12,19 42:23	101:23 102:13	staff 22:15 25:1,2 25:17 26:3,5,25	stands 121:8	
50:8 53:4 54:2	104:14 115:4,6	29:7 33:7 39:3,6 39:23 40:4,11,14	start 6:2 92:7 137:15 141:16	

<p>sua 88:25 subject 6:14 7:1 11:20 19:21 30:8 111:2 118:6 127:12 submit 82:6,11 121:7 submitted 36:16 41:17 91:9 138:18 submitting 143:9 subsequent 48:15 48:16,25 53:12,13 60:19 64:2,5 71:1 75:2 81:18 94:18 substance 11:10 82:23 99:24 134:1 substantial 86:3 substantive 43:22 102:14,18,19 104:13 115:8 134:6,16 substantively 133:15 134:18 135:16 subsumed 131:11 successfully 24:14 sufficiency 36:24 37:10,24 38:4,7 sufficient 85:15 sufficiently 93:11 suggest 23:16 137:15 suggested 55:22 suggestion 50:19 55:2 Suite 3:3,10,17 sum 119:20 summarize 92:2 122:22 summary 41:2,11 Summer 124:19 Sun 3:21 sunsetting 142:23 supersede 143:22 supervised 98:6</p>	<p>99:23 supply 46:6 64:21 72:9 support 1:19,24 25:24 69:21 supportive 23:23 sure 14:7 18:7 23:11 26:11 30:19 32:1,9 35:6,17 47:16 57:19 60:9 64:6,20,21,22 70:11,11,14 82:5 83:8 86:11 87:1 93:19,24 94:2 96:10 115:2 116:19 120:13 127:7 131:17 132:11,14 134:17 sworn 4:5 146:6 systems 41:5</p> <hr/> <p style="text-align: center;">T</p> <p>T 2:8 4:8 table 79:13 tail 74:25 98:18 take 5:13,18 7:13 8:4 10:12 13:12 17:19 21:1 24:9 25:9 37:22 42:11 42:15 45:17,18 60:23 65:4 66:15 70:20,23 77:25 79:13 87:7 88:16 88:18,20 89:18 91:3 92:25 93:20 98:8,9 104:24 109:19,25 110:1 110:13,19 112:3 114:24 116:25 131:14,22 138:20 139:20 143:1 taken 3:2 5:3 9:21 16:24 42:17 44:22 66:10 76:5 81:5 84:22 131:25</p>	<p>133:2 143:24 144:14 146:4 takes 13:12 106:21 talk 8:18 9:7 11:12 16:8 34:13,16 95:14 97:3 102:6 115:11 117:22 118:15 123:21 131:20 138:17 talked 8:20 9:12 12:6,7 35:9 46:5 64:4 65:3 104:5 108:21 123:21 131:11,14 133:15 135:15 talking 8:22 9:10 16:6,7 26:16 27:6 28:25 30:19,25 47:18 78:13 79:2 79:4 80:12 97:17 103:7 128:23 129:19 talks 20:8 51:2,13 64:20 71:1 86:24 113:10 tariff 132:13,21,24 132:25 task 25:16 tasked 87:9 tasks 116:25 117:1 130:13 team 23:20 78:5,8 teamwork 23:22 Tech 118:16 technical 96:1,24 Teena 94:17 telecommunicati... 62:17,18 101:4 132:9 telephone 14:16 15:15 telephonic 15:9 tell 12:25 13:2,6 33:21 41:15 48:9 53:23 57:17 82:3</p>	<p>85:4 91:15 103:14 117:18 123:23 telling 93:15 ten 7:23 9:12 39:13 117:24 127:14 128:19 ten-minute 42:15 tended 127:12 tentatively 98:24 tenure 31:20 41:24 139:10 141:1 term 40:21 110:14 terms 8:6,12,21 11:9 25:2,7,25 26:7 29:12 33:15 37:10,18 43:10,23 53:15 57:3 62:12 64:11,15 68:20,23 78:12 79:17 84:1 84:6,8,15 88:18 94:1 96:17 98:2 100:3 104:22 110:22,25 111:24 114:1 119:17 128:5 131:12 133:2 134:1,21 136:22 140:1,9 143:19 testified 4:6 17:15 32:19,20,25 71:12 142:5 testify 19:6 32:16 33:2 112:17 146:6 testifying 42:20 47:25 48:2 84:21 113:1 130:7 146:6 testimonies 120:8 124:25 testimony 2:9 4:13 8:16 12:2,5,9 13:25 14:3 15:21 16:2,2,6,8,9,11,15 17:14,20,24 18:13 18:14,20 19:12,19 19:22,23,24 20:3</p>	<p>33:4,9 36:16 37:23 45:17 51:12 57:17 67:6 72:2 72:16 74:7 81:9 82:7,13 84:7 89:3 107:22 111:21 113:1 114:5 117:1 117:12 119:5,6 120:12 121:6,7,10 121:13,16,18,22 122:3,23 123:5,19 123:22 125:1 129:13 130:9,16 130:22,25 131:9 131:13,18 134:2,5 139:6 143:4,10 144:14 Texas 118:16 121:5 text 15:9 thank 6:23 7:2 19:10 81:16 109:1 131:24 136:11 138:12 144:3,23 145:3,5 Thanks 91:22 133:6 thereabouts 121:4 thereon 14:18 144:6 thereto 146:8 thing 14:24 30:20 47:17 57:4 62:24 115:5 120:4 132:5 132:8 137:8 141:15 things 11:4,9 13:4 16:2 35:22 45:4 51:16,21 64:19 65:1 81:24 85:13 89:14 99:17,19 108:22 109:18 115:12 121:21 122:13 123:7,8,8 127:21 128:2 132:23 137:4</p>
--	--	---	--	--

138:15 143:18	141:5,8 143:14,15	123:9 124:10,11	146:11	53:2 63:12 72:23
think 7:19 9:1,1,2,3	143:16,17,21,24	125:18,18,22	transition 20:19,22	76:22 78:16 85:1
10:8,9 11:5,11,12	144:3	129:10,18,21,23	47:11 53:6 119:13	85:14 87:9 88:7
11:16 13:8 14:11	thinking 64:15	130:1 136:15,21	transitional 20:24	97:13 105:18
14:14,20,24 15:18	thought 51:6 85:17	142:2,2,3,3,23,25	transitioned 65:15	106:6,13,24
15:22 16:18 17:9	109:20,23 124:11	143:2 145:3	transitioning 63:22	130:24 134:3,19
25:7,23 30:1	three 37:20 41:2	timely 55:18	transmit 28:3	135:16,25 143:10
33:22 34:24 36:25	66:5 85:21 89:18	times 9:7,12 14:4	transmittal 40:6,12	Tweedy's 16:20
37:20 40:8 42:6	125:25 127:4,5	73:25 100:7	40:16 65:5 121:24	76:19 77:9
43:15 44:8 45:21	thwart 72:8	125:25 127:4,5,9	transmitted 121:22	twisting 141:16
47:1,13 48:13,16	tie 89:23	143:25	travel 122:17	two 2:9 3:3,10 7:24
48:23,25 49:7	time 7:21 8:13 9:10	title 20:9,11 111:2	traveled 141:5	19:19 27:21 62:7
50:14 51:4,12,13	9:16,20 13:11,12	112:1 113:5 118:6	treated 44:2	66:3 75:17 83:23
51:19,21 55:21	14:6,11 15:19	142:20,21,24	Trevor 136:16	86:2,9 89:23 95:2
57:5,12,20 64:10	21:4 24:22,25	143:17,20,21	tried 104:11	109:22 127:16
64:20,24 65:23	27:19 28:1,11,17	today 6:7,9 8:9,14	trigger 56:18 85:3	two-day 127:8
70:12 73:2,8,25	28:19,24 29:12	8:19 9:8,21 13:11	85:15	type 28:7 31:9
76:21 77:6,11	30:25 31:10,14	32:7 39:12 40:9	triggering 47:6	47:10 49:14,15,16
78:21 79:21 80:10	35:3,16,18 42:5	42:7 70:6 81:9	55:8 57:1 70:21	50:3 124:4 143:11
80:12,13,14 85:25	42:13 44:18,25	84:21 88:6 93:15	triggers 84:4	typed 121:15
86:9,23 87:13	45:3,5,9,15 46:15	125:10 130:12	trips 136:15	types 11:9 52:1
88:1,17 89:2,7	46:24 47:4,4	today's 7:9 83:3	true 140:17 146:11	typewriting 146:8
91:17,20,23 93:7	48:13 49:9 51:16	told 11:25 13:4	truly 48:17	typical 29:14 43:10
93:17 94:11 98:4	51:20,24 52:22	14:17 15:2 72:11	trump 143:21	77:13 80:13 86:13
98:10 99:10,15	53:25,25 54:16	73:13 115:19	trust 101:9	101:20 103:7
100:11 104:3	57:3 61:18,21	118:25 119:1,3,4	truth 146:7	122:3,25 144:22
105:14 107:16	62:6,16 63:7,8,9	119:7,8 132:11	truthful 6:9	typically 44:25
108:8 112:5,6,10	63:16 65:23,24	tons 43:18,19	try 6:16 27:2,18	79:10 84:14 88:1
112:11,12,25	66:1,4,5 68:1,17	top 69:17 71:18	62:23 79:20 83:8	88:9,10 94:19
113:12,13,20,22	68:18 69:20 70:7	93:6	85:12 86:18 96:11	95:20 102:5
114:22 115:14,16	70:20 71:14 72:25	topic 67:16 83:2	96:11,23 110:17	
115:17,19,19	73:5 75:10 77:14	topics 97:10 126:7	112:23	U
116:4,6 117:7,8	79:11 80:23 81:14	128:1,14 136:10	trying 16:3 18:11	ultimate 25:11
117:13,15,15,20	84:17 85:7 87:7	total 25:8	49:8 51:20 64:16	ultimately 78:1
117:21 118:5	87:14 88:7,19	touched 117:7	68:20 80:20 94:12	80:25 87:11
119:7,14,15	89:18 90:6 92:10	tour 141:9,15	120:7,21 128:20	115:23
120:17,19 121:18	93:23 94:9 97:14	TPE 101:5	134:8,13 139:4	unaware 76:2
123:5 125:6 126:3	100:24 101:6,7	track 109:19	140:22	uncontested 36:1
126:11 127:1,15	102:17 107:14,14	142:21	turn 6:24 120:15	undergraduate
127:18,22 128:8	107:17 109:6,20	trade 136:5	turned 102:11	22:10
128:11 131:11	109:23,23,25	training 23:6,8	turning 63:25	underlying 62:25
132:10 133:10,23	111:7 113:19,21	125:24 127:25	141:16	understand 5:22
134:13,21 137:3,3	113:23,24 115:18	140:14,18	Tweedy 3:15 7:5	6:18,22 8:7 12:13
137:4,6,6,8 139:4	115:21 117:23	transcript 72:12,17	11:18 16:17,24	13:3 14:7 26:11
139:5,25 140:19	120:25 121:19,23	144:6,13 146:10	27:3 37:3 42:25	32:9 44:1 47:24

48:5 51:8 77:20	77:7 78:2,20	viewed 30:2	65:12 70:14 73:7	93:1,22 104:10
93:24 96:10	79:23 80:24 81:25	viewpoint 24:13	94:2,3,12 107:23	113:6 131:3
105:14,21 106:8	82:18 84:23 86:5	views 47:15 87:10	132:11,14 141:18	146:14,15
120:21 133:21	87:24 88:3 90:13	vigor 63:12	wanted 20:10 64:20	we'll 10:11 13:10
134:24 143:18	92:11,13 93:22	vigorous 89:12	115:15	13:11,12 28:19
understanding	94:20 95:15 96:7	vigorously 73:1	wants 117:21	42:15 44:10 89:6
24:6 39:18 57:17	100:2,14,22 102:8	virtue 62:19 113:5	Washington 3:17	110:7 115:11
80:4,5,5,21 112:1	104:19 107:3	visibility 85:15	wasn't 23:6 35:1	144:24
120:22 133:15	108:5 114:17	88:8	43:20 62:21 78:18	we're 6:12 7:20
138:23 140:24	130:17 131:8	vision 24:17	104:13 110:5	9:10 19:17 22:22
143:6	136:3,16 137:12	visit 35:23 100:20	140:20	30:19 42:24 47:16
understood 6:25	139:12	124:17	wastewater 126:20	59:21 60:9 65:18
48:4 106:17 135:9	utility 29:22 32:5	visited 100:11	136:3,11,22,24	74:1 77:20,21
undertaken 76:3	33:4 34:17 36:10	141:8	137:7 138:15	79:2,9 81:7 91:15
undeveloped 70:1	66:16 71:2 73:9	visits 137:19	140:9,16,16	98:18 124:18
unfolded 26:1	73:10 78:22 79:15	138:20	watching 103:20	we've 42:10,25
103:21	87:18 104:14	voice 78:24 96:7	134:17 135:1	62:1 70:25 78:12
unique 54:11 65:22	107:7 111:11	voiced 54:13	water 1:3 3:8,12	85:21 86:12 89:7
unusual 43:9	114:12 135:19	void 45:12 46:16,24	16:7 28:13,14	98:4 112:25
upcoming 89:11,13	utility's 15:6	47:19 48:7,18	37:6,25 38:7 46:6	125:10
106:21		51:3,18 53:2,7	52:4,8,13 61:8	wealth 128:9
upset 110:5	V	58:4 60:20 64:1,4	63:12 64:21 67:4	web 127:20
upstairs 79:10	vacation 9:2 14:12	69:8 78:14 86:20	71:2,11,12,22	website 18:18
use 13:24 46:25	117:23 124:19	86:25	72:8,9 74:14 75:5	109:25 110:3
52:2 64:3 67:1,18	valid 61:8	vote 105:16	81:22 82:12,19	125:11
97:22	value 126:22	voted 96:9	83:11 87:9,16	websites 122:18
usually 85:6 127:8	valves 141:17		101:1 107:24	week 7:23 9:11
utilities 22:16,19	van tage 138:14	W	108:2,4,15 115:12	14:13
22:24 23:3,13,17	various 93:8 97:10	W 3:16	115:17,24 125:20	weeks 7:24 21:2
25:1 26:3,9,13	101:14 108:7	W-01445A-03-05...	125:24,24 126:2	weigh 45:19 87:19
27:20,25 30:3	111:9,14 120:8	1:3	126:10,12,20,20	weighed 92:17
31:13,19,20 32:16	123:8 127:20	wait 6:4	126:20,21,22,25	weighing 95:23
32:20 34:7 35:14	143:18	waive 144:7,11	127:6,10,16 128:1	went 31:3,5 32:25
37:15 40:1,22	venue 71:4	walk 85:7 120:1	128:2 129:3 131:7	49:19 50:17 69:4
43:6,23 44:6	verbal 5:19 121:11	walked 15:23 107:5	136:3,11,21,23	69:7 112:12
45:18 46:23 47:9	124:14	Walker 115:13,14	137:7,21 138:2,9	122:10 139:15
48:6 49:3,9,10	versus 67:15 84:4	115:19 116:2,4	138:15,24 140:9	weren't 65:4 79:6
50:9,11 51:9,10	118:16	119:5 125:1	140:15,16,20,23	113:6
53:17,20 58:2	vice 3:20 37:5	127:17 136:14,25	Water's 71:24	west 67:14 141:6
60:13 61:11,13	108:3	137:3,24	water-related	whatsoever 106:23
63:6 64:11,12	video 103:20	Walker's 16:9	127:12 129:3	117:5 120:15
65:6,11 66:21	view 16:17 43:24	116:7 131:13	water/wastewater	wife 110:5
67:25 70:9,22	53:2 87:14 88:19	want 11:1 23:16	141:13	William 3:24
72:1,7,21 73:4	88:24 90:12 93:1	30:19 32:1 47:16	way 45:19 61:10	wish 144:21
75:12,25 76:3,14	99:6	60:9 64:6,21,22	66:16 80:14 88:15	wished 7:13

withdraw 89:6	wreak 124:19	11 53:19 69:25	75:17 125:16	109:21 141:25
withdrawing 40:23	writing 17:23	70:12,16	128:8	25th 7:17 8:2
witness 4:5 12:9	written 7:3 120:11	12 27:14 43:1,4	20-day 79:12	26 75:1 120:2
17:15 18:2 53:18	www.CourtRepo...	61:24 63:17 68:9	2000 63:19	26th 119:15 120:17
59:19 71:11	1:25	111:3 112:8 113:9	2001 23:2,13	27 75:1 92:16
107:19 111:21	<hr/> X <hr/>	129:13 144:1	2003 27:4,14,19	29 103:16
116:8,12 126:6,16	X 2:1,8 4:8	12-month 113:4,9	28:15 29:12,16	29th 102:25
126:19 138:12	Xeroxing 19:21	113:18,21,23,24	30:22 31:15 32:4	<hr/> 3 <hr/>
141:8 144:8,16,20	<hr/> Y <hr/>	12376 4:18	32:12,13 37:4,22	3 30:21 55:16 76:8
144:23 145:5	yeah 22:4 57:20	12th 30:22 120:18	38:4 63:20	93:6,8
146:5,7,8,9	102:12 116:21	121:3,10,11,14	2004 39:3 43:1,4	3:00 85:8
witnesses 115:12	118:12 139:4	122:10,23 123:9	44:11	30 107:18 112:6,13
144:15	year 20:14 44:17	129:8,20	2005 44:18 45:9	125:23 143:25
Wolfe 65:17 67:1,4	113:9 125:25	13 22:23 55:16	46:1 51:24 52:18	30th 44:18 46:1
68:8 69:18 72:3	128:18	74:12 77:24	53:19 54:25 59:3	74:3
94:17	years 5:4 27:21	14 74:13	59:17,20 134:4	365 46:5,10
Woodruff 139:7,18	32:4 33:10 34:6	142 2:10	2006 61:20,24	366th 52:18 57:23
139:22	34:18 35:14 36:10	145 146:10	63:17 65:17,21	38 111:2 112:1
word 5:20 121:15	39:13 77:15 85:22	15 56:10,12 66:4	67:2,9 68:3 72:16	113:5 118:6
words 112:2 117:21	85:22 104:16	85:25	2007 68:9 74:4,9	142:20,21,24
142:25	108:2 109:21	15th 65:21 81:21	77:14	143:17,20,21
work 5:10 11:19,22	122:4 125:16	82:24 89:9	2008 81:21,25	3805 3:13
23:18 24:14 33:5	128:8,19 141:25	17 69:16,17 70:14	82:24 83:6,9 85:1	<hr/> 4 <hr/>
36:25 62:12 83:21	142:4	70:15 71:1 140:21	85:14 86:1 87:23	4 2:3 71:21 76:8
109:20,23 111:19	yesterday 9:19 10:9	18 20:4 71:18	88:7 89:9 97:14	40 129:16
112:3 114:9,19,20	10:11 12:24 13:7	112:12 113:7,13	2009 91:12,14 92:8	480)481-0649 1:24
129:6 130:9,13	13:14,15,19,20	18th 121:11 122:23	92:15	4th 118:23,24
132:10	16:4,16,19,23	123:9 125:8	2010 98:18 102:25	<hr/> 5 <hr/>
work-product 11:6	17:7	129:21	103:3,16	5 55:8 71:21 89:24
11:13	<hr/> Z <hr/>	19 2:9 58:20 59:3	2011 104:2 105:3	50162 1:21 146:5
worked 5:13 83:21	<hr/> 0 <hr/>	74:12,25	106:7,14,20	146:22
83:25 109:21,22	<hr/> 1 <hr/>	1983 21:15	2012 20:9,14,18	560 3:15
workers 45:7	<hr/> 1 <hr/>	1993 22:19,24	2013 18:8 20:5,23	<hr/> 6 <hr/>
working 43:20 81:2	1 2:9 19:14,18 20:2	19th 91:17,22	109:11 114:25	6 1:13 3:2 4:1 44:11
85:6 100:25 101:3	20:3,3 45:25 66:3	92:15	2014 1:13 3:2 4:1	56:1 89:24
101:5 119:14,16	89:16 93:8 106:7	129:21	8:2 113:25 114:3	66893 44:11 74:15
world 84:12 87:15	106:19	192 9:20 59:3	114:25 117:13	75:5,20
wouldn't 26:20	10 54:25 58:20	74:12,25	146:18	69722 73:24 74:3
37:12 39:15 43:9	69:25 70:12,16	1983 21:15	21 37:4,22 76:7	76:20 81:18 94:19
50:24,24 51:5,6	100 82:6	1993 22:19,24	22 59:20 61:6	98:20
57:8 84:2,3 86:5	102 75:1	19th 91:17,22	2200 3:3,10	6th 67:9 68:3
96:5 97:2 104:20	10th 146:17	92:15	23 89:17,21	
107:5 121:17		1st 104:2 105:3	2400 3:17	
141:18		106:14	25 38:4 75:17 89:17	
wrap-up 133:7		<hr/> 2 <hr/>	89:21 92:15	
		2 2:10 21:7 22:23		
		44:21 64:24 66:3		
		66:4 92:15 142:8		
		142:9,13		
		2:47 145:6		
		20 5:4 68:10 75:17		

7				
7 56:11 57:23 89:24 7th 52:18				
8				
8 43:6 44:14 56:4,8 56:9 80 129:25 85004 3:4,10,17 85015 3:13 85248 3:21 4:18 8th 109:10,11 114:3,25				
9				
9 56:4,8,9 69:25 70:12,16 91:20 9:28 1:14 3:2 4:2 92 69:18 94 70:25 95 71:10,17 9532 3:21 97 71:18 98 74:12 9th 39:3 91:13				

ATTACHMENT 2

**Selected Excerpts from the Transcript of the Deposition of Ernest G. Johnson, Sr.,
Taken August 6, 2014**

(Docket W-01445A-03-0559)

- Regarding the CC&N Extension Application Filed by AWC in this Docket.¹

Q. ... So I'm going to give you a copy of the company's initial application, which shows on its face docketed August 12, 2003.

First, let me ask you, do you have any independent recollection of this application when it was filed?

A. Absent the docket, no.²

- Regarding Staff's Sufficiency Review of AWC's CC&N Extension Application.

Q. ... Now, would you have had any involvement, Mr. Johnson -- do you remember having any involvement in terms of the sufficiency phase of this initial application in this proceeding?

A. I wouldn't be involved.³

- Regarding the January 9, 2004, Staff Report on AWC's CC&N Extension Application.

Q. Another relative matter in the docket dated January 9th, 2004, was the staff report concerning this particular application.

I've put that before you.

Now, this shows that the staff report was sent to docket control from you; correct?

A. The [""]from[""] is from Ernest G. Johnson.

Q. All right. And do those appear to be your initials on the document?

A. Yes.

Q. Do you recall, sitting here today, more than ten years later, I grant you, having had any involvement or input in this report?

A. As a matter of practice, I wouldn't have been involved in this report.

Q. And why do you say that?

A. Because it's my understanding it was a routine extension request, and it was not my practice to get involved in regular routine matters.⁴

* * *

¹ All questions are posed by legal counsel for AWC at the deposition and all answers are by Mr. Johnson.

² Deposition of Ernest Johnson (August 6, 2014) at page 27, lines 12-17.

³ *Id.* at page 37, lines 8-12.

⁴ *Id.* at page 39, lines 2-20.

Q. What significance does your initial have on the cover sheet of the staff report?

A. It's simply that a duty of the division director when I came there was to sign the transmittal cover sheet. And that continued -- that practice was in place before I got there. It continued while I was there. And I think it even continues today.

Q. Did that indicate approval by the director of the staff report for purposes of docketing?

A. It indicated simply transmittal.

Q. So it did not indicate approval of what was contained in the staff report that you were signing.

A. The document itself does not indicate -- the transmittal cover sheet does not indicate approval.⁵

- Regarding the March 12, 2004, Recommended Opinion and Order.

Q. So you don't recall having any substantive involvement or input in terms of the utilities division's view of this proposed recommended order and opinion; correct?

A. As I understand this case from looking at the docket, this would have been treated like a routine CC&N application, application for an extension.

And as a consequence, there would be no need for me to be consulted regarding a routine matter.⁶

- Regarding Decision 66893.

Q. Next we'll go to the first decision in the case, which is 66893 on April 6, 2004. Which I've passed around to everybody.

Do you have any personal recollection of reviewing the decision which shows you as a recipient on Page 8 when it was issued?

A. No.⁷

- Regarding AWC's March 30, 2005, Request for Additional Time to Comply with the Conditions of Decision 66893.

Q. Let's move forward to approximately a year later, and review the March 30th, 2005, request for additional time to comply with filing requirement.

When the company docketed this request, you were shown as a recipient on Page 2.

Do you remember having reviewed this or taken any action on it?

⁵ *Id.* at page 40, lines 3-16.

⁶ *Id.* at page 43, line 22, to page 44, line 5.

⁷ *Id.* at page 44, lines 10-16.

A. No, I do not.⁸

• Regarding the "Null and Void" Language of Decision 66893.

Q. And then the language that later became an issue in this case, it's further ordered, and paraphrasing, if the company fails to meet the above conditions within the time specified, this decision is deemed null and void without further order of the Commission.

Do you see that?

A. I do.

Q. So I'm asking, just from a policy perspective, which you indicated might be one area where you would be called upon to comment or advise, do you recall any discussions within the utilities division about the propriety of these time frames or the null and void convention that was in use back then?

A. I think, as I recall, this would have been in place before I got to the Commission. And I don't recall making specific inquiry regarding this language at this time. At that time.

Q. And you don't recall this specific case or request as triggering any such involvement by you in that regard.

A. No, I don't.⁹

* * *

Q. Trying to go back to what you recall as the utilities division director at that time, do you remember having any input from your perspective as utilities division director as to what the new language should say or what some of the problems were with the old language, or what the policy should be of the Commission?

A. It would have been the type issue, that would have been the type issue that would have been discussed, and it would have been the type issue that would have come to my attention.

I don't remember specific input however.

Q. And your discussion of the policy issue went to a new policy that would apply across the board in these CCN extension cases, as in addition to this specific case that brought it to a head?

A. Yes, whatever the -- once the language that you've been referencing was identified as being problematic, then whatever the new language would be, would be intended to have general application going forward.

Q. Did you have a personal role in crafting or proposing what the new type of language would be?

⁸ *Id.* at page 44, lines 17-24.

⁹ *Id.* at page 46, line 13, to page 47, line 7.

- A. Probably not.
- Q. Who would have done that, if you recall?
- A. Probably the division.
- Q. Probably the legal division?
- A. That would be my guess, yes, sir.¹⁰

- Regarding the May 10, 2005, Recommended Opinion and Order.

Q. This is the second ROO in the docket, dated May 10, 2005, from ALJ Amanda Pope, that, if I may paraphrase, basically states that a ROO is appropriate contrary to the suggestion in the staff's memorandum about changed circumstances and a need for further hearings.

I'm not asking you to accept my characterization, but that's what happened in the docket.

But my question to you is: Do you recall this event and the receipt and review of this ROO, which again you're shown as receiving on Page 5, as triggering any discussions within the division or between you and Mr. Olea or anyone else about, hey, hearing division seems to be going right to a proposed decision on this rather than holding further hearings?

- A. I don't recall this ROO generating conversation.¹¹

- Regarding the July 2006 Hearing in This Docket Before Judge Jibilian.

Q. Did you recall having any role in the hearing that took place before judge -- I'll use Judge Wolfe, because that was her name then, the prior July of 2006.

A. I don't recall participating in any proceeding before Judge Wolfe involving Arizona Water.

Q. Do you recall having any dialogue with Mr. Olea who may have presented testimony at the hearing?

- A. I don't recall.¹²

- Regarding Staff's Post-Hearing Briefing.

Q. ... So now we're going to go to the briefing, post hearing.

And I'm showing you staff's opening brief dated September 15th, 2006.

And there's -- it's a rather unique filing, I think counsel at the time would have agreed, because there's one Roman numeral saying reasons for granting the time extension and the next Roman numeral is reasons against granting the time extension.

¹⁰ *Id.* at page 49, line 8, to page 50, line 8.

¹¹ *Id.* at page 54, line 24, to page 55, line 13.

¹² *Id.* at page 66, line 25, to page 67, line 7.

Do you see that?

A. I see reason on Page 2, Roman numeral two, Line 1, reasons for granting time extension, at Line 15, Page 2, Roman numeral three, reasons against granting time extension.

Q. My question is, did you have any dialogue or input or consultation with the legal division and Ms. Alward, Ms. Alward or Mr. Ronald, who signed this, before these positions were taken in staff's opening brief?

A. I don't recall.

Q. Do you recall reading this and having any reaction to it?

A. No, I don't.¹³

* * *

Q. Further briefing occurred, and I'll put before you now staff's response brief, dated October 6th, 2006.

And here staff is in the position of responding to issues that have been raised by the litigants, the other litigants.

And this again speaks for itself, but there's an analysis of the US West Communications case, and the Phelps Dodge versus EPCO case, and other cases that bear upon the general topic of CCNs and their makeup and enforceability.

I'll just use generically.

But my question to you is, as with the prior brief, do you recall Mr. Johnson having any personal involvement or interaction with hearing division regarding the issues raised in this response brief?

A. No.

Q. Do you recall having any dialogue with Mr. Olea or any utilities division staff regarding these issues at that time?

A. No.

Q. And after staff filed this October 6th, 2006, response brief, do you recall reading it and having any reaction to it?

A. No.¹⁴

- Regarding the June 12, 2007, Recommended Opinion and Order.

Q. A ROO then issued several months later by Judge Wolfe. And I've put before you that ROO, dated June 12, 2007.

Showing a copy on Page 20 going to you, and making particular findings and conclusions regarding the issues in the case.

¹³ *Id.* at page 65, line 18, to page 66, line 14.

¹⁴ *Id.* at page 67, line 8, to page 68, line 6.

When you've had a chance to review as part of reaching your conclusions here the docket generally, I know, but do you recall having reviewed the ROO when it came in and made these proposed findings and conclusions?

A. I have no recollection of the ROO at that time.

I have reviewed this document, but at that time I don't have any recollection.¹⁵

* * *

Q. I'm just asking kind of a catchall question. Other than what you've told us, which the record will speak as to what it is, but are you aware of any input or discussions you've had with anyone concerning the contested nature of this proceeding when the ROO came out and before the open meeting?

A. No, sir.¹⁶

- Regarding Decision 69722.

Q. So I'm showing you decision No. 69722, July 30th, 2007. Which is the Commission's decision at this stage of this matter.

And I know you've reviewed it as part of your testimony here.

Do you recall this decision coming out in July of 2007?

A. Before reviewing the document, I did not -- before reviewing the docket, I did not recall.¹⁷

- Regarding Staff's February 15, 2008, Prehearing Brief and Response to AWC's Motion to Strike.

Q. And the next document I'm going to show you is a February 15th, 2008, staff brief entitled staff's prehearing brief and response to Arizona Water Company's motion to strike.

So, to put things in context, you're still, as of February of 2008, director of the utilities division; correct?

A. Yes, sir.

Q. And at this point I'll tell you that due to Mr. Poulos' health issues and other considerations, the parties agreed, I'm sure you saw this in the docket review, to submit this phase of the proceedings 100 percent on pre-filed testimony.

Are you aware of that?

A. Yes, sir.

Q. Just to put this instrument in context here, we reached agreement that the parties would submit a prehearing brief, and then Arizona Water

¹⁵ *Id.* at page 68, lines 7-19.

¹⁶ *Id.* at page 73, lines 12-18.

¹⁷ *Id.* at page 74, lines 3-11.

Company had filed a motion to strike certain aspects of Cornman's pre-filed testimony. Direct and rebuttal.

So let me ask the question I've been asking all along.

Do you recall having any involvement in your role as director of the utilities division in assessing the issues that were raised by Arizona Water Company's motion to strike?

A. No.

Q. And do you recall having any role with the input and substance of the staff's prehearing brief that's before you, February 15th, 2008?

A. No, sir.¹⁸

- Regarding Mr. Johnson's Role at Open Meetings.

Q. ... But when it comes to policy decisions, wouldn't you agree that month after month you spoke with authority as the voice of the utilities division in open meetings addressing commissioners' questions on all manner of issues that came up to be voted upon?

A. I'm not sure I understand the question, so let me again try and be responsive. Let me try to say this.

Q. Okay.

A. I don't have any specific recollection of offering any comment or opinion at an open meeting regarding this matter.

Okay?

Now, in terms of my general duties and responsibilities, I would, at an open meeting, I would be present and available to the commissioners to address questions that were nonlegal, or if they had policy questions regarding the division or the division position. And if they addressed it directly to me, then if I knew the answer, I would try to respond. If I didn't know the answer, I would call upon the technical staff or who would possess the answer hopefully.¹⁹

- Regarding Mr. Johnson's Delegation of Responsibility.

Q. Let's say somebody else was talking with legal division about directions on behalf of staff. How would they have gotten direction from you as director?

A. If someone had a question, then they could stop by my office.

I had late hours. They could -- or they could use a progress and recommendation meeting as an opportunity to raise questions or opinions.

Now, if I can fully respond to the question, if the responsibility had already been delegated, in this case as I recall it in terms of how this case was managed,

¹⁸ *Id.* at page 81, line 20, to page 82, line 25.

¹⁹ *Id.* at page 96, lines 5-25.

this was a matter that came in as a routine CC&N. It was handed off to the analyst. I think we've identified him as Mr. Fischer.

Mr. Fischer was supervised by Mr. Olea.

Okay?

That the normal dialogue that would take place would take place between Mr. Fischer and Mr. Olea.

If Mr. Fischer is no longer involved, I think that Mr. Olea would have been directing what was happening in that particular proceeding. And he had opportunities to consult with me.

I don't recall that he did.²⁰

- Regarding the November 29, 2010, Recommended Opinion and Order.

Q. Okay. Let's move on to the stage post your becoming executive director. And I'll hand you the ROO that emerged from the briefing that we were just looking at.

So we're towards the tail end of 2010 now. And Judge Nodes has issued what is styled an order on remand from decision 69722.

Now, here, the cover sheet shows that as executive director you are issuing the ROO to the parties and directing when exceptions are to be filed and when it is to be tentatively scheduled for the open meeting; isn't that right?

A. No.

Q. All right.

What -- is that not your signature on the cover sheet of the ROO?

A. It is my signature.

Q. What is your view of what you're doing in signing this as executive director?

A. The function of the executive director when it came to a document such as this was purely ministerial.

I did not establish any of the dates. I think that's part of your inquiry.

I did not establish any of the dates, whether it be for exceptions, whether it be for the open meeting. I didn't do any of that.

I think that was all part of the process between the administrative law judge and the docket function.

And when these things would come to me, part of the duties of executive director was to set my signature to these things and issue them on behalf of the agency as purely an ministerial function. And that's what's represented here.

²⁰ *Id.* at page 97, line 17, to page 98, line 14.

Q. As you issued the ROOs, did you have, you or your staff you supervised, have any role in reviewing the ROO for form or substance?

A. As executive director, no.²¹

- Regarding the December 2010 Open Meeting.

Q. Did you attend open meetings as executive director?

A. Yes, sir.

Q. Did you attend the open meeting where the November 29th, 2010, ROO was discussed?

A. Which meeting would that be?

Q. Well, there was a meeting as scheduled on the face here in mid December of 2010.

Do you recall -- that was Chris Mays' last meeting.

Do you recall attending that meeting?

A. If you're talking about did I attend the typical open meeting in the courtroom, as executive director, no, unless there was a problem.

If the commissioners had a particular issue or something, then I might come down. But on a regular basis, no, I would not attend those.

Q. All right.

I'll tell you that the -- Mr. Crockett and I will recall that the meeting, the open meeting where this ROO, November 29, 2010, ROO was initially considered was in what is now the old hearing room and was continued to a later meeting.

Do you have any recollection of either being present or listening in on the listen line or watching video as the meeting unfolded?

A. I don't have any recollection of that.

Q. Do you have any recollection of the questions Mr. Crockett and I faced at that open meeting?

A. No, I do not.

Q. Do you recall as you sit here that the open meeting item was continued until February 1st, 2011?

A. I think a file reflects that, but, no, I do not have any independent recollection.²²

- Regarding Mr. Olea's Role.

Q. What was Mr. Olea's role within the division at this point in time, 2005?

²¹ *Id.* at page 98, line 15, to page 99, line 25.

²² *Id.* at page 102, line 21, to page 104, line 4.

A. He was an assistant director.

Q. And did he have a particular role on certain types of cases? How did you use him as an assistant director?

A. Because Mr. Olea had extensive background on the water side, I had extensive background on the energy side. And when I first came to the Commission, that was my background, on the energy side.

It was after coming to the Commission when I primarily got involved in water issues.

When I say the Commission, I mean the Arizona Corporation Commission.

And because Mr. Olea had been with the Commission who knows how long before I even got there, had been focusing on water issues, when a routine matter such as this would come forward, he would generally be allowed to handle those matters.²³

- Regarding Mr. Johnson's Interactions with Commissioners as Utilities Division Director.

Q. What would be the sort of nature of things that a commissioner would call upon you to visit with them on?

A. Generally, kind of what's going on in the division.

What's happening in uncontested matters.

Maybe about rule makings or some other non-adjudicative function.

Q. And was there any such discussion on adjudicative matters?

A. Not that I recall.

Q. And why was that?

A. Because that would happen with the hearing division.²⁴

- Regarding Mr. Johnson's Interactions with Commissioners as Executive Director.

Q. As executive director, what -- we talked about relationships with the divisions that reported to you. What about your relationship with the commissioners themselves or their policy advisers and offices?

A. I respected the direction I had received regarding the role of the executive director, and that's the way I tried to conduct myself.

Q. And what was that direction that you had received?

A. I wasn't really involved in substantive matters, be they utility, be they securities, or any sort of regulatory functionality. That was not my function.

Q. So, during your years of service as executive director of the Arizona Corporation Commission, you didn't consult with commissioners

²³ *Id.* at page 51, line 23, to page 52, line 15.

²⁴ *Id.* at page 35, line 22, to page 36, line 9.

concerning policy matters that the Commission was facing, say in the utilities field.

A. I wouldn't have a reason to.

Q. And you didn't -- when there was a motion for rehearing filed, did you have any role in terms of consultation with the commissioners concerning the position the Commission might take on a rehearing request?

A. No.²⁵

- Regarding Mr. Johnson's Interactions with the Hearing Division.

Q. During your years as utility division director on contested matters that were over at the hearing division, would you have discussions with the hearing division about the pending matters?

A. No.

Q. Your interaction with them was solely through submitted testimony and as a participant in the proceeding.

A. I respected then and I do now the role and responsibility they had, and to retain -- remain their independence.

So I don't recall having conversations with the hearing division regarding pending matters.²⁶

* * *

Q. And say as to hearing division, what would your typical interaction be with the hearing division once you became executive director?

A. Budget, space, if they needed to recruit for personnel, those sort of issues.

I would not have any case-related involvement as executive director.²⁷

- Regarding Mr. Johnson's Interactions with the Utilities Division.

Q. And what about the utilities division, since that was kind of the path by which you climbed the ladder to executive directorship, what was your day-to-day contact with -- it turned out to be Mr. Olea?

A. Yeah. Same. If they had personnel issues, budget, space. I removed myself from any sort of involvement on those substantive issues. And part of that was because when I assumed the position of executive director, it was made clear to me that it was the desire of the Commission at that time that my role be administerial, be administrative, and that it not be substantive.

So I didn't have any involvement in substantive matters that I can recall.²⁸

²⁵ *Id.* at page 104, lines 5-25.

²⁶ *Id.* at page 36, lines 10-21.

²⁷ *Id.* at page 101, lines 19-25.

²⁸ *Id.* at page 102, lines 8-20.