

08:56 1 was adduced yesterday, what does that tell you about  
2 stranded investment outside of Lindsay Pure Water's  
3 CCN?

08:56 4 A To the extent the testimony given was  
5 correct, those investment costs have been recovered  
6 through the sale of the lots and there is no stranded  
7 investment.

8 JUDGE NORMAN: Let me ask you:  
9 Yesterday you also said that -- I think that because  
08:56 10 of Pure Water's investment in that infrastructure,  
11 those six-inch lines, that, you know, any sort of --  
12 if the CCN were granted that that has -- that some  
13 sort of recognition has to occur on that and -- you  
14 recall your testimony better than I do.

08:56 15 WITNESS STOWE: Yes, Your Honor, I do  
16 recall that testimony, which was prior to Mr. Myrick's  
17 testimony.

18 JUDGE NORMAN: Okay.

19 WITNESS STOWE: At this juncture, based  
08:57 20 on Mr. Myrick's testimony, I believe the record will  
21 reflect that Myrick Development Company is recovering  
22 that infrastructure cost through the sale of the lots.

23 JUDGE NORMAN: Okay.

24 WITNESS STOWE: Therefore, it's not  
08:57 25 necessary to compensate Lindsay Pure Water for that

00:57 1 investment since their affiliate has recovered that  
2 investment.

3 JUDGE NORMAN: Let me just ask you  
4 though: What's going to determine the price of the  
08:57 5 sale of the lots is fair market value, isn't it?

6 WITNESS STOWE: The fair market value  
7 does determine the sale of the lots. But in  
8 developing the profit of the line is how do you roll  
9 in your costs? And obviously as a development company  
08:57 10 and having been in the development business, I'm going  
11 to put all the costs that I possibly can into my lot,  
12 so that it can reduce the amount of profit that I'm  
13 going to --

14 MR. CARLTON: I'm going to have to  
08:57 15 object to the answer, because this witness is  
16 qualified as a utility expert and I've not heard his  
17 qualification with respect to how development  
18 companies manage their profits, keep their records,  
19 those kinds of things. So I think he's speculating to  
08:58 20 some degree as to how a development company -- in any  
21 event, he has not got specific knowledge of what  
22 Mr. Myrick testified yesterday how Myrick Development  
23 Company --

24 JUDGE NORMAN: Okay. I'll withdraw the  
00:58 25 question.

08:58 1 Q (BY MR. RODRIGUEZ) Mr. Stowe, do you have  
2 any experience with respect to valuing or determining  
3 development of lots in subdivisions?

08:58 4 A Specifically within my prefled direct  
5 testimony I state that I was chief financial officer  
6 for International Investment Advisors. And in my  
7 summary I also restated that in that position I was  
8 responsible for the development of projects,  
9 development of rehabilitation of commercial projects,  
08:59 10 investment in land, the sale of land, the tax  
11 responsibilities, the complete accounting function and  
12 financial reporting.

08:59 13 Q At this point, Mr. Stowe, I'd like you, if  
14 you wouldn't mind, please complete your answer that  
15 the Judge had asked you.

08:59 16 A It's just that the market price -- you're  
17 correct, Your Honor, that the market price will  
18 determine the sale of the lots. But what determines  
19 the profitability of the lot sale is dependent on the  
08:59 20 cost that is put in by the developer.

21 JUDGE NORMAN: I see. So you load up  
22 costs in order to lessen your tax burden?

23 WITNESS STOWE: That's correct.

08:59 24 JUDGE NORMAN: Okay. I'm -- I certainly  
25 understand your point about -- that you're making

00:00 1 about Pure Water's ability to provide service because  
2 of their financial condition. I'm having a little  
3 more trouble -- the reality of what's going on is  
4 you're saying that both they recover their cost --  
09:00 5 they recover their cost both through the sale of the  
6 lots and through their rates; however, their rates are  
7 inadequate because they're losing money each year.

8 It's hard for me to see how some  
9 credence should be given to -- in the reality of  
09:00 10 Mr. Myrick's testimony, I'm not sure there were bright  
11 lines between all this.

12 WITNESS STOWE: A little  
13 clarification --

14 JUDGE NORMAN: All right.

09:00 15 WITNESS STOWE: -- the reason they're  
16 losing money is they're using accelerated depreciation  
17 on the infrastructure cost, which has already been  
18 recaptured in the sale of the lot.

19 JUDGE NORMAN: Oh, I see.

09:01 20 WITNESS STOWE: So that's why they're  
21 losing money.

22 JUDGE NORMAN: All right. Okay.

23 MR. CARLTON: And I'm going to object.

24 I don't think that -- I think that misstates the  
00:01 25 testimony of Mr. Myrick. I mean, I think you'll

00:01 1 recall --

2 JUDGE NORMAN: -- what he said or what I  
3 said?

09:01 4 MR. CARLTON: No, what Mr. Stowe  
5 indicated. I think what Mr. Myrick has testified is  
6 that they've not pulled any cash out of the utility at  
7 all. So, you know, depending on how we're talking  
8 about losing money, there's losing from an accounting  
9 perspective, which is what accountants are paid to do  
10 is to put the numbers down, and then there's whether  
11 or not you've actually got any money coming out of the  
12 system.

13 JUDGE NORMAN: Well, the accelerated  
14 depreciation is what he's talking about. That's --

09:01 15 MR. CARLTON: It's not necessarily a  
16 cash issue.

17 JUDGE NORMAN: And my concern honestly  
18 is -- just to tell you what's in my mind -- is the --  
19 you know, it's one thing that -- I think that Pure  
09:02 20 Water is a bit -- you know, in terms of whether or not  
21 the CCN is granted to all the area south of Highway 82  
22 minus South Ridge, I think Pure Water's -- in terms of  
23 the effect on Pure Water -- Pure Water's ability to in  
24 itself provide that service is probably an important  
25 issue, if that makes sense. So if there's only one

09:02 1 utility that is the City of Lindsay that has the  
2 ability to provide that service south of 82 as opposed  
3 to the protestant, then that's a significant factor on  
4 the one hand. That's where my thought is going.

09:02 5 On the other hand, in carving out South  
6 Ridge in order to let Mr. Myrick have a chance to  
7 recover his investment along the lines that you were  
8 talking about yesterday before Mr. Myrick's testimony,  
9 it seems like something that -- the line of my  
10 thinking is that would have effect on Pure Water of  
11 not letting him do that.

09:03 12 And so, I mean, you-all -- that's  
13 where -- that's what I was thinking coming in this  
14 morning. So -- and I don't know where you are on  
15 that.

09:03 16 MR. RODRIGUEZ: Well, that's the reason  
17 for the testimony.

09:04 18 JUDGE NORMAN: Right. I understand.  
19 You're trying to establish he should be limited to his  
20 present CCN is what you're trying to do. Isn't that  
21 right?

22 MR. RODRIGUEZ: That's correct.

23 JUDGE NORMAN: All right. Well, those  
24 are my thoughts.

09:04 25 Q (BY MR. RODRIGUEZ) Mr. Stowe, do you recall

00:04 1 any testimony yesterday from Mr. Myrick regarding  
2 Myrick Development Company's obligation to loan money  
3 to Lindsay Pure Water?

4 A Yes.

09:04 5 Q Did any of that testimony cause you any  
6 concern?

7 A Yes, sir.

8 Q Please explain that.

9 A His testimony was that they're under no  
09:04 10 obligation to provide continuing funding to Lindsay  
11 Pure Water.

12 Q Mr. Stowe, is the -- I believe the Judge  
13 yesterday asked about the granting of Lindsay Pure  
14 Water -- I'm sorry, the City of Lindsay's CCN and an  
09:05 15 analysis -- three-way analysis. One way was by  
16 granting it all, by granting -- by granting it all  
17 except for a quarter-mile around Lindsay Pure  
18 Water's --

19 JUDGE NORMAN: Well, based on the  
09:05 20 testimony yesterday, I think that that quarter mile is  
21 really not an issue anymore because all of South Ridge  
22 is within a quarter mile. So really I think what I'm  
23 talking about is just all of South Ridge.

24 MR. RODRIGUEZ: Thank you.

00:05 25 Q (BY MR. RODRIGUEZ) Then just basically two is

00:05 1 the granting it all or not granting it to the town of  
2 Lindsay with the exception of the South Ridge  
3 development. Is that right?

09:05 4 JUDGE NORMAN: And then -- or the last  
5 is what Mr. Myrick has urged, and that is --

6 MR. RODRIGUEZ: That's what I'm saying,  
7 granting none of it, granting it all --

09:06 8 JUDGE NORMAN: Granting none south of  
9 82, correct, or granting all south of 82 except for  
10 South Ridge, or granting just -- or just granting it  
11 all period, which excludes Mr. Myrick's CCN.

09:06 12 Q (BY MR. RODRIGUEZ) Can you describe for us,  
13 Mr. Stowe -- let me ask this: Do you have an opinion,  
14 Mr. Stowe, on the effect of granting the town of  
15 Lindsay's CCN application on the town itself? What  
16 effect -- do you have an opinion as to what effect  
17 that might have on the town?

18 A Yes, sir.

19 Q Can you please explain that?

09:06 20 A To grant it -- the complete request, the  
21 impact would be one of economies of scale that would  
22 be present. Perhaps even more importantly, however,  
23 is that the city is, at the time, exploring the  
24 potential of augmenting or converting from groundwater  
25 to surface water.



09:07 1 MR. CARLTON: Objection, I don't believe  
2 there's testimony to that effect.

3 JUDGE NORMAN: No, he's explaining the  
4 effect on the City of Lindsay, and I'll permit it.

09:07 5 MR. CARLTON: I thought what he  
6 testified to was that the town was considering  
7 conversion from groundwater to surface water, and I  
8 don't know that that testimony is anywhere in the  
9 record.

09:07 10 JUDGE NORMAN: No, it may not be, but  
11 I'm interested in -- I'm going to decide between one  
12 of three choices, and I want to find out the effect --  
13 the effect of these in terms of the regulatory  
14 standards. They are the effect on Pure Water, the  
09:08 15 ability of the Applicant to provide adequate service,  
16 probable improvement of service or lowering of costs  
17 to consumers. I think that's what you're addressing,  
18 wasn't it?

19 WITNESS STOWE: Yes. Ultimately that is  
09:08 20 correct.

21 JUDGE NORMAN: All right. And the  
22 adequacy of service currently -- well, currently  
23 provided. So go ahead.

24 A Obviously there is a threshold of demand in  
09:08 25 service requirements that will be necessary before the

00:08 1 city could make the investment necessary to switch  
2 over to surface water supplies and to diminish their  
3 reliance upon groundwater. This would have an impact  
4 upon Lindsay also if they were to lose part of the  
09:09 5 system that they're applying for.

6 Based on the testimony yesterday of  
7 staff witness Benter, there also would be evidently an  
8 environmental impact. One of the issues she rose in  
9 her testimony was the environmental impact of having  
09:09 10 to punch more holes in the ground as to develop more  
11 well sites. Obviously if it were granted in areas  
12 sufficient to justify the conversion to surface water,  
13 then the need to punch more holes will be done away  
14 with.

09:09 15 Q (BY MR. RODRIGUEZ) Now is that -- and I'm  
16 going to try to get to those three choices with the  
17 Judge on that. Does that opinion hold or not hold  
18 with respect to exclusion of the South Ridge of the  
19 Lindsay development -- granting it all with the  
09:10 20 exception of the South Ridge of Lindsay?

21 A The effect will be impacted because there's  
22 less area and less demand.

23 Q Now, how about not granting the CCN south of  
24 82 to the town of Lindsay? What impact would that  
09:10 25 have?

09:10

1 A That would have a significant impact --

2 Q And that --

3 A -- you're talking larger area -- you know,  
4 came conditions, lessening of demand.

09:10

5 Q Now, based on your analysis that you detailed  
6 this morning, can you please provide us the -- your  
7 opinion as to the impact specifically on Lindsay Pure  
8 Water by granting the city's requested CCN?

09:11

9 A Based on the testimony of Mr. Myrick  
10 yesterday, I'm now of the opinion that the investment  
11 costs will not be stranded. It has been recovered  
12 through the lots that have been sold.

13 JUDGE NORMAN: It has been recovered or  
14 is being recovered through the sale of these lots?

09:11

15 WITNESS STOWE: Through the sale of the  
16 lots. The ones that have actually been sold and for  
17 those lots that are inside -- or outside his CCN,  
18 those lots have been sold and are currently being  
19 served. And that investment associated with those  
20 lots has been recovered, according to his testimony.

09:11

21 To the extent beyond that what the  
22 impact may or may not be, based on the operations of  
23 the company right now, I don't see that there would be  
24 any further impact as long as there continues the  
25 opportunity to sell those lots.

09:12

00:12 1 JUDGE NORMAN: There would not be an  
2 impact on Pure Water?

3 WITNESS STOWE: I do not see that it  
4 would be.

09:12 5 JUDGE NORMAN: Because he's covering his  
6 investment cost through the sale of lots?

7 WITNESS STOWE: That's correct.

8 JUDGE NORMAN: However, he would no  
9 longer be able to sell water to his outside CCN  
10 customers?

11 WITNESS STOWE: That's correct.

12 JUDGE NORMAN: Would or would that not  
13 be an impact?

14 WITNESS STOWE: Well, if he were denied  
09:12 15 the ability to recover the investment cost twice  
16 through the rates, then I don't see that it would have  
17 any impact upon him.

18 JUDGE NORMAN: Okay.

19 Q (BY MR. RODRIGUEZ) Mr. Stowe, were you here  
09:13 20 yesterday when Mr. Myrick indicated that he could --  
21 he could provide service three times cheaper than the  
22 City of Lindsay?

23 A Yes, sir. And first he started off at two  
24 times, but then he decided it would be three times  
25 cheaper.

00:13 1 Q Do you have an opinion as to whether that's  
2 an accurate statement?

3 A Yes, I do.

4 Q Could you please explain that to us?

09:13

5 A If we look at the investment cost that Myrick  
6 has -- Myrick -- excuse me, Pure Water has on his  
7 books today restated to normalized depreciation  
8 instead of accelerated depreciation, but still using  
9 the shortened lives of 20 years, I believe that the  
10 total investment is roughly \$95,000 --

09:13

11 Q I believe I have your notes.

12 A Thank you. Yes, \$95,711. If we divide that  
13 by the number of active connections that he has in  
14 place today, that constitutes an investment \$3,828 per  
15 connection. If we do it at build-out of the 64  
16 connections, that constitutes an investment cost of  
17 \$1,495 per connection.

18 To contrast, if we go to the city's  
19 audited financial statements, as of September 30th,  
20 2007 their audited financial statements demonstrate a  
21 net investment for water and sewer -- not just water  
22 but water and sewer -- of \$515,795. The company  
23 has -- the city has 399 active connections, so the net  
24 investment per connection for water and sewer as we  
25 sit here today is \$1293 per connection for water and

09:14

09:14

09:15

09:15 1 sewer versus Pure Water's investment of \$3,328.

2 JUDGE NORMAN: Per connection for  
3 water --

09:15 4 WITNESS STOWE: Per connection for water  
5 only. If we look at the capacity testimony of  
6 Mr. Maroney, at the 700 connections the net investment  
7 per connection then is \$737 per connection for water  
8 and sewer versus the build-out investment per  
9 connection of Pure Water of \$1495 per connection for  
10 water only.

11 Q Mr. Stowe, are you familiar with the possible  
12 funding sources that a municipally-owned utility has  
13 available to it?

14 A Yes.

09:16 15 Q Can you please explain those to us?

16 A A municipality has available to them revenue  
17 bond funding which is bonds, traditionally 20 years,  
18 sometimes 25 years, that are backed by the revenues of  
19 the utility system. They also have general obligation  
09:16 20 bonds available to them, which are backed by the  
21 taxing authority and tax revenue of the city. They  
22 also have certificate of obligation bonds available to  
23 them, which is a combination, sometimes called a  
24 double barrel, which has a first call on the revenues  
09:16 25 of the utility and a second call on the tax -- and

00:16 1 supported by the taxing authority of the municipality.

2 Then you also have grants available.

09:17 3 You also have short-term loan instruments such as  
4 warrants or commercial paper available. And then, of  
5 course, you have pay-as-you-go, which is funding  
6 through cash flow. And you also can have funding  
7 through the general fund cash flow, which would be the  
8 taxing ability of the municipality.

9 Those are all available. It's not that  
09:17 10 I would recommend the use of all of those, but those  
11 are available.

12 MR. RODRIGUEZ: I appreciate your  
13 testimony, Mr. Stowe. We pass the witness.

14 JUDGE NORMAN: Okay. Mr. Siano, any  
09:17 15 questions?

16 MR. SIANO: No questions.

17 JUDGE NORMAN: Okay. Go ahead.

18 CROSS-EXAMINATION

19 BY MR. CARLTON:

09:19 20 Q Mr. Stowe, have you reviewed the tax returns  
21 or financial statements for Myrick Development  
22 Company?

23 A No, sir, I have not.

24 Q Okay. So have you ever had clients that  
25 relied upon you for how their accounting should be

09:19 1 taken care of, to let you make the decisions and  
2 recommendations to them about that?

3 A Yes, sir.

09:19 4 Q Those clients don't have a lot of expertise  
5 in accounting and tax matters, do they?

6 A Some more than others.

7 Q But generally they hire you for that  
8 expertise, correct?

9 A At times they have.

09:19 10 Q And if somebody needed to hire somebody --  
11 needed to hire a person for tax and accounting  
12 matters, you would be a good choice for that, wouldn't  
13 you?

14 A I'd be a better --

09:19 15 Q On utility matters.

16 A -- on utility and regulatory matters I'd be a  
17 good choice.

18 Q So is it possible in your mind that  
19 Mr. Myrick, when he stated that he's recovered his  
09:20 20 costs of the utility system through his lot sales,  
21 that he was talking about really his real world cash  
22 flow rather than the accounting mechanisms for how all  
23 that is tracked?

24 A I took his testimony for the fact that it was  
09:20 25 the real world cash flows, and that's the concern.



09:20 1 Q Okay. So that the only way we can really  
2 know from an accounting standpoint whether or not he  
3 has recovered his expenses for the utility system --  
4 or Lindsay Pure Water's utility infrastructure through  
09:20 5 Myrick Development Company, would be to look at those  
6 books and look at those tax returns. Isn't that  
7 right?

8 A You'd have to look at those affiliated  
9 transactions right now to actually quantify. All we  
09:20 10 have is his testimony that they were recovered.

11 Q But it's correct that the only real way to  
12 know whether that profit or that expense has been  
13 double recovered, as you asserted, would be to look at  
14 Myrick Development Company's books. Is that correct?

09:21 15 A To ascertain that affiliated transaction,  
16 that would be correct.

17 Q It's not inappropriate for a developer to  
18 recover those development expenses, including utility  
19 infrastructure costs, through the development company,  
09:21 20 is it?

21 A When the development company and the utility  
22 company are affiliated, as they are in this case by  
23 the same owners, for them to recover it through the  
24 sale of a lot is not wrong. For them to recover it  
09:21 25 through rates is not wrong. But to recover it through

00:21 1 both places is extremely wrong.

2 Q I understand. And the only way we can really  
3 determine that is to look at the books and tax returns  
4 for both entities, right?

09:22 5 A Again, I'm -- to quantify it, but based on  
6 the testimony that was given, that is transpiring. To  
7 the magnitude it's transpiring I agree with you, it  
8 has not been quantified.

9 JUDGE NORMAN: When you say that he's  
09:22 10 recovering it because of the depreciation, it's the  
11 depreciation factor that shows that he's recovering it  
12 through rates. Is that right?

13 WITNESS STOWE: That's correct, Your  
14 Honor.

09:22 15 Q (BY MR. CARLTON) I think the Judge asked you  
16 about market value.

17 A Yes, sir.

18 Q In terms of selling property, with your  
19 experience in the development industry, is -- lots  
09:23 20 sell in an area based on the market value, not based  
21 on necessarily the expenses that have been incurred to  
22 develop those lots, right?

23 A Ultimately, yes. But I would assume that an  
24 astute developer is going to do the market study and  
00:23 25 do the cost build up and know what his cost in his

09:23 1 lots will be versus what the market is. Otherwise  
2 he'd go under in a heartbeat.

3 Q I appreciate that. But the answer to the  
4 question is yes, right?

09:23 5 A Repeat the question.

6 MR. CARLTON: I'm going to ask the court  
7 reporter to read it.

8 (The question was read back)

9 A My answer to that question would be I think  
09:24 10 no, that it's going to take a combination of both.

11 Q Well, isn't it really true that it's -- that  
12 the expenses that occur in developing the lots really  
13 only affect the profit that the developer makes on  
14 those lots?

09:24 15 A That statement is true, but it also impacts  
16 the marketability of the lots.

17 Q Because when you market lots in an area, you  
18 have to be within the fair market value range of  
19 various lots of that type that are sold within an  
09:24 20 area?

21 A That's correct.

22 Q Did you do a study of the market value of  
23 lots in the area surrounding Lindsay?

24 A No, I have not.

09:25 25 Q Do you know how much the lots that Mr. Myrick

00:25 1 sold in South Ridge sold for?

2 A I've heard it in conversation, but that's  
3 all.

09:25 4 Q As an accountant, do you advise your clients  
5 to put their utility infrastructure costs on the  
6 development company side of their accounting?

7 A I do not practice accounting, so I don't give  
8 any accounting advice at this time.

09:25 9 Q If you were giving -- if someone came to you  
10 and said, "Hey, we want to create a new development  
11 and we're going to build the utility infrastructure,"  
12 would you recommend that that utility infrastructure  
13 be accounted for on the utility side or on the  
14 development company side?

09:25 15 A On the utility side.

16 Q Okay. And that's because there's an ability  
17 to earn a return on that investment and it's favorable  
18 from a tax standpoint just as equally as it would be  
19 from the development standpoint?

09:26 20 A No, sir.

21 Q Okay. But you would recommend that utility  
22 infrastructure not be expensed on the development  
23 company side?

09:26 24 A If I owned both, the utility company and the  
25 development company, I would recommend that the

09:26 1 infrastructure cost not be capitalized into the lots  
2 and that that infrastructure cost be recorded on the  
3 books and records of the utility company.

09:26 4 JUDGE NORMAN: And that would be to  
5 justify a rate. Is that right?

09:27 6 WITNESS STOWE: That is part of the  
7 answer, Judge. The real answer, from my perspective,  
8 though, is that water is a very precious natural  
9 resource in this state right now and getting more so.  
10 And to actually price a service to the end user that  
11 does not encompass the cost of providing that service  
12 is a waste of the natural resource.

13 JUDGE NORMAN: Okay.

09:27 14 Q (BY MR. CARLTON) Along those lines, let me  
15 ask you a question. Would you recommend to a  
16 municipal client that they use ad valorem property  
17 taxes or sales taxes in order to fund utility system  
18 costs?

09:27 19 A That is not my recommendation, but I see  
20 quite a few that do that.

21 Q I noticed in the recent rate structure that  
22 is established for the town of Lindsay -- I think that  
23 was an exhibit to your testimony. Let's look at  
24 TLM-16, please.

09:37 25 A That exhibit number again?

09:37 1 Q It's APP-2, TLM-16.

2 A And, I'm sorry, the schedule reference again.

3 Q TLM-16.

4 A TLM-16. Yes, sir.

09:37 5 Q I'd like to look at the first two categories  
6 for water rates of three-quarter inch meters.

7 A This is in the third page back, schedule --

8 Q It's Exhibit A. It's in the ordinance?

9 JUDGE NORMAN: It's Page 343 -- no, it's  
09:37 10 not. Excuse me.

11 MR. CARLTON: It's part of the  
12 supplemental testimony of Mr. -- it was offered --

13 WITNESS STOWE: I have it. It was  
14 behind the statement.

09:37 15 Q (BY MR. CARLTON) I want you to take a minute  
16 to look at the two classifications of three-quarter  
17 inch meter rates for a second and let me know when  
18 you're done.

19 A I'm done.

09:37 20 Q There's a pretty significant difference  
21 between those two classifications in terms of rates,  
22 isn't there?

23 MR. RODRIGUEZ: I'll object, Your Honor.  
24 The questioning exceeds the scope of my rebuttal  
25 testimony.

09:37 1 JUDGE NORMAN: I'm going to let him  
2 answer that question. Go ahead.

09:37 3 A There is a difference between the two,  
4 approximately -- you're talking about referencing the  
5 three-quarter inch inside and outside?

6 Q (BY MR. CARLTON) Yes.

7 A Yes.

09:37 8 Q So under this schedule, somebody lives  
9 outside the city limits would pay significantly more  
10 for their water bill for \$10,000 -- I mean, 10,000  
11 gallons, excuse me -- than somebody who lives inside  
12 the city, correct?

13 A Approximately 50 percent more.

09:37 14 Q If the city is not using any of its property  
15 tax revenues to fund its utility system, how would  
16 TCEQ treat that rate difference in a rate proceeding?

17 MR. RODRIGUEZ: I'll object, Your Honor.  
18 These rates are not at issue here because these rates  
19 have not been protested by any party.

09:37 20 JUDGE NORMAN: And you talked about, I  
21 think, in the rebuttal that -- as I recall anyway --  
22 that the City of Lindsay's rates, water rates, were  
23 less?

09:37 24 MR. RODRIGUEZ: No, Your Honor, we  
25 talked about the cost per connection.

09:37

1 JUDGE NORMAN: Cost per connection.

2 MR. RODRIGUEZ: The rate structure was  
3 never an issue that Mr. Stowe testified to in the  
4 rebuttal case.

09:37

5 MR. CARLTON: Your Honor, I think the  
6 door has been opened as far as what's the cost and the  
7 impact to these people who are going to live out  
8 there. And then also --

9 JUDGE NORMAN: I agree.

09:37

10 MR. CARLTON: -- in terms of the  
11 accounting and how people are treating their income  
12 and expense.

13 MR. RODRIGUEZ: The testimony was it's  
14 three times more -- that Lindsay Pure Water can  
15 provide service at a third the less cost, and what  
16 Mr. Stowe testified to was that the actual investment  
17 for all those -- the comparative of the two was  
18 different. There was no rate structure that was  
19 testified to.

09:38

20 JUDGE NORMAN: But, you know, this is  
21 going back into -- this is really going back into  
22 direct testimony to address these issues, and I'm  
23 going to permit cross-examination. Go ahead.

24 Q (BY MR. CARLTON) Do you recall the question,  
25 Mr. Stowe?

09:38



00:38 1 A No, not sufficiently. I'm sorry,  
2 Mr. Carlton. I know you wanted me to speculate on  
3 what TCEQ may or may not do.

09:38 4 Q But you're an expert and you have a lot of  
5 experience with TCEQ, haven't you?

6 A Yes, sir.

7 Q And you've dealt with TCEQ on rate appeals  
8 for municipal rates, haven't you?

09:38 9 A At the wholesale level, yes, sir. Maybe one  
10 or two -- maybe one case at the retail level that I'm  
11 thinking of right now.

12 Q It's more experience than most people have,  
13 so -- how many wholesale cases have you dealt with?

14 A Oh, gosh.

09:38 15 Q That's what I thought. Okay. So let's talk  
16 about these rates. How would TCEQ look at rates being  
17 charged to these customers, assuming with me that  
18 there's no property tax general fund transfer  
19 occurring, given that the rates are 50 percent more  
09:38 20 for outside city customers than inside city customers?

21 A The TCEQ would require cost justification for  
22 that type of differential.

23 Q So you can't just go out and charge rates to  
24 people that are higher than what your cost of service  
09:38 25 is, correct?

09:38 1 A Outside the city limits -- inside the city  
2 limits of course you could.

09:38 3 Q Well, sure, inside the city limits. The  
4 reason there's no regulatory authority by TCEQ -- at  
5 least primary jurisdiction -- is because the policy is  
6 people can vote out those council members. Is that  
7 right?

8 A That's correct.

09:38 9 Q And outside the city, those people don't have  
10 that option, do they?

11 A That's correct.

12 Q So their only recourse is to appeal to TCEQ?

13 A That's correct. And there's an avenue to do  
14 that.

09:38 15 Q Right. And TCEQ is going to look at those  
16 rates on a cost basis and make sure that there's not  
17 some arbitrary multiplier being applied to those  
18 rates?

09:38 19 A That's true, beyond a threshold, based on my  
20 experience.

21 Q And absent some sort of taxes that are being  
22 used to fund rates inside the city, there wouldn't  
23 really be a justification for this -- for this  
24 50 percent multiplier on these rates, would there?

09:38 25 A That's not true, especially in a rural area.

09:38 1 Q What would you think would be a reasonable  
2 justification for a 50 percent multiplier on these  
3 rates?

09:38 4 A Several items that could enter into it --  
5 whether or not it justifies 50 percent, I have no  
6 idea. But the time and expense associated with labor  
7 costs to travel beyond the city limits for repairs,  
8 for maintenance, for meter reading, the time -- the  
9 investment costs for the extension beyond the city  
09:38 10 limits, whether or not the lack of density in the  
11 outside city limits opposed to the inside city limits,  
12 all these factors can have a cost impact.

13 Q And so these factors are exacerbated by  
14 distance from the core of the city, right?

09:39 15 A They become exacerbated by the distance from  
16 the core of the city, that's correct.

17 Q So have you ever seen rate classifications  
18 based on distance from the core of the city on any of  
19 your work?

09:39 20 A No.

21 Q I'd like for you to review also the other  
22 schedules of these on here. There's a one-inch meter  
23 rate and a one-inch meter rate for outside the city.  
24 Do you see those two? It's actually 1 and 1B.

09:39 25 A Yes, sir.

09:39 1 Q Is that same multiplier essentially being  
2 used -- or same increase in rates occurring for those  
3 outside city customers as well?

09:39 4 A Yes, sir. It's the same 50 percent it  
5 appears to be. And also I'd point out it's the same  
6 inclining block structure, which is a conservation  
7 mechanism.

09:39 8 Q You mentioned that Lindsay Pure Water is  
9 currently insolvent. They don't have enough assets to  
10 pay off their debt, right?

09:39 11 A If the note was called today, either by  
12 Myrick Development or -- in the event Myrick  
13 Development were to go under -- by its receiver, they  
14 will not be able to pay with enough cash in the  
15 company today.

16 Q You're not suggesting that Myrick Development  
17 is about to go under, are you?

18 A I have no idea where they stand.

09:39 19 Q What would the effect be on the success of  
20 the South Ridge development if Myrick Development  
21 Company didn't continue to fund -- or fund the  
22 shortfalls in Lindsay Pure Water or called the debt on  
23 Lindsay Pure Water?

09:39 24 A Obviously, unless there was a purchaser for  
25 the development, the development would come to a halt

09:39 1 and a receiver would be appointed by the TCEQ.

2 Q And do you think that Myrick Development  
3 Company would therefore have any incentive to call  
4 that note at this time if they didn't want the  
09:39 5 development to come to a halt?

6 A It depends. If the market for the lots have  
7 dropped to the point that the total profit in the lot  
8 sales is envisioned to be less than the \$135,000 -- or  
9 \$131,000 that the utility company owes them, they  
09:39 10 might say utility company pay them \$131,000.

11 Q And the likelihood of them obtaining those  
12 funds if they did that is what?

13 A I don't know.

14 Q Does the utility company have the assets to  
09:40 15 pay for it?

16 A They don't have the assets.

17 Q So they're not going to recover their money  
18 if they call that note, are they?

19 A They could put the company in a situation  
09:40 20 where they would have to sell or go into receivership.

21 Q Now, a lot of this cash shortfall would be  
22 alleviated if there were more customers on the Lindsay  
23 Pure Water system. Is that correct?

24 A Well, again the cash shortfall we're speaking  
09:40 25 of over this ten-year period appears to be in the

09:40 1 neighborhood of about \$6,000. So, yes, I mean that --  
2 if they had more customers, then they probably would  
3 not experience any cash shortfall.

09:40 4 Q And they'd be able to make payments on the  
5 debt that they owed, right?

6 A I don't know that to be the case under the  
7 existing rates, no.

8 Q But it's possible?

9 A I don't believe so.

09:41 10 Q And you've done an analysis of what the  
11 additional cash flow for the full build-out of 60 lots  
12 would be?

13 A No, sir.

09:41 14 Q And speaking of that, you did mention that  
15 you had done an analysis on the net investment and  
16 full build-out. What do you mean by full build-out?

17 A The 64 lots.

09:41 18 Q The 64 lots? Is it your understanding that  
19 the infrastructure that's constructed is only  
20 sufficient to serve 64 lots?

21 A It's two things -- no, it's my understanding,  
22 based on Mr. Maroney's testimony that the lending  
23 factor on the infrastructure right now is about a  
24 hundred connections, which would be the pressure tank.

09:42 25 Q And you recall the testimony that pressure

09:42 1 tanks cost 25 to 50,000 for a 1- to 2,000-gallon  
2 pressure tank?

3 A I do recall that testimony.

09:42 4 Q So if we were to actually spread the cost of  
5 the oversized Lindsay facilities over those hundred  
6 units, your net investment would drop?

7 A It would drop to approximately \$957 for water  
8 only. And it would be compared to the city's  
9 700-or-so-dollars for water and sewer.

09:42 10 Q I thought your 900 was at full build out, 65  
11 units?

12 A The 95,000 -- no, sir. Currently there's  
13 \$95,711 net investment assuming straight line  
14 depreciation. At 64 build out, 64 lots, the total was  
09:43 15 \$1,495 connection, again the limiting factor being  
16 the -- we take into fact the limiting -- going beyond  
17 the development and the limiting factor of the  
18 pressure tank at a hundred connections, then the cost  
19 per connection or investment cost would be \$957 per  
09:43 20 connection, comparing that to the \$737 of the city for  
21 water and sewer.

22 Q Okay. How old is the city system?

23 A I'm not sure. I don't know.

24 Q More than 10 years old?

09:43 25 A Probably.

09:43 1 Q So they've had a longer amount of accumulated  
2 depreciation on their assets, correct?

3 A That's correct. Both water and sewage.

09:43 4 Q So the age of the system is important in  
5 making that net investment calculation that you made?

6 A Yes, it would be.

7 Q Okay. And so really this net investment  
8 means that what we've got is Lindsay is a younger  
9 system, possibly built --

09:44 10 JUDGE NORMAN: Lindsay Pure Water?

11 Q (BY MR. CARLTON) Lindsay Pure Water is a  
12 younger system, built when prices were higher for the  
13 assets that have been constructed?

09:44 14 A I don't know that totally to be the case  
15 because I don't know the age of the Lindsay system  
16 completely. So those time frames could have been  
17 comparable.

18 The other thing, though, I would also  
19 point out is that according to Lindsay -- or Pure  
09:44 20 Water's tax return is their system now is 50 percent  
21 depreciated by using 20-year life.

22 Q Sure. And you said there was no problem with  
23 how you treat depreciation from a tax standpoint in  
24 that way, because there's a distinction between tax --  
09:44 25 depreciation on your tax returns versus depreciation



09:45 1 for ratemaking purposes, correct?

2 A I believe my testimony was that the -- that  
3 is correct. But the 20-year life is short.

4 Q Okay. And to the extent Lindsay Pure Water  
09:45 5 could make a small investment in its system in order  
6 to increase capacity of any one of those limiting  
7 pieces of infrastructure, you would add the amount of  
8 that investment to this \$95,000 number you've got and  
9 divide by the new maximum number of connections that  
10 could be attached -- connected, right?

11 A That would be true of both systems, both  
12 systems being the city and Pure Water.

13 Q You also talked a little bit about you no  
14 longer have a concern on the stranded investment based  
09:46 15 on Ms. Benter's testimony. Do you recall that?

16 A No, sir.

17 Q I thought you said that you didn't feel like  
18 there was any stranded investment as Ms. Benter had  
19 described it.

09:46 20 A That's true, based on Mr. Myrick's testimony.

21 Q Okay. Combination of the two. There still  
22 would be assets in the ground with the capacity to  
23 serve that would no longer be used and useful. Isn't  
24 that correct?

09:46 25 A That's true, with the zero cost basis.

00:47

1 Q What would happen to one of the homes -- the  
2 owners of the home that are currently being served by  
3 Lindsay Pure Water if they were forced to obtain  
4 service from the town of Lindsay?

09:47

5 A Realistically, based on my experience in  
6 these situations --

7 Q Assuming that they are -- they have to go get  
8 service from the town of Lindsay, what's the impact to  
9 them?

09:47

10 A Based on my experience?

11 Q I'm asking the question. We'll talk about  
12 what your basis is in a little bit.

09:47

13 A Based on my experience what would happen is  
14 that the City of Lindsay would attempt to enter into a  
15 contractual agreement with Pure Water so Pure Water  
16 would continue to provide the service and charge the  
17 rate -- Lindsay's rate and remit that to the city in  
18 turn for a fee until such time as the system develops  
19 far enough out into that area that you could hook on  
20 those connections.

09:48

21 Q So the town of Lindsay wouldn't be the actual  
22 retail provider in that interim period. It would be  
23 Lindsay Pure Water, correct?

00:48

24 A No. The town of Lindsay would be the retail  
25 provider under a contractual agreement -- wholesale

09:48 1 agreement, basically, if you would, with Pure Water.  
2 That's my experience.

3 JUDGE NORMAN: Is it true that at the  
4 time the CCN -- assume a CCN was granted. A CCN  
09:48 5 amendment is granted to the entire area. At that time  
6 the existing customers outside the Pure Water CCN  
7 could not legally purchase, nor could Pure Water  
8 legally sell, the water to that customer.

9 WITNESS STOWE: Without an agreement of  
09:49 10 the parties.

11 JUDGE NORMAN: Without an agreement of  
12 the parties.

13 WITNESS STOWE: And the other -- based  
14 on my experience, the other situation I've seen is  
09:49 15 where those specific customers are excluded -- those  
16 specific customers are excluded from the CCN and are  
17 retained by the existing utility.

18 JUDGE NORMAN: Say that again, please.

19 WITNESS STOWE: That the existing actual  
09:49 20 connections are excluded from the CCN.

21 JUDGE NORMAN: Yes.

22 WITNESS STOWE: And that the current  
23 serving utility continues to serve those connections  
24 and those connections only. They do not make any new  
09:49 25 connections into -- outside of their CCN.

09:49 1 JUDGE NORMAN: You have seen that -- I'm  
2 not -- you've seen that situation?

3 WITNESS STOWE: Yes, sir. Yes, Your  
4 Honor. In fact, I've just finished negotiating one  
09:49 5 that was approved by the city council last week.

6 JUDGE NORMAN: I see.

7 Q (BY MR. CARLTON) Would you agree with me that  
8 it appears that much of the problem that Lindsay Pure  
9 Water is experiencing from a cash flow standpoint is  
09:50 10 that it doesn't have enough customers? The  
11 subdivision hasn't built out as quickly as it would  
12 have been, and if we were at 65 customers as -- at  
13 full build-out, there would be -- there would be less  
14 of -- well, they'd be breaking even at a minimum and  
09:50 15 perhaps have a little extra cash?

16 A I haven't done the calculation, Mr. Carlton.

17 JUDGE NORMAN: However, in principle --  
18 is what he saying in principle a valid -- even though  
19 you don't know the specific figures?

09:51 20 WITNESS STOWE: Perhaps rather than  
21 speculate I can look at it.

22 JUDGE NORMAN: All right. You want him  
23 to do that?

24 Q (BY MR. CARLTON) Sure. You're looking at  
09:51 25 APP-7?

09:51

1 A Yes, sir. Okay. Going through APP-7, if I  
2 look down the line, we have repairs and maintenance of  
3 \$1,269, and that number is a function of the number of  
4 connections that you'll have. The more connections --

09:51

5 Q The variable costs?

09:52

6 A It's somewhat of a variable cost. So if my  
7 connections go up, that cost goes up, so that's a  
8 wash. Taxes and licenses, \$6,755. Let's assume that  
9 that's a fixed cost. Depreciation, let's assume that  
10 that's a fixed cost. Then we have other deductions of  
11 11,000 which are reflected on Statement 1, which  
12 appears on Exhibit APP-7, LPWC00247 Bates number. We  
13 have \$2 in bank charges. I'll omit that. We've got  
14 legal and professional fees. Mr. Carlton, I'll ask  
15 you whether that's a good number or not.

09:52

16 Q I'll tell you that's before my time. It's  
17 probably a fixed cost though.

18 (Laughter)

09:53

19 A Okay. We'll put the \$5,155 in. Supplies, I  
20 think we agree that is a variable cost. Utilities is  
21 a variable cost.

22 Q Okay.

09:53

23 A So basically we're dealing with -- it looks  
24 like \$19,442, which possibly could be considered fixed  
25 costs. If I take the \$19,442 -- let me think how to

09:53

1 do this real quick.

2 Q Instead of the current 26 customers, divide  
3 it by the build-out 65 customers, right?

4 A That's probably the easiest way.

09:53

5 Q Simple ratemaking?

6 A Sixty-four customers?

7 Q I thought you said you would use 65 -- you  
8 did say 64. My apologies.

9 A All right. I'm going to use round numbers.

09:54

10 That's \$304 a year versus -- and if we add -- that's  
11 39 more connections?

12 Q Right.

13 A That's \$304 times 64 connections. That's  
14 \$19,456 and 64 connections. You'd be collecting  
15 11,856 additionally.

09:55

16 Q Okay.

17 A But wait a minute, under the testimony  
18 yesterday of Mr. Myrick, the average customer at 8,000  
19 gallons average bill is 30 bucks a month.

09:55

20 Q Okay.

21 A That's \$360 per connection. So if I collect  
22 the \$360 per connection times the new connections of  
23 39, I'm going to collect in total from the -- at  
24 build-out under the rates, \$14,040. From that amount  
25 now --

09:56

09:56

1 Q Let me ask you to look at LPWC00235 which  
2 gives a gross revenue of 14,254.

3 A 235? I'm sorry.

4 Q Gross revenue of 14,254 of --

09:56

5 A Right. But that's not the number at this  
6 time I'm trying to calculate. What I'm trying to  
7 figure out is with the new 35 connections, if I'm  
8 charging the existing rates, I'm going to collect  
9 \$14,000 -- \$14,040 more than what I currently collect.

09:56

10 But from that we've agreed -- we agreed that my  
11 variable expenses are 1269, plus the utilities of  
12 5354, plus supplies of 428. So my variable expenses  
13 right now are running \$7,051 divided by the 25  
14 connections. They're running \$282 per connection.

09:57

15 So if I multiply the \$282 by the 39  
16 increase in connections, I got 10,000 -- additional  
17 expenses of \$10,998.

09:58

18 Now, I had additional revenues of  
19 14,040. So my net to -- that would be 13. So I  
20 got -- I'll have a total contribution to my fixed  
21 charges then that I deplete. If I have build-out of  
22 \$3,000 annually, and I have a \$131,000 note.

09:58

23 Now, this assumes that the note doesn't  
24 get any bigger, which we're still ramping. But  
25 assuming that the note didn't get any bigger at

00:58 1 \$131,000, if I assume a nominal interest rate -- which  
2 I'm surprised IRS isn't assuming at this point in time  
3 on his tax returns -- but if you assume a nominal  
4 interest rate of 6 percent, I can't pay the interest  
09:59 5 on the note at build-out.

6 Q So can we use that data for our rate  
7 application? You don't have to answer that.

8 A No, actually, I would like to answer that. I  
9 think a rate application would definitely be in order  
09:59 10 with the affiliated transactions.

11 Q Okay. And the more connections Lindsay Pure  
12 Water is able to add, the closer they get towards  
13 being able to meet those potential obligations, right?

14 A No. We've established that we're at 64  
09:59 15 connections is at build-out right now. If we had more  
16 connections than that, then your fixed costs are going  
17 to start going up.

18 Q But they have assets capable in the ground of  
19 serving up to 100 connections, correct?

09:59 20 A They have assets.

21 Q So if we took this evaluation out to --  
22 instead of only 34 -- 35 disconnections but out to 100  
23 additional connections -- to 74 additional  
24 connections, that \$3,000 number becomes much larger,  
10:00 25 doesn't it?



10:00

1 A No, sir. You've got to incur more fixed  
2 costs now to extend the services beyond this  
3 development.

10:00

4 Q Depending upon how you treated the line  
5 extensions, correct? Because that's the only cost  
6 you're incurring is lines.

7 A Line extension, meter box, meters -- you  
8 know, there's certainly --

10:00

9 Q And there's fees that recover those costs  
10 through the --

11 A There are fees that recover some of those  
12 costs, yes.

13 Q And line extensions are typically paid for by  
14 whoever is requesting the service, right?

10:00

15 A Depending on the line fee policy. There is  
16 usually an extension of a certain level if you're  
17 talking about a service line. If you're talking about  
18 a main extension, then, yeah, that's a  
19 different scenario.

10:01

20 Q Okay. So if we assume that whoever is  
21 creating the demand for the additional connections to  
22 use up the capacity that's available within the  
23 system, if they pay for those line extensions, then we  
24 are creating more revenue that could be used to pay  
25 off the note?

10:01

10:01

1 A You're creating more expenses beyond -- at  
2 this level I'm comfortable with the calculations that  
3 I made. I will say this: At 100 -- if we're  
4 generating 3,000 by adding 39 connections, we're  
5 generating \$3,000 of cash flow potentially to service  
6 the note, if I double it and add 40 connections, then  
7 therefore I'm adding approximately 6 to \$7,000 to  
8 service the note. That's still less than the interest  
9 on the note would be.

10:01

10:02

10 Q So if we add more connections and incur some  
11 more expense to be able to get there?

12 A A lot more. And meanwhile the note is  
13 getting bigger and bigger and bigger.

10:02

14 Q Depending upon whether that loan is made. It  
15 may not, right?

16 A It might not be made, and it might be called.

17 Q But the note may also not grow. You don't  
18 know the terms of the note, do you?

10:02

19 A No, sir, I have not seen the terms of the  
20 note. But I do see that there's not an interest  
21 expense in -- reported on the books of Pure Water and  
22 I see that there's no capitalized interest on the  
23 books of Pure Water. So that's what raises some  
24 uncertainties in my mind.

10:03

25 Q I'm going to ask you about the \$76,000

10:03

1 discrepancy in unaccounted-for cash that you found  
2 because, frankly, I didn't follow you. What exhibits  
3 were we looking at to make that determination?

4 A We can look at it a couple of different ways.

10:03

5 And again, this is just something that I noted.

6 Q Which exhibits? Which exhibits?

7 A On APP-7.

8 Q Okay.

10:03

9 A If we go to Bates No. LPWC00235 and at Lines  
10 22 and 23, the 25,000 and 16,000 is \$41,000.

11 Q Hang on a second, 00235?

12 A I'm sorry, 00238, Lines 22 and 23. Are you  
13 with me?

14 Q I gotcha.

10:04

15 A Those two numbers are \$41,000.

16 Q Okay.

17 A Then if we go to Line 18.

18 Q Okay.

19 A It's a cash note of 131,669, correct?

10:04

20 Q Okay.

21 A We go to Line 10B, Column C, we have the  
22 noncash expense of \$73,973.

23 Q Okay.

24 A And if we go to Line 13B, Column C, we have  
25 the noncash expense for amortization of 2,479.

10:05

05 1 Q Okay.

2 A When you total those numbers, that totals

3 \$249,121.

4 Q What was that number again?

10:05 5 A \$249,121.

6 Q And why are you totaling those numbers?

7 A That's the total cash that's come into the

8 company via these vehicles.

9 Q Okay.

10:05 10 A Okay. Then if we go to APP-7, LPWC00250, and

11 basically the third column right after the number 14,

12 the total, we see that we have spent a 162,483 on

13 infrastructure. Okay?

14 Q Okay.

10:06 15 A Then we also come on down and see -- under

16 amortization we see Lines 4 and 5 that we spend \$2,479

17 on start-up costs.

18 Q Okay.

19 A Then if we go back to LPWC00238, we see we

10:07 20 have cash on hand of \$1,949. And then we have the

21 actual cash lost -- actual cash lost from operations,

22 which is calculated by taking off of LPWC00238, Column

23 B, Line 24, retained earnings of a negative \$82,211.

24 From that number we add back in the

10:07 25 noncash expense item of 73,973. We add back in the

1 noncash item of amortization of 2,479, and that  
2 results in an actual cash loss due to operations of  
3 \$5,759. When you specifically subtract those uses of  
4 cash of plant investment, start-up cost, cash loss on  
5 operations and cash on hand, you wind up with an  
6 unreconcilable difference of 76,452.

7 Q That's where I lost you. Where you -- you're  
8 taking the -- how do you get from this cash loss of  
9 5,759 to this 76,000? What are you taking the  
10 difference of?

11 A Okay. If we take the cash provided -- let's  
12 go back to the 249,121. And we back out the purchase  
13 of the assets of 162,482 and back out the start-up  
14 cost of 2,479, and we back out the actual cash that we  
15 lost in operations, 5,759, and we back out the \$1,949  
16 of cash that we have on hand, we come up with a  
17 balance of 76,452 positive cash.

18 It's an observation only. I'm not  
19 saying anything is wrong here. But when I saw that I  
20 said, "Let me try this another way."

21 Q Would you add the depreciation of 73,973 and  
22 the amortization 2479 and tell me what that number is?

23 A That's the same number, 73,452.

24 MR. CARLTON: Pass the witness.

25 JUDGE NORMAN: Any questions,

1 Mr. Rodriguez?

2 MR. RODRIGUEZ: I don't think I have  
3 any, but can I have a break?

4 JUDGE NORMAN: Yeah, certainly. We'll  
5 take a little break. And, Mr. Siano, will you have  
6 any questions?

7 MR. SIANO: Possibly.

8 (Recess: 10:11 a.m. to 10:20 a.m.)

9 JUDGE NORMAN: We're back on the record.

10 MR. RODRIGUEZ: Your Honor, we have no  
11 questions.

12 JUDGE NORMAN: Mr. Siano?

13 MR. SIANO: Yeah, I do want to -- it's  
14 my understanding that you're trying to get out of  
15 here -- Can you hear me?

16 WITNESS STOWE: I believe I can.

17 MR. SIANO: For the court reporter, I'm  
18 Christiaan Siano. Am I loud enough?

19 THE REPORTER: Yes.

20 MR. SIANO: I'm with the Executive  
21 Director standing in for Brian MacLeod this morning.

22 CROSS-EXAMINATION

23 BY MR. SIANO:

24 Q I do have a couple of questions. And  
25 mainly -- mainly just to clarify, because I heard

10:22 1 the -- this discussion about depreciation and  
2 accelerated depreciation. I want to know where -- I  
3 believe that you said that the normal life is 50  
4 years. Is that correct? Did you say that?

10:22 5 A I said based on my recollection the  
6 TCEQ-approved depreciable life range from -- for these  
7 particular assets range from 40 to 50 years.

8 Q Okay. And based on your recollection of  
9 what?

10:22 10 A The TCEQ-approved depreciation rates.

11 Q Okay. Is there -- do you know of information  
12 in our rules that prohibit an accelerated  
13 depreciation?

14 A Yes, for use in ratemaking.

10:22 15 Q Yes. Can you point -- point me to those  
16 rules?

17 A Chapter 291 -- can we go off the record?

18 JUDGE NORMAN: Certainly.

19 (Discussion off the record)

10:25 20 JUDGE NORMAN: All right. Let's go back  
21 on the record. Go ahead. You were not able to find  
22 that briefly looking. Is that right?

23 WITNESS STOWE: Briefly looking, I know  
24 it's in Chapter 291, but it's going to take me a while  
10:25 25 to find it.

1 JUDGE NORMAN: Okay. The parties can  
2 argue that in briefs to the extent it's --

3 MR. SIANO: And I can represent that the  
4 part of 291 dealing with depreciation is  
5 291.31(e)(1)(B).

6 JUDGE NORMAN: Okay.

7 Q (BY MR. SIANO) And I'm just asking,  
8 Mr. Stowe, do you know of an instance of a -- of a  
9 utility ever getting depreciation for a life less than  
10 50 years with a rate application with the TCEQ?

11 A Yes, I thought I testified that it's 40 to 50  
12 years on particular assets, and I've seen -- yes.

13 Q 40 to 50 years?

14 A Yes.

15 Q But at no time less than 40?

16 A Depending on the asset. There are some  
17 assets such as meters that I believe are prescribed --  
18 TCEQ prescribed rates are down in the 7 to 10-year  
19 range maybe. But when we're talking about pipes in  
20 the ground, it's 40 to 50 years.

21 Q Could there ever be any mineral or soil  
22 conditions that would cause the life to be reduced?

23 A Sure. If there was a depreciation study and  
24 evidence brought forth that would substance a life  
25 different than the prescribed methods -- and



27 1 prescribed methods by the American Waterworks  
2 Association, then, yes, there could be justification  
3 based on evidence that a life could be shorter.

4 MR. SIANO: I have no further questions.

10:27 5 MR. CARLTON: That doesn't raise  
6 anything for me.

7 JUDGE NORMAN: All right. Any further  
8 questions from anybody of Mr. Stowe?

9 Thank you, Mr. Stowe.

10:27 10 WITNESS STOWE: Thank you, sir.

11 JUDGE NORMAN: Any reason to hold onto  
12 Mr. Stowe? Do you want to let him go?

13 MR. RODRIGUEZ: Yes, he can leave.

14 JUDGE NORMAN: Does anybody have any  
10:27 15 reason to hold onto Mr. Stowe.

16 MR. CARLTON: Nothing legitimate, Your  
17 Honor.

18 (Laughter)

19 JUDGE NORMAN: All right. Thank you.  
10:27 20 Have a safe trip home.

21 MR. RODRIGUEZ: Mr. Maroney is the next  
22 witness we've got.

23 JUDGE NORMAN: Okay. Mr. Maroney,  
24 you're still under oath.

10:28 25 WITNESS MARONEY: Yes, sir.

1 KERRY MARONEY,  
2 having been previously duly sworn, testified as  
3 follows:

4 DIRECT EXAMINATION

5 BY MR. RODRIGUEZ:

6 Q Mr. Maroney, you were -- have been here to  
7 hear most of the direct cases provided by the  
8 Executive Director as well as Lindsay Pure Water. Is  
9 that correct?

10 A Yes, sir.

11 Q Mr. Stowe, I would like -- I mean,  
12 Mr. Maroney, excuse me --

13 A Don't hold me to that.

14 Q If you could, please, are you familiar  
15 with -- in your experience -- the different funding  
16 options that are available to the city -- to cities?

17 A Yes, sir, I am.

18 Q Can you describe those for me?

19 A The experience that I've had in typical  
20 funding options for a municipality would be, for  
21 example, Rural Utility Services, which is a USDA  
22 program whereby they have not only low-interest loans,  
23 but, depending on the circumstances, they'll combine  
24 grants with those low-interest loans.

25 In addition there's Texas Water