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Record No. 7372

In the
Supreme Court of Appeals of Virginia
at Richmond

PRINCESS ANNE UTILITIES CORPORATION

against

COMMONWEALTH OF VIRGINIA, EX REL., ETC., ET AL.

FROM THE STATE CORPORATION COMMISSION

RULE 5:12—BRIEFS

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 on or before the day on which the brief is filed.

§6. Size and Type. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 7372

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 3rd day of December, 1969.

PRINCESS ANNE UTILITIES CORPORATION, Appellant,

against

COMMONWEALTH OF VIRGINIA, AT THE RELATION OF THE STATE CORPORATION COMMISSION, AND THE CITY OF VIRGINIA BEACH, A MUNICIPAL CORPORATION, Appellees.

From the State Corporation Commission

Upon the petition of Princess Anne Utilities Corporation an appeal of right is awarded it from an order entered by the State Corporation Commission on the 26th day of June, 1969, in a certain proceeding then therein depending entitled: Application of Princess Anne Utilities Corporation for revision of its rates, rules and regulations for sewerage service; upon the petitioner, or some one for it, entering into bond with sufficient security before the clerk of the said State Corporation Commission in the penalty of $300, with condition as the law directs.

RECORD

page 1 }

* * * * *

PETITION

* * * * *

Your Petitioner, Princess Anne Utilities Corporation, a Public Service Corporation organized and existing under and by virtue of the laws of the Commonwealth of Virginia, for the purpose of furnishing sewerage to customers in the Princess Anne Plaza area of the City of Virginia Beach, Virginia, respectfully petitions the State Corporation Commission for an increase in its rates for the services it renders to its customers.

1. This Utility was granted a Certificate of Convenience and Necessity by the State Corporation Commission of the Commonwealth of Virginia, to act as a Public Service Company and to furnish sewerage to a certain franchised area set forth in the Certificate.

2. That since the granting of said Certificate of Convenience and Necessity, and the granting of the rates as filed with the Commission, Hampton Roads Sanitation District, a political subdivision of the State of Virginia, and organized for the purpose of operating a collector trunk line and sewerage and treatment system, has extended its trunk line system to the franchised area of Petitioner and now desires to collect from the lateral lines of the Petitioner the sewerage which Petitioner has previously been treating in its own facility.

3. That Hampton Roads Sanitation District makes a charge for its services based on the water consumption of each customer and will charge its usual rates to each and every customer of Petitioner, which Petitioner must pay to Hampton Roads Sanitation District and collect from the customer.

page 2 } 4. That Petitioner owns and will be required to maintain all lateral lines, to maintain all its pumping stations, to maintain its records, to operate its offices and to collect all bills for both its services and Hampton Roads services from individual customers and will be required to pay to Hampton Roads Sanitation District its sewerage bill based on the water consumed by each customer of Petitioner, irrespective of whether Petitioner is able to collect it.

5. That under the Statute of the Commonwealth of Virginia, Petitioner is entitled to a fair return from its operation and has made by competent authority a thorough study of its costs in this venture, and from such study has concluded a fair return from its operation would require the following charges:

To each residential customer—$28.50 per quarter

To each apartment customer—$19.00 per quarter

Each commercial customer would be billed at some factor times the base rate but not less than the base rate. The factor for a given commercial customer would be the customer's 1967 water usage divided by the average 1967 water usage of the residential customer.

The Petitioner presently charges for its services to each residential customer $12.00 per quarter—to each apartment customer $8.00 per quarter and to each commercial customer as follows:

1. Gasoline Service Stations—2-1/3 times the residential rate per quarter.
2. Restaurants—$1.00 per seat or stool, per quarter.
3. Drive-In Restaurants—$48.00 per quarter.
4. Auto Car Wash—$36.00 per quarter.
5. Laundro-Mat—$10.00 per tub per quarter.
6. Barber and Beauty Shops—$2.00 per chair, per quarter.
7. All others minimum charge of $12.00 per quarter plus $4.00 for each 1000 square feet of floor space.

page 3 } 6. That the rates charged by Petitioner would be in addition to the rates charged by Hampton Roads Sanitation District and collected by Petitioner each quarter.

Wherefore, your Petitioner requests that its rates be changed and modified as above set forth.

Princess Anne Utilities Corporation
By: Edwin C. Kellam
Counsel

* * * * *

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* * * * *

At Richmond, January 6, 1969
Case No. 18661

* * * * *

On This Date Princess Anne Utilities Corporation presented a petition to the State Corporation Commission stating that applicant intends to deliver its sewerage to Hampton Roads Sanitation District, and desires to change its rates, rules and regulations due to the additional charge to be paid to Hampton Roads Sanitation District.

It Appearing That the new schedules of rates, rules and regulations provide increases for all customers and the public will be affected thereby.

It is Ordered:

(1) That the application of Princess Anne Utilities Corporation be assigned Case No. 18661, docketed and set for formal hearing in the Courtroom of the State Corporation Commission, Blanton Building, Richmond, Virginia, at 10:00 A.M. on February 12, 1969, at which time and place the Commission will hear the applicant and all parties in interest with respect to the proposals of the applicant in this proceeding;

(2) That an investigation be entered upon by the Commission to determine whether the revised rates, rules and regulations proposed by the applicant are reasonable and just;

(3) That the applicant publish once a week for four successive weeks, first publication on or prior to January 12, 1969, notice of its application and the hearing thereon, by publishing the following notice in a newspaper or newspapers of general circulation in the area served by the applicant:

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* * * * *

"Notice to the Public"

"Notice is hereby given to the public that Princess Anne Utilities Corporation has filed with the State Corporation Commission revised rates, rules and regulations for sewerage service rendered in the vicinity of Princess Anne Plaza in the City of Virginia Beach, which involve increases over

the charges now being made. The proposed rates filed to become effective upon the order of the State Corporation Commission and after commencement of delivery of effluent to Hampton Roads Sanitation District are as follows:

A Two-Part Rate

Treatment Charge:
The exact charge of each individual customer as billed by Hampton Roads Sanitation District on their rate schedule which is based on metered water usage;

and

Service Charge:
For transportation to Hampton Roads Sanitation District, maintenance, service and collection,

To each residential customer—$28.50/qtr.
To each apartment customer—19.00/qtr.
To each commercial customer—a factor times the residential base rate of $28.50. Said factor would be the customer's 1967 water usage divided by the average 1967 water usage of a residential customer.

"An investigation of the proposed charges has been entered upon by the Commission, and a hearing on such new rates has been set for 10:00 A.M. on February 12, 1969, in the Courtroom of the Commission, Blanton Building, Richmond, Virginia, at which time and place members of the public generally may appear and present such relevant data as may be desired and may be heard."

"State Corporation Commission"

and furnish proof of such publication at the time of hearing;

(4) That applicant serve a copy of this order upon the Mayor and City Attorney of the City of Virginia Beach and furnish evidence thereof at the time of hearing; and

(5) That four attested copies hereof be sent to Edwin C. Kellam, Counsel for the applicant, Board of Trade Building, Norfolk, Virginia 23510.

* * * * *

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* * * * *

At Richmond, February 6, 1969

* * * * *

After Notice to counsel for the Commission and to counsel for the interveners, counsel for the applicant moved that the date for hearing this case be postponed to allow time for counsel for the respective parties to exchange proposed exhibits and testimony.

It is Accordingly Ordered:

(1) That the case be set for hearing on March 31, 1969, at 10:30 A.M. in the Commission's Courtroom, Blanton Building, Richmond, Virginia, instead of on February 12, 1969, as heretofore ordered.

(2) That the applicant furnish copies of its exhibits and prepared testimony to counsel for the interveners, and four copies thereof to counsel for the Commission on or before February 17, 1969.

(3) That counsel for the interveners furnish copies of their exhibits and prepared testimony to counsel for the applicant and four copies thereof to counsel for the Commission on or before March 17, 1969.

Attested Copies hereof shall be sent to Edwin C. Kellam, Board of Trade Building, Norfolk, Virginia 23510, John W. Riely, Box 1535, Richmond, Virginia 23212, and to the Chief Engineer, Telephone Utilities, of the Commission.

* * * * *

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* * * * *

Application of

Princess Anne Utilities Corporation

For revision of its rates, rules,
and regulations for sewerage service.

PRESENT:

Commissioners

Ralph T. Catterall (Chairman)
H. Lester Hooker

APPEARANCES:

Edwin C. Kellam
and
Joseph J. Lawler,
Counsel for the Applicant

John W. Riely,
Harry Frazier, III, and
Harry T. Marshall,
Counsel for City of Virginia Beach, Intervener

A. Grey Staples, Jr.,
Counsel for the Commission

page 8 } March 31, 1969
10:00 A. M.

The Commission resumes its session.

Commissioner Hooker: All right, Mr. Kellam.

Mr. Kellam: If it please the Commission, Mr. Lawler and myself are appearing on behalf of the petitioner who is asking for an increase in the rates for sewerage service which his utility is furnishing the City of Virginia Beach. I note that we have opposition and I guess that is not unnatural. Almost everybody opposes anything that is going to cost them more money and I am sure these people don't want to pay any more money for the service that they are already getting, so I guess that is natural. There are certain preliminary things in the beginning which we were required to do and that was to serve notice on the City of Virginia Beach by serving it on the City Manager and on the City Attorney. I have made up a booklet here and I have put all of these originals in this booklet and if it is agreeable to the Commission—

Commissioner Hooker: It will be received as Exhibit A.

Mr. Kellam: If it please the Commission, included in it also is the original publication in the Virginia Beach Sun News.

page 9 } Gentlemen, the testimony has been presented al-

ready in written form and in the interest of saving time, the first witness made a narrative statement and if agreeable to the Commission, in the interest of saving time the witness is here, I would like to read into the record the narrative statement of John Aragona, Jr.

Commissioner Hooker: Bring him around and swear him.

Mr. Kellam: Yes, Sir.

Mr. Staples: If the Commission please, the staff has requested that the witnesses give their testimony, even though we have received it in deposition from prior to the hearing.

Commissioner Hooker: You want him to read it all?

Mr. Staples: I would like—Yes, Sir, I would like to move that they do that.

Commissioner Hooker: Haven't you had a copy of it?

Mr. Staples: Yes, Sir, we have.

Commissioner Hooker: I thought the object of
page 10 } this was to save time.

Chairman Catterall: It was to save time.

Mr. Riely: I hope that won't be true of certain of the witnesses that I have presented, if your Honor please, because I believe I had an understanding with Mr. Kellam and Mr. Staples that they would not be required for cross examination and I do not even know if they are here.

Mr. Staples: That is correct. That is correct, but those witnesses that are here, my understanding from the staff is that they would appreciate hearing the testimony orally.

Commissioner Hooker: Swear the witness in.

JOHN ARAGONA, JR., a witness introduced on behalf of the Applicant, being first duly sworn, testified as follows:

Commissioner Hooker: If that is the understanding, it is certainly different from what the Commission understood it. The Commission understood that the reason this case was continued for this length of time was to have the testimony "canned" and presented to all persons interested.
page 11 } At that time the witnesses would be put on the witness stand and sworn and asked the usual questions and he will make the usual answers. That will be the procedure of the Commission.

Mr. Staples: Mr. Brown says he is thoroughly familiar with the testimony and will be pleased to go on.

Commissioner Hooker: All right, Mr. Kellam, we will proceed on that basis.

Mr. Kellam: Will the Commission permit me to read his testimony or—

Commissioner Hooker: Do you want to read it? I thought you were just going to qualify the witness here and then ask him if his answers would be the same if those questions were asked him.

DIRECT EXAMINATION

By Mr. Kellam:

Q. Mr. Aragona, I have handed you a copy of a narrative statement which you made in connection with the Princess Anne Utilities. Is that your statement?

A. Yes, it is.

Q. If you testified today, would your statement be the same as in that written record?

A. Yes.

page 12 } Princess Anne Utilities Corporation was granted a Charter as a public utility corporation by the State Corporation Commission of Virginia on the 24th day of September, 1959. It was incorporated for the purpose of operating a sewerage disposal system in the limited area of Princess Anne Plaza. It was granted a Certificate of Convenience and Necessity and a franchised area. At the time of its formation there was no sewerage facilities in this area. Before the State Water Control Board and the State Board of Health would grant their approval to the issuance of the Certificate of Convenience and Necessity they checked with the Hampton Roads Sanitation District Commission to find out if they had any plans to serve the area in the near future and with the County of Princess Anne to see if they had any plans for sewerage in the Community in the near future. Upon finding out that neither Hampton Roads Sanitation District nor the County of Princess Anne had any plans for sewerage in the area in the near future and the Health Department having already recommended that the County of Princess Anne not grant any more permits for septic lands in the area, both the Health Department and the State Water Control Board recommended that

page 13 } the request for Certificate of Convenience and Necessity be approved.

At the time of the application it was not contemplated by either the applicant, the County of Princess Anne, or other interested parties, that the area would grow so fast or that there would be so great a demand for sewerage services in the area. Since the granting of the original Certificate and franchise area, the area served has been increased several times and the people served has grown from four hundred

twelve in the year 1960 to over five thousand five hundred eighty-two customers in December, 1968.

When the system was originally set up and the original rates requested, it was not envisioned that the demand for sewerage in the area would be so great or that any such operation as is now carried on by Princess Anne Utilities required, or that any such amount of money be required for operation or would be tied up in properties in this operation.

When the application was made for the rates under which this Utility now operates, the Utility had no history of operation and it had no figures on which to base its

page 14 } rates and no projections for its future. There was operating in the County a similar privately owned public utility which had rates which had been approved by the Commission and this Utility chose to travel the beaten path and to ask that its rates be similar to those which the Commission had approved for a similar type of operation.

This Utility has now behind it almost ten years of operation. During that time its growth has been phenomenal. It has been most difficult for it to keep up with the demand for sewerage services and it has required the expending of many thousands of dollars to furnish the required and needed services, and it does not appear that there will be any letup in the demand for services in the future.

Because of the rapid growth in the area and the demand for sewerage services within the franchised area, and the strain on this privately owned public utility, and the feeling by some in the area that the services furnished by this Utility was one that should be furnished by the City, this Utility was uncertain of its future and unable to make any definite far-reaching plans. The City of Virginia Beach, on the urgency of some of its citizens made a study

page 15 } of this Utility, and another, and on June 15, 1966 made an offer to the owners to purchase this Utility for approximately $641,000.00. Copy of the letter of the City Manager, Russell Hatchett, of June 15, 1966, is attached hereto to be read as a part of this testimony. The owners did not consider it a realistic offer but more in a probing nature, as the offer was not in line with the appraisal made as it was considering a condemnation of the Utility. When the appraisal came in, it was apparently so high that the City gave up its idea of condemnation.

Since the letter from the City Manager of the City of Virginia Beach of June 15, 1966, this Utility has grown tremendously in size and has many hundred more customers, and

many more miles of line and other properties greatly increasing its value since that time. It is to be noted in the offer of the City Manager of Virginia Beach that the offer also provided that certain valuable land of this Utility was to go back to the Utility stockholders.

The stockholders of this Utility have never objected to the acquisition of its properties by the City and offered the City terms if it desired to acquire the facilities. It has page 16 } not seen fit to make an offer based on its appraisal.

This Utility is seeking a fair return based on (a) the value of the company's property used and useful in its operation; (b) its annual operating expenses and (c) its reasonable operating capital required; (d) the other items which go to make up the base.

The experts which we have brought here as witnesses will set forth these facts.

Commissioner Hooker: Now we are ready for cross examination.

Mr. Riely: Thank you, your Honor.

CROSS EXAMINATION

By Mr. Riely:

Q. Mr. Aragona, you are the Vice President of Princess Anne Utilities, is that correct?

A. Yes.

Q. It has been customary in rate cases in the past years to have what might be termed the company witness who is familiar with the history and operations of the company. Would you say that you fell into that category

page 17 } A. Yes, I would.

Q. You are familiar with the operation of Princess Anne Utilities?

A. Yes.

Q. How long have you worked for Princess Anne Utilities, Mr. Aragona?

A. Approximately four years.

Q. Four years, and what are your duties with it?

A. Well, I am in the—mostly in maintenance, etc.—maintenance and operation of the utility company.

Q. Maintenance and operation—how much of your time do you spend on the operation of Princess Anne Utilities?

A. One hundred per cent of my time.

Q. One hundred per cent of your time?

John Aragona, Jr.

A. Yes, Sir.
Q. All day long, every day, five days a week?
A. Yes.
Q. Do you direct the maintenance crews?
A. Yes, I do.

Q. How many maintenance crews are operated
page 18 } by Princess Anne Utilities?

A. We have one maintenance crew.
Q. And you direct that operation?
A. Yes, I do.
Q. And do you direct the operating forces?
A. Yes.
Q. How many employees does Princess Anne Utilities have?
A. We have, right now, eight.
Q. Eight?
A. Yes, Sir.
Q. And how many of them are engaged in operating work?
A. Six.
Q. Six? What do they do?
A. Mostly, line maintenance, lateral maintenance etc., and treating of the treatment facilities at the plant and the lagoon.
Q. So those six employees are engaged in both operating work and maintenance work, is that correct?
A. Yes.

Q. And they are interchanged between one and
page 19 } the other?

A. Well, if we have a major catastrophe at the sewerage lagoons, we shift everybody over there and they work. If we have not too much work over there and everything is working properly, most everybody works on main lines.
Q. Do you have an operator at the lagoon—at the treatment facilities—at all times?
A. Twenty-four hours a day at each particular station or—
Q. At the treatment facilities, at the lagoon?
A. Not at the lagoon. We have somebody at the treatment plant.
Q. You have somebody at the treatment plant twenty-four hours a day, every day?
A. Yes.
Q. And has that been your experience for the past four years since you have been connected with this company?

John Aragona, Jr.

A. No, there have been times where we have not had people there twenty-four hours a day, but it has been this way for the last year or two.

page 20 } Q. Well, that requires four people, doesn't it, to serve it twenty-four hours a day, seven days a week?

A. At the plant?

Q. At the plant.

A. I do not understand why you say four people.

Q. Do they work eight-hour shifts, twelve-hour shifts, fifteen-hour shifts?

A. Well, we have men that get to work at eight o'clock and they leave at five and in that period of time there is always somebody there. It doesn't necessarily have to be the same person.

Q. Yes. And then you have people who come to work at five o'clock?

A. Yes, Sir.

Q. How late do they work?

A. They stay until—all night and answer the telephone from the answering service.

Q. Are they at the lagoon?

A. No, they are at the plant. You see, we have three lagoons and one plant.

Q. Three lagoons and one plant, and so he stays all night long. He stays from five in the afternoon until

page 21 } eight the next morning?

A. Yes, Sir.

Q. And so that is two men you've got—one man or the equivalent of one man at the plant from eight to five, and another man there from five until eight the next morning?

A. That is correct.

Q. And how many days a week does this fellow work who works from five at night until eight the next morning?

A. Seven.

Q. Seven days a week?

A. Yes. It doesn't necessarily mean that one same person.

Q. How many people perform that service? How many human beings?

A. Well, this is a very hard thing to say because it is very hard to get somebody to work on that particular job and in any given week we may run through two or three different people.

Q. You may run through two or three different people?

A. Yes, Sir.

John Aragona, Jr.

page 22 } Q. What is your average? How many people does it take to carry that job?

A. Well, usually one person a week, or two depending—

Q. Do you know, Mr. Aragona, do you really have any week where you've got one man who works seven days from eight at night—from five at night until eight the next morning?

A. Will you state the question again?

Q. Do you have any week in which you have the same man who works seven days from five at night until eight the next morning?

A. Yes. In any particular week? Yes.

Q. And do you pay him overtime?

A. Most of the time, yes, if it is that same person, yes.

Q. How many weeks in the past fifty-two weeks have you had the same man working those hours?

A. I do not know.

page 23 } Q. You do not know. Well, generally, it takes two men to perform that service, doesn't it?

A. Yes, Sir.

Q. So you then have three men—at least three men—whose work is confined to the plant. Is that correct?

Mr. Kellam: That is not his testimony, as I understand it.

Mr. Riely: Sir?

Mr. Kellam: That is not his testimony.

Mr. Reily: Well, let him answer the question. I asked him that question.

Mr. Kellam: I object to your putting words in his mouth. I think you ought to ask him the question and let him answer it.

Chairman Catterall: He said the place was manned twenty-four hours a day and his description is that they have poeple on and off during the daytime hours and somebody there at night.

Mr. Riely:

Q. And somebody there at all times during the daytime hours?

A. Yes.

page 24 } Q. And I am asking you that—

A. Well, the office is at the plant. In other words, the function of the operation takes place at the office and the office is at the plant. If our superintendent is doing office work, well, then, he would be at the plant also at the same time.

John Aragona, Jr.

Q. Well, in order to man the plant twenty-four hours a day, it takes at least the equivalent of three men, does it not?

A. No.

Q. How many men does it take?

A. It would take the person at night because the people that are going to be there during the day would be there normally anyway.

Q. And they are not working at the plant?

A. No. They would be in the office performing different functions.

Q. But they are available for working in the plant?

A. Yes, they are available for working at the plant.

page 25 } Q. So you have six people on operation and maintenance, but only two of those people are confined to working at the plant. Is that correct?

A. That is correct.

Q. All right, now. What do the other four do?

A. Well, line maintenance.

Q. Line maintenance, but at least one of those other four is always available at the office?

A. One of the other four is always available at the office?

Q. During the day?

A. Well, no, the two who are working at the plant would be at the office. In other words we have a superintendent. He runs from the pumping stations to line maintenance and then he has to perform different functions and test other lagoons and he is at the office and there is no particular one place he would be in.

Q. But there is somebody at the office at all times?

A. Yes, Sir.

Q. And when he is at the office, he is not out doing line maintenance, is he?

A. That is correct.

page 26 } Q. This testimony that has been prepared in this case, Mr. Aragona, is to the effect that there will be no reduction in payroll.

A. That is correct.

Q. When the plant facilities are retired, what is going to happen to that guy that works every night from five in the afternoon until eight the next morning?

A. Well, presently as the corporation grows bigger, we have more and more line maintenance; we still have work on the pumping stations; we definitely could use more help and it is very difficult to get somebody to work in a sewerage

system. That is why, I think, we are probably a man or two short now, that we could use at times.

Q. In other words, you propose to create new jobs, is that correct?

A. No. I am not proposing to create new jobs. I say this—that at a specific time we may only need five men to do the work—that if we have a large break in a specific area we may need seven or eight and it is very hard to get somebody to come in here for a day or two days and then fire them, hire them back, etc.

page 27 } Q. You have historically repaired large breaks in your lines, with your employees?

A. No, very large breaks we give out on contract.

Q. What is this guy going to do who has been working at the plant, but you are still going to hire him when you give up the plant?

A. Well, we have many miles of lines and—

Q. Are you not maintaining them properly now?

A. Yes, we are.

Q. Why do you need additional forces?

A. Why do we need additional forces?

Q. Yes.

A. Because certain men we have to pay overtime and at times we do not have enough men.

Q. But most of the time you do, don't you?

A. Yes, that is correct.

Q. So you are simply going to keep these people on the payroll because they are good sewer men and you want to retain them in your employment, is that correct?

A. No.

Q. Well, what is correct?

A. I'm not—anybody that works for us—I mean, they will be working, maintaining lines. They

page 28 } won't be just sitting around, waiting for a break. There is always something to do. There are pumping stations to clean—they don't have to be done particularly at a specific time. When a line breaks we take them off that and they maintain a line or clean out a lateral or stoppage. When they are finished, they go back to their normal responsibilities.

Q. Now, in your testimony, on the first page of your testimony, you state that neither Hampton Roads Sanitation District, nor the County of Princess Anne has any plans for sewerage in the area in the near future. When was that?

A. Excuse me.

John Aragona, Jr.

Q. When was that? At what time were you talking about, when you make that statement?
A. On the first page, there?
Q. Yes.
A. That was ten years ago.
Q. You weren't connected with the company at that time?
A. Officially, no, but I had certain knowledge of the company.
page 29 } Q. How did you have that knowledge, Mr. Aragona?
A. How did I have that knowledge?
Q. Yes.
A. Because my father works with Princess Anne Utilities and I was young at that time, but I was in and out of the office and I had certain knowledge—picked up certain information.
Q. Did your company, six years ago, contemplate that the present plant facilities would continue to be used over an extended period of time?
A. We had thought that they probably would, yes.
Q. Well, hadn't you contracted with the Hampton Roads Sanitary District in the future, so that the sanitary district could provide facilities for the treatment of your effluent?
A. Yes.
Q. And when did you expect that that connection would occur?
A. I have forgotten the exact date of that, but they told us—I think it was—this was a little bit before my time.
Q. I thought you knew all about this, historipage 30 } cally.
A. I do not know everything about it.
Q. I see.
A. It was approximately five or six years ago and it got postponed quite a few times and we really didn't know exactly when we would be hooking up.
Q. Well, did you expect in 1962 it would be fifteen or twenty years, or what period of time?
A. We didn't know.
Q. You didn't know.
A. No.
Q. Had anybody given you—
A. We had certain information that it would be hooked up at a certain, time, but we didn't see any lines coming down the road to hook up, so we just had to take it for granted that they weren't going to do it.

John Aragona, Jr.

Q. You had received no information on this from the sanitary district?

A. Yes, we had letters saying that they would hook up at certain dates.

Q. Yes?

page 31 } A. But prior to these dates, by visual observation, you could see there weren't any force mains coming down Virginia Beach Boulevard and there was no way possible that we could hook up at that particular date.

Q. So you expected, then, this treatment plant would continue in operation until 1990? Is that correct?

Mr. Kellam: I object to the phrasing of the question. That is not responsive to Mr. Aragona's answer and it is an improper question. He is trying to put words in his mouth.

Commissioner Hooker: Things that are not proper, we won't pay any attention to, in order to save time.

Mr. Riely:

Q. Did I get an answer to my last question? If so, I have forgotten. Do you expect this plant to continue in service until 1990 and beyond? Is that correct?

A. No.

Mr. Kellan: No statement of that kind has been made.

Commissioner Hooker: I agree with you. It is not important, just let it go.

Mr. Riely: May I suggest, your Honor, why it

page 32 } is important?

Commissioner Hooker: It is not important in my mind.

Mr. Riely: Very well, Sir.

Mr. Riely:

Q. Now you have six people who work in operation and maintenance. What do the other two do?

A. Well, we have a bookkeeper and myself.

Q. And yourself. Do you do your own billing?

A. No, we do not.

Q. Who does the billing?

A. Larasan Realty Corporation.

Q. What is the *realtionship* between Larasan Realty Corporation and Princess Anne Utilities?

A. There is no relationship.

Q. No relationship at all?

John Aragona, Jr.

A. No.

Q. Who owns the outstanding shares of capital stock of Larasan Realty Corporation?

A. I have no idea.

Q. You don't know?

A. No. I think Lawrence Sancilio probably does,
page 33 } but I am not certain of that.

Q. Is there no relationship between Lawrence Sancilio and you, by blood or marriage?

A. There is a relationship by marriage.

Q. What is the relationship?

A. He married my sister.

Q. And you think he owns the stock of Larasan Realty Corporation?

A. I really don't tend to his business very much. I don't know what he does.

Q. Do you think that he owns the stock of Larasan Realty Corporation?

A. I could not tell you. I do not know.

Q. You could not tell us, and it does your billing and you pay it a fee?

A. Yes, it does. Yes.

Q. And you propose, in this proceeding, to pay it an additional fee because you will add the Hampton Roads Sanitary District bill to your bill? Is that correct?

A. Would you phrase that question again?

Q. You propose to pay Larasan Realty Corporation an additional fee in this proceeding because you will
page 34 } add the Hampton Roads Sanitary District bill to your bill, is that correct?

A. Well, depending how we do our billing. It depends solely on how we do our billing. If we have to add on Hampton Roads Sanitation District billing to ours etc. it would be quite a bit more complicated process and not that we would want to give him any more, but I think he would request it or would not do it.

Q. That is contemplated by the exhibits that are put in this case by other witnesses, is it not?

A. Yes, Sir.

Q. I wonder, Mr. Aragona, if your are familiar with a letter addressed to Mr. John Aragona by Mr. Frank H. Miller of the Hampton Roads Sanitary District, under date of January 24, 1969, a copy of which I now hand you?

Mr. Kellam: If your Honor please, I object to this letter

and I state to the Commission why. There is a contract existing between Princess Anne Utilities and Hampton Roads Sanitation District that sets out what the provisions are between the two companies. This letter makes a proposition to change that agreement. It hasn't been agreed to
page 35 } by Princess Anne Utilities and has not been determined that it is in their best interest to agree to it or even in the best interests of Hampton Roads. That matter has not been explored. This was purely a suggestion on the part of Hampton Roads and I feel it has no part in this hearing and I object to it.

Commissioner Hooker: I notice it says "rough draft".

Mr. Riely: May it please the Commission, in the testimony presented to Princess Anne Utilities in this case, it is proposed to increase the billing cost by about five thousand dollars because it will be necessary, according to Princess Anne Utilities, to put on the Princess Anne bill the Hampton Roads Sanitation District bill and that will cause the rate payers of the City of Virginia Beach to pay another five thousand dollars. In this letter the Hampton Roads Sanitation District suggested to Princess Anne Utilities that Hampton Roads Sanitation District would be entirely willing to bill the customers direct, without going through Princess Anne Utilities. Obviously, that would, in the applicant's own figures, save five thousand dollars for the rate payers of Virginia Beach. It is for this reason that I sub-
page 36 } mit to the Commission that this letter is entirely relevant and I think it should be received.

Mr. Kellam: If it please the Commission, it is obvious that somebody has got to pay that cost, whether it is paid this way or not is another matter, but as it now stands there is a written contract between the parties signed by both parties, which calls for Princess Anne Utilities to collect this bill. That contract has not been changed or amended and at this time, neither party has determined that it is in their best interest. This is purely a proposal; neither side has decided that it is in their best interest to act upon it and at this time it is pure conjecture.

Mr. Riely: This is a proposal, if your Honor please, that would save five thousand dollars.

Commissioner Hooker: The Commission will receive it for what it's worth. It is not evidence.

Mr. Riely: I don't know how you want to number this exhibit—

John Aragona, Jr.

Commissioner Hooker: It is not an exhibit—it is received for what it is worth. It is nothing more than a
page 37 } letter.
Mr. Riely: All right.

Mr. Riely:

Q. Now, Mr. Aragona, you have testified at the bottom of the first page of your exhibit that your company had five thousand five hundred eighty-two customers in December, 1968. Is that correct?

A. That is correct.

Q. Could you tell me how many of those customers were commercial or industrial customers?

A. I couldn't tell you to the exact figure, but it is not very many commercial—I would say a hundred or a hundred fifty—something like that.

Q. You don't have those figures—they are not available in your records?

A. They are available, but right off the top of my mind, I can't think of exactly how many commercial establishments we have.

Q. How many apartments do you have?

A. I think we have approximately five hundred.

Q. Do you have any figures for any later period than December 31?
page 38 } A. No, I do not.
Q. Do you know how many connections were made by your company in January of this year?

A. In January of this year? No.

Q. You don't know how many customers you had at the end of March?

A. No. It is not too far off this figure, but I do not know exactly how many it is.

Q. Mr. Larson testified on Exhibit D, Schedule D-1 that apparently at August 31, 1968 you had four thousand seven hundred fifteen residential customers, four hundred eighty apartments and ninety-six commercial customers.

Mr. Kellam: If it please the Court, they are talking about apples and oranges. Mr. Larson's testimony says average—it it is read properly, you will notice that it is an average and in this instance the customers given by Mr. Aragona is the actual number of customers at the given date.

John Aragona, Jr.

Mr. Reily:

Q. Do you know how many customers there
page 39 } were on your lines on August 31, 1968?

A. August 31, 1968?

Q. Yes.

A. No, I do not. No, I could not answer that question exactly.

Q. And you don't know whether your company is growing or not, do you?

A. I know whether it is growing—

Q. Oh, you do?

A. —but I couldn't tell you whether I had fifty-two hundred customers on May 17, 1965 or fifteen hundred and twelve two days after that. I just couldn't give you these figures.

Q. Did you say it is growing or not growing?

A. It is growing, yes.

Q. How fast is it growing?

A. Percentage-wise? I really don't know.

Q. You don't know how fast it is growing?

A. No. Exactly in what—

Commissioner Hooker: How many additional customers in a month or three months, that might be a better way for you to answer it.

page 40 } A. I couldn't answer that question accurately because in a particular month it might not hardly get any and somebody might open a subdivision and we might get a hundred.

Q. So you think it is growing, but you don't know how much it is growing. Is that a correct way of putting it?

A. No, I don't know exactly how fast it is growing, as far as percentages, etc.

Q. Is it going to grow in the future?

A. Is it going to grow in the future?

Q. Yes.

A. Yes, I hope so.

Q. Is there a substantial acreage of vacant land remaining in your certificated area?

A. Of vacant lines?

Q. Land.

A. No.

Q. There is no substantial land on which buildings have not been erected within your service area?

John Aragona, Jr.

A. There might be a few lots scattered here and there, but it doesn't amount to many.

page 41 } Q. You wouldn't say there are a hundred vacant lots?

A. There may be a hundred vacant lots. I really couldn't tell you, exactly, how many vacant lots that are scattered throughout the area.

Q. How do you plan your operation for the future, Mr. Aragona, if you make no estimate on how many customers you are going to get in the future?

A. Well, we have a pretty large area to control. You just can't—we don't have enough money to go putting pumping stations all over the place on the assumption that there is going to be residential houses there or commercial establishments. We usually get letters from different sources stating that they are going to put in a subdivison and then we furnish them with sewerage and plants and exactly how we are going to furnish them.

Q. There is no substantial area which is vacant and which will provide for growth within your certificated service area?

A. We have the area, but we don't have vacant lines.

Q. You don't have vacant land on which houses

page 42 } can be built or commercial establishments?

A. Right. We would have to put in more lines.

Q. We are talking about two different things. You say you don't have vacant lines. I was talking about vacant land. Is there vacant land within your service area?

A. Vacant line?

Q. Land—l-a-n-d, Mr. Aragona.

A. L-a-n-d—land?

Q. Yes.

Commissioner Hooker: Dirt.

A. Yes, we have lots of vacant land.

Q. Lots of vacant land?

A. Within the franchised area.

Q. Within the franchised area?

A. Yes.

Q. And so there is room for substantial growth?

A. Yes.

Q. And do you anticipate that growth?

A. Yes, I do.

Q. Have you made any estimate of the number of connections that will be added to your lines within

page 43 } the next year?

John Aragona, Jr.

A. No, I have not.

Q. Have you made any plans to build additional lines—l-i-n-e-s—to serve the land l-a-n-d—that is within your certificated area that is presently not served?

A. No, we have not made any future plans for undeveloped area. No.

Q. Have you made any future plans for developed area?

A. Presently, we don't have any new developments coming forth, so we have not made any plans.

Q. On Page 2 of your testimony you state, and I quote, "it has been most difficult it." That is your company, "to keep up with the demand for sewerage service and it has required the expending of many thousands of dollars to furnish the required and needed services." Is that a statement that your company has spent many thousands of dollars?

A. Yes.

Q. How many thousands of dollars have been spent by Princess Anne Utilities, itself?

page 44 } A. I am not familiar with those figures right off-hand. We have an accountant here that would know that.

Q. You are not familiar with how much money your company spends?

A. No.

Q. Do you know whether your company has made money—if it had net income in the past years?

A. I think that should be asked of the accountant. I really don't know.

Mr. Kellam: If it please the Commission, we have an accountant—

Commissioner Hooker: The witness said he didn't know.

Mr. Riely: This gentleman is vice president of the company. He says he is a competent witness and he doesn't know whether the company has made money. I will withdraw the question.

A. All right.

Commissioner Hooker: Well, that was his answer.

Mr. Riely:

Q. Now, on the top of page 3 of your testimony you state "the city then had an appraisal made." When was that appraisal made?

page 45 } A. I do not know the date of it. A couple of years ago—two years ago.

John Aragona, Jr.

Q. Do you know whether it was made after June 15, 1966 or not?
A. I think it was made after June 15, 1966.
Q. Who made it?
A. I do not know.
Q. What was the result of it?
A. I do not know the results.
Q. Do you know that in fact it was made?
A. I do not know for sure exactly. I never saw it. The city didn't show it to me, but I was under the assumption that I heard from certain city officials that they were making one.
Q. What city officials told you that one was being made?
A. I do not know right off hand.
Q. So the basis for that statement of fact is an assumption that you made on the basis of information that you obtained from a city official whose name you can not remember? Is that correct?
A. That is correct.

page 46 } Q. Furthermore, on that same page you state "the stockholders of this utility have never objected to the acquisition of its properties by the city and offered the city terms if it desired to acquire this facility."
Is that a statement that you and the other stockholders of Princess Anne Utilities would now be willing to sell its property to the city?
A. Yes.
Q. On what basis?
A. What do you mean—what basis?
Q. What dollars, Mr. Aragona. What dollars?
A. What dollars will we sell Princess Anne Utilities for?
Q. Yes.
A. I really don't know. I would have to confer with the other stockholders. Right now it wouldn't be the same as it was maybe two or three years ago because of the growth. I do not know.
Q. You do not know?
A. No.
Q. And you don't know on what basis you would make that determination?

page 47 } A. No.
Q. How you would go about it?
A. No.

Mr. Reily: I have no further questions of Mr. Aragona.

John Aragona, Jr.

Commissioner Hooker: Mr. Staples.

CROSS EXAMINATION

By Mr. Staples:

Q. Mr. Aragona, are you familiar with the rates that are filed with this Commission presently?

A. Presently, yes.

Q. The staff informs me that the rates that you outlined in the petition entered in this matter do not accurately reflect the rates that are currently on file. They indicate that there is no filed rate for apartments, for instance.

A. All right.

Q. Are you aware of that? Are you aware of the rates outlined in this petition you refer to on page two of your testimony?

A. Yes.

Q. You were not aware of this omission?

page 48 } A. I do not understand what you are saying.

Q. You state in the petition—

A. What page are you looking at?

Q. I am on page two of the petition that you refer to in your testimony—down at the bottom of page two.

A. All right.

Q. Do you see "to each apartment customer eight dollars per quarter"?

A. To each apartment customer? Right.

Q. I am informed that this rate is not on file with this Commission.

A. Right.

Q. I just wanted to bring that to your attention. Do you realize that rates are supposed to be filed when they are charged?

A. They are supposed to be filed. Yes.

Chairman Catterall: I don't quite get what the witness is saying. You know that the rate has not been filed and that it should be filed.

A. No, I didn't know that.

Mr. Staples:

page 49 } Q. You didn't know that?

Mr. Staples: If the Commission please, the rate that is on file for commercial customers deviates substantially from the technically involved rate that is stated here.

We will be glad to bring this to the attention of the applicant in conference. It is too complicated to bring out at this time.

Commissioner Hooker: Who files the rates for your company?

A. Well, the bookkeeper.

Mr. Kellam: If it please the Commission, if there is an error, of course we are ready, willing and want to correct it. He says he is not aware of it, and neither was I aware of it as Counsel, so if there is any error in it, of course we are perfectly willing and want to correct it.

Commissioner Hooker: You are certain you are not aware of it and could have corrected it before now? You don't seem to be very familiar with this company, the rates being filed—you don't know anything about them being filed—what the rates are?

A. Yes, I know what the rates are.

page 50 } Commissioner Hooker: You don't seem to know about that.

A. Well, I didn't know that this eight dollars per quarter for apartments will not be—had not been filed. I didn't know.

Commissioner Hooker: Do you realize that unless you have the proper rates on file that you cannot collect for that rate?

A. Yes, I do, but I didn't realize that it hadn't been filed.

Commissioner Hooker: All right, go ahead.

Mr. Staples: I have no further questions.

Commissioner Hooker: You may stand aside.

Witness Stood Aside.

page 51 } Commissioner Hooker: Next witness.
Mr. Lawler: Mr. Chewning.

A. J. CHEWNING, III, a witness introduced on behalf of the Applicant, being first duly sworn, testified as follows:

Mr. Staples: If it please the Commission, this witness's testimony is based upon the assumption of reproduction cost new, which this Commission does not use as a basis.

Commissioner Hooker: No, we do not accept reproduction cost new.

Mr. Riely: On that basis, I should like to move that the entire testimony of this witness be stricken.

Commissioner Hooker: Is it completely on reproduction cost new?

A. J. Chewning

Mr. Kellam: If it please the Court, we would like, even though the Commission may not offer it, we feel that it has some bearing on some other testimony that will be offered. We would like to offer it on that basis for the Commission's consideration, not as the basis for establishing the rate necessarily, but for the bearing that it would have on

page 52 } the other testimony which will later be offered.

Mr. Riely: And for that reason, may it also please the Commission, I propose to move to strike the portions of the testimony of the other witnesses whose testimony is—

Chairman Catterall: For the last ten years, we have always stricken as evidence, but we allow counsel to identify it as an exhibit and it is rejected; and you can take it to the Court of Appeals.

Commissioner Hooker: It will be offered as Exhibit No. 1 and excluded; so you can use it in an appeal, if you desire to.

Mr. Kellam: If it please the Commission, so much of this as relates to other testimony we would like for the Commission to receive that not for the purpose of using this as a basis for establishing the rates, but as a basis for establishing certain facts.

Commissioner Hooker: The Commission won't permit that. Certainly it should be known by everyone at least for ten or fifteen years that reproduction cost new testimony has not been received by this Commission.

Mr. Kellam: If the Commission please, the Commission changes from time to time. The Courts change

page 53 } from time to time, and there is never any thing certain but death or taxes; and it is on that basis that we feel like that if this matter has to be considered by a court, that all of the evidence should be in, so that they may have an opportunity to consider it all and then to determine whether or not, under all the circumstances, and we recognize that this has been the position of the Commission.

We recognized it when we offered this testimony, but the Commission has never tied to any one idea. The Commission changes as time changes. There may be factors in this case which the Commission might want to change its position. I am not saying it would, but there could be. We would like for the Commission to hear it, consider it for what it may be worth. If it is not worth anything, to then exclude it; but we would like for the Commission to hear it and we would like to get it in the record.

Commissioner Hooker: Some of the Commissioners of this

Commissioner have changed, but one Commissioner hasn't changed for forty-four years; so this is excluded, this is final.

page 54 } Mr. Staples: That also, your Honor, extends to striking testimony that is based upon—

Commissioner Hooker: If it is based on reproduction cost new, it will not be received.

Mr. Kellam: If your Honor please, in his testimony are certain figures which are facts and—

Commissioner Hooker: Now you have heard the ruling of the Commission, Mr. Kellam, and that is final.

Mr. Kellam: I am not asking you to accept the testimony.

Commissioner Hooker: What are you asking for?

Mr. Kellam: I'm asking you to allow the testimony in for this purpose: there are certain—

Commissioner Hooker: You have just been denied that.

Mr. Kellam: Will your Honor let me state my reason. There are certain figures in Mr. Chewning's testimony which are facts, which are actual facts, and some of the other witnesses testimony are based on his testimony on the question of appraisal, on the question of values, and that testimony is based on his collection of actual facts. As to those

page 55 } facts, we would like for the Commission to allow them in, so that the witnesses may be able to use those facts in the basis of his testimony.

Mr. Riely: I would hope that—

Chairman Catterall: We can't possibly let any evidence be based on these facts because they are immaterial facts.

Mr. Kellam: As I understand the Commission's Ruling, they are Ruling that this is not a method by which the Commission would base rates.

Commissioner Hooker: That is right.

Mr. Kellam: But the Commission is not saying that the testimony which Mr. Chewning is giving is not correct and what we are saying is that—

Commissioner Hooker: It may be correct based on reproduction cost new, but not on original cost less depreciation.

Mr. Kellam: If it please the Commission, that is not our approach to it. Our approach to it is: this is an appraisal, and we feel that as to the appraisal value, that the Commission should bear that.

Now as to the question of reproduction cost,

page 56 } that—the Commission may not consider it from that aspect at all, but if Mr. Chewning, who is a competent engineer, testifies that a certain pumping station

is worth "X" number of dollars as to that value—as to his value on that station, it seems to me that is fact for the Commission to consider.

Chairman Catterall: No, it is an immaterial fact. We base rates entirely on original cost—

Commissioner Hooker: Less depreciation.

Chairman Catterall: —and not on reproduction cost, and we don't allow any evidence based on reproduction cost for any purpose whatever.

Mr. Kellam: I am not talking about reproduction cost. I am talking about actual cost which he has in his testimony. He has certain actual cost. To that, he has added—to get his reproduction cost certain factors which may be inflationary and certain other factors, but his testimony is based on actual appraisal value of this equipment as it is today, what it is worth.

Commissioner Hooker: That is exactly what we ruled out, the appraisal value.

page 57 } Mr. Kellam: Without laboring the point and I do not mean to be persistent at all, but there are certain figures in his testimony—

Chairman Catterall: We don't want those figures.

Mr. Kellam:—that we had to trend back to get the actual cost and—

Commissioner Hooker: This Commission is not responsible for how you prepared your case. Now if you have gotten it all messed up some reproduction new with some of the other, that is your responsibility and not this Commission's.

Mr. Staples: If the Commission please, on page nineteen of proposed testimony, which is now Exhibit No. 1 that has been excluded, Mr. Chewning answers an inquiry which is, "What is the basis of your evaluation"? by saying "My basis of evaluation is the replacement cost less depreciation to date method."

Mr. Kellam: That, undoubtedly is true, but as I said, there are certain actual appraisals that are in here that we feel that are necessary in order to establish certain other facts.

page 58 } Commissioner Hooker: You have nothing further from this witness then? Is that all of this witness?

Mr. Lawler: Yes, Sir, that is all we have for him except—may I—I do not know if Mr. Kellam made it clear and perhaps he did and that is this, your Honor—

Commissioner Hooker: I think he made it very clear.

Mr. Lawler: —is that some of the testimony not based

upon the reproduction cost now that we are asking the Court to consider, the Commission to consider. What we are saying is: there is some evidence within the entire package that Mr. Chewning has prepared, some of which is the reproduction cost and other deals with relevant factors which the Commission may consider; for instance, the depreciation rate which is applied to certain other facilities that is in his testimony. We think that that would be a material matter for the Commission to consider.

There are certain items which were constructed by persons other than the applicant and the applicant doesn't have the actual figures for those facilities; and, accordingly, it has to take the value of those facilities today and trend them back to get the original cost and we think that those two items; that is, what is the depreciation rate that we are talking about and what is the original cost on some of these facilities should be material matters which the Commission could consider in arriving at a proper rate for this applicant to charge the public.

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We would ask the Commission, while it may exclude the actual reproduction cost new as a rate basis, part of rate basis, yet those items which deal with the two things which I have mentioned, it would seem to me that could be received by the Commission and considered by them for those purposes.

Commissioner Hooker: Mr. Kellam made the exact same statement that you made. We understand it and this is why I remarked as I did that this Commission is not responsible for the way you prepared your case. Now it may be that some things in there, if you had prepared it properly, could have been understood, but certainly cannot be mixed up together and put in the record.

Mr. Staples: Further, your Honor, the depreciation rates that are referred to are applied to the reproduction cost which have been received, so we have to—

page 60

Commissioner Hooker: You certainly had the book cost of this company, and that is where it should have started.

Stand aside if there is nothing else of this witness.

Witness Stood Aside.

page 61 Mr. Kellam: Mr. Gerald D. Sherman.

Gerald D. Sherman

GERALD D. SHERMAN, a witness introduced on behalf of the Applicant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Kellam:

Q. You are Mr. Gerald D. Sherman?

A. That is correct.

Q. And, Mr. Sherman, you have prepared certain testimony, have you not? You have prepared certain testimony in this case?

A. I have.

Q. And that is in written form in this pamphlet (indicating)?

A. That is correct.

Q. Please state your occupation and business address.

A. I am a managing partner in the Certified Public Accounting Firm of Spero, Sherman and Spero. Our offices are at 36 West 44th Street, New York City and 119 North Plaza Trail, Virginia Beach, Virginia.

Q. What are your educational qualifications?

page 62 } A. I attended Brooklyn College, Cornell University and was graduated from the College of the City of New York in 1950 with a BBA in accounting.

Q. What certificates do you hold?

A. I hold the certificates of Certified Public Accountant issued by the State of New York in 1955 and the State of Virginia in 1959.

Q. How long have you been associated with your present firm?

A. I have been with my present firm since 1953 as an employee and since 1957 as a principal.

Q. Will you please describe your professional affiliations and activities?

A. I am a member of the American Institute of Certified Public Accountants and have attended many of their formal courses in professional development.

I am a member of the New York State Society of Certified Public Accountants and have served on the following committees of the Nassau Suffolk Chapter: Committee on Federal Taxation, Committee on Contractor and Real Estate Accounting, Committee on Data Processing, Committee on Estate Planning, and Committee on Administration of

page 63 } Accountants Practice.

Gerald D. Sherman

I am a member of the New York University Tax Study Group and the C. W. Post College Tax Institute.

I have appeared frequently as a lecturer in the Annual Federal Tax Forums of the Nassau Suffolk Chapter of the New York State Society of Certified Public Accountants, the C. W. Post Tax Institute and the Kentucky Society of Certified Public Accountants. I have conducted seminars on depreciation guidelines for the New York State Society of Certified Public Accountants.

I have lectured before groups of CPA's, members of the Bar and Internal Revenue Service personnel at Hofstra University, C. W. Post College and the University of Louisville.

I am a co-author of the following books printed by Panel Publishers, Inc.: Subchapter S, "It's Opportunities and Pitfalls," "How to Take Money Out of a Closely Held Corporation," and "Multiple Corporations."

Q. How long have you been associated as the accountants for Princess Anne Utilities Corporation?

A. Since its inception in 1959.

Q. What was the scope of your engagement?

page 64 } A. The scope of our engagement was primarily in the tax audit function and to assist management in the preparation of its Annual Reports. More recently we have been requested to render an independent opinion on the annual financial statement furnished the State Corporation Commission and to prepare a projection of operating costs for 1969 predicated on connecting with Hampton Roads Sanitation District.

Q. Is this Exhibit, marked Exhibit No. B, your projection of these operating costs?

A. Yes, it is.

Q. Will you please state the results of this study, an itemized breakdown of the expenses and a description of the methods employed in arriving at these calculations.

Plant, office payroll and related expenses amount to thirty-nine thousand eight dollars and eighty-nine cents. It is based upon the actual payroll for the fiscal year ended August 31, 1968, plus a factor for payroll taxes and compensation insurance. Management states that there will be no reduction in payroll as a result of connecting with Hampton Roads Sanitation District.

page 65 } Fuel power and water is estimated at ten thousand eight hundred eighty-five dollars and seventeen cents. This has been computed by taking the actual bills for Virginia Electric and Power Company for the fiscal year

ended August 31, 1968, and reducing this by the bills attributable to the portion of the plant to be abandoned. To this total has been added an estimated four thousand two hundred dollars for the pumping station under construction which is presently required in order to connect with Hampton Roads Sanitation District and two hundred fifty dollars for water.

Auto and truck expense—five thousand two hundred seventy-eight dollars and sixty-one cents is the actual for the fiscal year ended August 31, 1968.

Miscellaneous operating expenses and supplies are estimated at one thousand dollars.

Annual depreciation is calculated to be seventy-six thousand three hundred thirty-one dollars and twenty cents. The depreciation rate is estimated at two per cent for gravity sewers and force mains. A four point three nine per cent composite rate for pump stations and their housing and rates which vary from ten per cent to twenty per cent on the equipment. The depreciation has been calculated on a

page 66 } straight-line basis, and the rates have been designed by Chewning, Goodwin and Hoggard as stated in their valuation report.

The book cost of the utility plant is three million three hundred thirty-nine thousand eight hundred eighty-six dollars and ninety-seven cents, consisting of actual cost of Princess Anne Utilities Corporation and Associated Companies of one million nine hundred eighty-seven thousand seven hundred one dollars and sixty-seven cents and estimated costs of one million three hundred fifty-two thousand one hundred eighty-five dollars and thirty cents constructed by others. Estimated costs were computed by referring to the Appraisal Report of the engineering firm of Chewning, Goodwin and Hoggard at replacement values discounted by a cost index factor to the year of installation.

Depreciation was calculated on this cost after excluding land and plant and equipment which will be abandoned as a result of connecting with Hampton Roads Sanitation District.

Maintenance and repairs are calculated at thirty-two thousand one hundred fifty-seven dollars and fifty-eight cents. This calculation is based upon an average of the

page 67 } four prior years after excluding those expenses attributable to the plant which will be abandoned. Invoices were examined to ascertain classification. They represented expenditures to maintain existing facilities in nor-

mal operating condition and were not replacements or betterments of a character to add to the useful life or value.

An officer's salary and related expense provision has been made in the amount of eighteen thousand four hundred one dollars and forty cents.

The present collection agency fee is ten per cent of gross billing. The new method of billing with Hampton Roads Sanitation District introduces a separate charge for each customer which varies based upon a meter reading. This necessitates a two-part billing calculation which must be separately entered on each bill. The mechanical operation and the related additional internal control procedures requires an increase in personnel, equipement and supplies. It is estimated that this increase would be twenty per cent of the current annual agency fee or four thousand nine hundred sixty dollars and forty-six cents, which would bring the collection agency fee to twenty-nine thousand seven hundred sixty-two dollars and seventy-eight cents.

page 68 } The real estate tax projection is predicated upon elimination of the abandoned facilities and assessment for land and pumping stations. Licenses are calculated at point five per cent of gross revenues. The combined real estate tax and license total is eight thousand four hundred thirty-three dollars and ninety-eight cents.

The following items are projected at their actual cost for the fiscal year ended Aust 31, 1968: rent, two thousand four hundred dollars; bookkeeping and office, one thousand eight hundred dollars; telephone, eight hundred ninety-nine dollars and ninety-six cents; general taxes, one hundred ninety-two dollars and eighty cents; and miscellaneous administrative, one thousand three hundred one dollars and four cents.

Legal and accounting has been projected at two thousand one hundred dollars and insurance expense in the amount of two thousand four hundred seventy-five dollars and fifty cents is the total of the annual premiums.

In summary, the total of the expenses which I have just recited amounts to two hundred thirty-two thousand four hundred twenty-eight dollars and ninety-one cents. Items not included in this total are: Federal and State

page 69 } income taxes; amortization of facilities to be abandoned; amortization of cost to fill the lagoon; and amortization of estimated rate case expense.

Q. Is this exhibit, marked Exhibit No. C, the comparative financial statements of Princess Anne Utilities Corporation

at August 31, 1968, and August 31, 1967, which has been furnished to the State Corporation Commission?

A. Yes.

Q. Will you please state the items comprising contributions in aid of construction as reflected in Exhibit No. C.

A. The Princess Anne Plaza Subdivision had constributions totaling one million six hundred seventy-one thousand three hundred seventy-three dollars and eighty-eight cents, which consisted of tap in fees of five hundred seventy-seven thousand six hundred dollars paid by builders which directly reduced the price of the land the builders purchased from Associated Companies of Princess Anne Utilities Corporation. Associated Companies contributed facilities costing nine hundred seventy-seven thousand eight hundred fifty-five dollars and nine cents and unrelated builders and land developers contributed facilities costing one hundred fifteen thousand nine hundred eighteen dollars and

page 70 } seventy-nine cents for which a reduction was made in the price of the land sold by Associated Companies.

Tap in fees paid by unrelated builders in Kings Grant Subdivision amounted to ninety-eight thousand four hundred dollars and contributed facilities amounted to six hundred fifty-seven thousand five hundred forty-six dollars and sixty-four cents, totaling seven hundred fifty-five thousand nine hundred forty-six dollars and sixty-four cents.

Tap in fees paid by unrelated builders in Windsor Woods subdivision amounted to two hundred five thousand six hundred dollars and contributed facilities were five hundred seventy-two thousand two hundred nineteen dollars and eighty-seven cents, totaling seven hundred seventy-seven thousand eight hundred nineteen dollars and eighty-seven cents.

Tap in fees paid directly by customers were twenty-eight thousand seven hundred dollars.

Q. Were contributions made on a voluntary basis?

A. No.

Q. Of the three million two hundred thirty-three thousand eight hundred forty dollars and thirty-nine cents of contributions in aid of construction, how much came from customers?

A. Twenty-eight thousand seven hundred dollars.

Q. How much came directly or indirectly from

page 71 } related companies of Princess Anne Utilities Corporation?

A. One million six hundred seventy-one thousand three hundred seventy-three dollars and eighty-eight cents.

Q. How much came from unrelated builders in the Kings Grant and Windsor Woods subdivisions?

A. One million five hundred thirty-three thousand seven hundred sixty-six dollars and fifty-one cents.

Q. And that is your testimony?

A. No, I have added to that testimony three additional questions, which I handed to you previously.

Q. Yes, and you would like those three questions to be considered also?

A. Yes, Sir, I would.

Q. Is it your opinion that these contributions in aid of construction reduce plant account for purposes of rate base determination?

A. Where contributions in aid of construction are paid by the consumer, there is a valid argument that he should not be charged a return on capital which he provided. However, in this particular case, the consumer paid only twenty-eight thousand seven hundred dollars, and even this

page 72 } was in the form of a tap in fee which many feel should be considered as miscellaneous revenue.

The balance of the contributions to the capital of the Company was a financing mechanism which was separately negotiated for by the Utility Company, and of this amount one million six hundred seventy-one thousand three hundred seventy-three dollars and eighty-eight cents even came from corporations which are related to the Utility through one hundred per cent common stock ownership. The capital of a utility is measured by the total of the resources available and required to carry on its operations regardless of source.

In my opinion, none of the contributions should reduce the plant account for purposes of rate base determination.

Q. For income tax purposes, the Utility does not take a current depreciation deduction. Can you reconcile this with the accounting treatment for financial statement purposes?

A. The Internal Revenue Service has different rules for purposes of raising revenue which do not purport to be in accordance with generally accepted accounting principles. Section 362(c) of the Internal Revenue Code pre-

page 73 } cludes depreciation on these facilities. However, this is not in accordance with generally accepted accounting principles. In fact, the Internal Revenue Service is reviewing its position with regard to this matter. Depreciation expense is undisputed as being allowable as a deduction in determining revenue requirements for a utility.

Gerald D. Sherman

The definitition of depreciation is described in the Uniform System of Accounts prescribed by the National Association of Railroad and Utilities Commissioners. The basis of the property on which it is to be applied is also described. The generally accepted accounting concept of depreciation is a method to distribute the cost or other basic value over the useful life of the unit in a systematic and rational manner. The Utility Company has conformed with the principles prescribed by the National Association of Railroad and Utilities Commissioners and with the American Institute of Certified Public Accountants in its depreciation computation.

Q. In the previous annual reports furnished the State Corporation Commission, the Utility did not reflect all of its facilities. Would you explain this?

page 74 } A. None of the previous reports was submitted with independent certification. The Utility is an outgrowth of a small company which maintained its records primarily to satisfy Internal Revenue Service requirements. Facilities paid into the capital of the Corporation, which were not specifically in lieu of tap in fees, were not easily analyzed or evaluated. In fact, complete engineering reports were not available until last year when we issued a certified financial statement.

Q. Are you finished with your testimony?

A. Yes.

Mr. Riely: How about giving us five minutes so we can read this?

Commissioner Hooker: The Commission will recess five minutes. 10:26 A.M.

10:31 A.M. The Commission resumes its session.

Mr. Kellam: If it please the Commission, may I ask is the evidence of Mr. Chewning now offered and rejected as part of the record?

Commissioner Hooker: That is right. I think the record is clear on that.

page 75 } CROSS EXAMINATION

By Mr. Riely:

Q. Mr. Sherman, did you or your office prepare the Federal Income Tax return of Princess Anne Utilities Corporation for the fiscal year ended August 31, 1968?

Gerald D. Sherman

A. We did.

Q. Is this a copy of that return (indicating)?

A. This is the return.

Q. Now I believe that this return shows on page one net income after Federal Income taxes of about twenty-five thousand dollars, is that correct?

A. The return I have in front of me shows net income before income taxes of thirty-six thousand nine hundred forty-four dollars and forty-nine cents.

Q. And after Federal Income taxes?

A. Approximately twenty-five thousand dollars.

Q. And would you be so good as to turn to the third page of this return, item "K", and what does item "K" show?

A. Item "K" shows the three prior taxable years, taxable income.

Q. And what were they? Would you read them into the record please?

page 76 } A. For the year ended August 31, 1965, twenty-one thousand eight hundred twenty-six dollars and fifty-seven cents; for the year ended August 31, 1966, twenty-nine thousand two hundred seventeen dollars and thirty-two cents; for the year August 31, 1967, forty-three thousand three hundred ninety-three dollars and sixty-nine cents.

Q. Well, in each of those three years, there was net income before and after Federal Income taxes, is that correct?

A. That is not correct; for each of those years there was taxable income, not net income.

Q. There was no net income after the payment of taxes?

A. That is correct. There was a loss.

Q. There was a loss?

A. Yes.

Q. Well, could you tell us what the loss was in each of those three years?

A. The actual figure?

Q. Yes.

A. I do not have those figures in front of me.

Q. There are not among your work papers?

page 77 } A. They are not among my work papers. I beg your pardon. They are not among the work papers I have here.

Q. Oh, you didn't bring all of your work papers?

A. That is correct.

Q. I see. So you say that even though there was reported taxable income for Federal Income tax purposes, there was in fact, a loss?

A. That is correct.

Commissioner Hooker: And you don't know the amount?
A. No, I don't have the figures with me.
Mr. Riely: If it please the Commission, I should like—
Commissioner Hooker: Did you make these up?
A. Yes, I did.
Commissioner Hooker: Don't you remember the amount?
A. No, Sir, I do not.
Commissioner Hooker: How long has it been since you made it up?
A. Two years ago.

page 78 } Chairman Catterall: How could you have a loss if you have forty-three thousand dollars before taxes? If taxes would take half of it, you ought to have half of it left.

A. Well, I think my testimony in item seventeen would explain that, your Honor. I state here that for Income Tax purposes the Utility does not take a current depreciation deduction. The Internal Revenue Service has—may I read this—"The Internal Revenue Service has different rules for purposes of raising revenue which do not purport to be in accordance with generally accepted accounting principles. Section 362(c) of the Internal Revenue Code precludes the depreciation on these facilities. However, this is not in accordance with generally accepted accounting principles. In fact, the Internal Revenue Service is reviewing its position with regard to this matter. Depreciation expense is undisputed as being allowable as a deduction in determining revenue requirements for a utility.

"The definition of depreciation is described in the Uniform System of Accounts prescribed by the National Association Railroad and Utilities Commissioners. The basis of the property on which it is to be applied is also described as being

page 79 } original cost or costs. The generally accepted accounting concept of depreciation is a method to distribute the cost or other basic value over the useful life of the unit in a systematic and rational manner. The Utility Company has conformed with the principles prescribed by the National Association of Railroad and Utilities Commissioners and with the American Institute of Certified Public Accountants in its depreciation computation."

Gerald D. Sherman

Mr. Riely:

Q. Now, Mr. Sherman, did you prepare or review financial statements for Princess Anne Utilities Company for any fiscal year prior to April 31, 1968?

A. We reviewed the Company's financial statements which were submitted to the Commissioner on uncertified reports.

Q. And each of those showed a loss?

A. I beg your pardon?

Q. Each of those showed a loss?

A. I do not have the statements in front of me. I believe they did.

Q. Now will you turn to the next page—

Mr. Riely: May it please the Commission, may this tax return be admitted as an exhibit.

page 80 } Commissioner Hooker: It will be received as Exhibit No. 1.

Chairman Catterall: No, Exhibit No. 1 was rejected.

Commissioner Hooker: That is right. It will be received as Exhibit No. 2.

Mr. Riely: Then how are we going to number these exhibits that are appended to the testimony, the way that they are numbered in the testimony?

Commissioner Hooker: I think we had better number them one, two, and so on.

Chairman Catterall: Well, let the testimony be received, and then you can refer to the exhibits attached to the testimony.

Commissioner Hooker: All right. I think that is the best way so it won't be confusing.

Mr. Riely: Mr. Chewning had an exhibit appended to his testimony which you called Exhibit No. 1. I just don't want to get confused. Mr. Sherman has, I believe—

Commissioner Hooker: What is this called in the testimony?

page 81 } Mr. Riely: Mr. Sherman has two exhibits, I think—

Mr. Staples: The tax return, your Honor, is not in the testimony.

Commissioner Hooker: Well, this will be called Exhibit No. 2 then.

Mr. Staples: Well, Exhibit No. 1, your Honor, at the hearing is the excluded testimony of Mr. Chewning, which did, in fact, have some exhibits already pre-numbered.

Chairman Catterall: Well, that can easily be referred to as

his testimony excluded exhibit number so and so. There would be no trouble in identifying it.

Commissioner Hooker: Exhibit No. 1 excluded and Exhibit No. 2 received.

Mr. Staples: So long as it is clear in the record.

Mr. Riely:

Q. Mr. Sherman, would you refer to page four of Exhibit No. 2. Is the balance sheet of Princess Anne Utilities shown on that page?

Mr. Lawler: You are talking about the tax return, Mr. Riely?

Mr. Riely: Yes.

page 82 } Mr. Lawler: I beg your pardon.

Mr. Riely: Yes.

A. Would you repeat that question, please?

Mr. Riely:

Q. Would you refer please to page four of Exhibit No. 2? Is the balance sheet of Princess Anne Utilities shown on that page?

A. The balance sheet for tax purposes is shown on that page.

Q. Now I noticed that at the end of the taxable year you show buildings less depreciation, buildings of other fixed depreciable assets less depreciation of fifty-nine thousand seven hundred eighty-seven dollars, is that correct?

A. That is correct.

Q. And on your Exhibit No. A to your financial report, you show utility plant less depreciation of two million nine hundred twenty thousand eight hundred ninety-six dollars, is that correct?

A. What figure are you referring to?

Q. Utility plant less depreciation, August 31, 1968, of two million nine hundred twenty thousand eight hun-

page 83 } dred ninety-six dollars.

A. That is correct.

Q. Now why isn't that plant reflected on the tax balance sheet?

A. The tax return is irrelevant for accounting purposes. It has its own set of rules and is generally recognized among all financial communities that a tax return and, in fact, most public companies and most corporations that issue tax returns have correlating, reconciling items that appear on their financial statements; and I believe that it is accepted

in most financial communities for this to be a fact. Tax return purposes have nothing to do with accounting purposes.

Q. Do you have a work paper that would correlate your Exhibit No. A with the tax return?

A. I have not the work papers with me, but I have work papers that correlate and reconcile these figures with the ones shown on the financial statement.

Q. Have you got any of your work papers with you?

A. No.

Q. No work papers?

page 84 } A. I have work papers. I have not the work papers you are referring to, which are the annual closing work papers for these particular fiscal years.

Q. Well, now, let's see if you can reconstruct some of these work papers for us in your mind, Mr. Sherman. For tax purposes, I judge Princess Anne Utilities Corporation has no investment in utility plant other than the fifty-nine thousand seven hundred eighty-seven dollars, is that correct?

A. For tax return purposes, Princess Anne Utilities has no basis.

Q. No basis?

A. No basis, not no investment.

Q. No basis. Well, that means it paid nothing for them, is that correct?

A. That is not correct.

Q. What does it mean? Explain it to me, Mr. Sherman; I'm awfully stupid about these tax things.

A. Perhaps I can explain in part of my testimony. May I review it.

Q. Certainly.

A. I cannot explain it as part of my testimony, but perhaps I can refer to a Third Circuit Court of Ap-
page 85 } peals decision of Tel Service Company of Wyoming Valley.

Mr. Riely: If it please the Commission, I asked him a simple question. I don't want an entity of law.

A. I am trying to answer your question.

Commissioner Hooker: Well, let's see what his answer is. Go ahead.

A. In this particular case, it refers to the tax principles employed for utility companies in considering contributions in aid of construction as being non-depreciable. The Tel Service Company case of Wyoming Valley was not a public utility and the Third Circuit, and even the Supreme Court

decision said these contributions should be taxable income, thereby creating basis; but for public utility cases until such time as the Commissioner of Internal Revenue reviews its position it will permit contributions in aid of construction not to have a depreciable basis and thereby tax the utility on these facilities.

Does that answer your question, Counselor?

Q. No. And I would like to ask one of you. Am I incorrect in saying that for that as a matter of fact Princess Anne Utilities has no tax basis for the two million nine shown on the balance sheet of the fifty-nine thousand
page 86 } shown on the tax return?

A. As long as you specify this tax basis, you are correct.

Q. And what does that mean? If I buy a piece of property for cash, I get a tax basis for it, don't I?

A. Sometimes.

Q. If I buy a piece of real estate for cash, I get a tax basis?

A. Sometimes.

Q. What times don't I?

A. I cannot memorize the Internal Revenue Code, but there are times when you can buy something without getting a basis.

Q. Well, in the normal case when I buy real estate, I get a tax basis?

A. In the normal case, you would.

Q. Now, I judge that, and Princess Anne owns real estate, does it not?

A. Princess Anne Utilities does own real estate.

Q. And did it pay cash for any of its real estate?

A. Part of it it paid cash for.

page 87 } Q. And has it got a tax basis for that?

A. No, it does not at this present time.

Q. At this present time. Now I note that your tax balance sheet has an accumulated depreciation, does it not, of twenty-eight thousand dollars?

A. That is correct.

Q. But you took no depreciation during the fiscal year to which this tax return relates. Was that because you had depreciated the depreciable property a hundred per cent?

A. No, Sir, because I had depreciated the depreciable property a hundred per cent? It depends upon your definition of

depreciable property. It means that I have no longer a basis from which to compute the depreciation.

Q. But you have had a basis in previous years?

A. We have had a basis in previous years.

Q. And that basis has been exhausted; would that be a proper way to put it?

A. No, Sir, it would not be a proper way to put it.

Q. How would you put it?

page 88 } A. It would be more properly stated that that basis has been reduced through contributions in aid of construction rather than have been exhausted through depreciation.

Chairman Catterall: You mean that whole two million dollars was put up by the consumers?

A. No, Sir. Part of it had been put up by the consumers and—

Chairman Catterall: And most of it, I gather from what you say—

A. I beg your pardon.

Chairman Catterall: —from what you say, I gather most of it was put in by the consumers, and not by the stockholders.

A. No, Sir, that is not a fact. I think my testimony analyzes contributions in aid of construction would refute that statement.

Chairman Catterall: Do you have those all in your statement so we can look at the figures?

A. Yes, Sir, we do.

Mr. Riely:

Q. Now on page twenty-six in your testimony,

page 89 } you state the book cost of utility plant is three million three hundred thirty-nine thousand eight hundred eighty-six dollars and ninety-seven cents. Is that the original cost of the plant of Princess Anne Utilities?

A. Yes, this would be original cost as you would know it, yes.

Q. And you determine that from the books of Princess Anne Utilities and from the books of other corporations who built these facilities, is that correct?

A. That is not so.

Q. Well, how could you get the original cost any other way, Mr. Sherman?

A. The original cost was determined from the books and

records of Princess Anne Utilities Corporation, from the books and records of affiliated corporations, and from engineering reports of construction cost put in by other than the affiliated companies of Princess Anne Utilities Corporation, which valuation report was based upon replacement value. In order to bring it back to original cost in accordance with the Uniform System of Accounts prescribed by the National Associaton of Railroad and Utilities Commissioners, I trended back based upon a cost index

page 90 } the replacement value to the date of installation in order to get an estimate of original cost.

Q. So it is not the original cost. It is an estimate of original cost, is that correct?

A. No, Sir. May I read. I am reading from the Uniform System of Accounts for Class "A" and "B" water utilities prescribed by the State Corporation Commission of Virginia—

Mr. Staples: Your Honor, these are based upon Mr. Chewning's estimates. This has already been excluded. I thought we made a Ruling that any depreciation rates that related to excluded testimony—

Commissioner Hooker: Counsel asked for it.

Mr. Riely: I was simply trying to bring out the fact that this was based on Mr. Chewning's estimates. I hadn't quite gotten there yet, and I would then move to exclude this testimony from the record.

Commissioner Hooker: You are getting a whole lot of it in the record.

Mr. Riely: Well, the only thing I'm trying to do is to find out what he did, so I can provide a basis for moving for its exclusion.

page 91 } Mr. Staples: Unless the Commission desires to hear as well as Mr. Riely, I would like to terminate at this point.

Mr. Riely: May we then move to exclude Mr. Sherman's determination on page twenty-six inasmuch as it is based on the Chewning report.

Mr. Kellam: If it please the Commission, Mr. Sherman is—

Commissioner Hooker: It is in the record now brought out by Counsel and Opposition, but we won't hear anymore of it, but it is in the record.

Mr. Kellam: If it please the Commission, Mr. Sherman is an accountant, and in performing his accounting service he

has a right to accept the figures of anyone in the making of his calculations.

Now whether or not the Commission sees fit to give full credit to it, is another matter, but as an accountant he has a right in making his accounting to accept the figures of anyone and that, of course, only applies to a very small part of the testimony. As he has just told you, it applies to just a very small part of it, about forty per cent I believe he said. So the other is not based on any testimony of Mr. Chewning.

Commissioner Hooker: Is your testimony
page 92 } based on original cost less depreciation?

A. Yes, Sir.

Commissioner Hooker: We'll hear that part that is based on strictly original cost less depreciation.

A. But this is original cost, your Honor.

Commissioner Hooker: What did you say?

A. An estimate of cost is a concept of original cost as described by the National Association of Railroad and Utilities Commissioners.

Mr. Staples: If the Commission please, page twenty-six of Mr. Sherman's proposed testimony says, the "Estimated costs were computed by referring to the Appraisal Report of the engineering firm of Chewning"—

Commissioner Hooker: Of course, that has been ruled out.

Mr. Staples: —"Goodwin and Hoggard at replacement values discounted by a cost index factor"—

Mr. Lawler: If your Honor please, what we are saying is that Mr. Sherman is talking about original cost throughout his testimony. Now the objection has been made
page 93 } that this is based on Chewning's testimony, but we renew our offer of so much of the evidence as relates to that. It doesn't make any difference how he gets to the original cost if it is a fact of original cost.

Commissioner Hooker: If it is absolutely original cost, it should be considered.

Mr. Lawler: Should be considered. That is what we are saying.

Chairman Catterall: If it is estimated original cost not based on any original entries in any book.

Mr. Lawler: Well, that is what we are saying, if your Honor please. May I read the rules prescribed by the National Association of Railroad and Utilities Commissioners.

I am reading from page ten of their booklet, section "D," "Utility plant contributed to the utility or constructed by it from contributions to it of cash or its equivalent shall be

charged to the utility plant accounts at cost of construction estimated if not known."

Now the facilities which Mr. Sherman is referring to are facilities of others, and he naturally is making page 94 } an estimate of those original cost; and we submit that he can use the present value of those facilities, the present reproduction cost and trend them back to the time of installation in order to get to the original cost.

Judge Catterall mentioned, "Well, you don't have a book entry in your accounts to show that"; but we submit that we don't have to. We are not restricted to any particular record so long as we are talking about original cost.

Now, if these Gentlemen challenge that, they have a perfect right to cross-examine on how he got that; but we think it is something that can be considered by the Commission.

Chairman Catterall: We will let him just give his answers, and then let our accountant describe what he has found.

Mr. Staples: If the Commission please, there is one distinction I would like to make at this point. If the original cost is defined as original cost to the entity which first places this in public service, but distinguished from the page 95 } original cost to someone else who may have donated it.

A. This is original cost estimated by the persons first donating it to public service, Sir.

Chairman Catterall: We leave out everything about reproduction cost.

Mr. Riely: I think I am so confused by the situation that I will pass on to another subject.

Chairman Catterall: That is a fine idea.

Commissioner Hooker: Proceed, if there are further questions.

Mr. Riely: Yes, Sir.

Q. Mr. Sherman, how much money in dollars has Princess Anne Utilities Corporation itself paid to have pipes laid and pumping stations built, treatment plants built, not to other corporations which are affiliated, but to people who are actually going and putting them in the ground?

A. (Witness reviewing papers before him) May I have a few minutes to locate this answer, Sir.

Commissioner Hooker: All right.

Gerald D. Sherman

A. I am prepared for that question.

Q. Have you an answer, Sir?

page 96 } A. Yes, I do.

Q. What is it?

A. One million nine thousand eight hundred forty-six dollars and fifty eight cents.

Q. Now, would you turn please to Exhibit No. B, Schedule 1, page four, how much of the contributions shown on that page was received by Princess Anne in the form of cash and how much in the form of contributed property? Can you compute that for me?

A. Yes, if you would add these figures up for me, Counselor, please.

Q. I would be delighted.

A. Five hundred seventy-seven thousand six hundred dollars.

Q. Take it slowly now. I am slow. Go ahead.

A. Ninety-eight thousand four hundred dollars, two hundred five thousand six hundred dollars.

Q. Those three figures?

A. Those three figures.

Commissioner Hooker: Is that contributed capital?

A. This is contributed capital both by one hundred per cent commonly controlled corporations, Princess

page 97 } Anne Utilities and by Third Party Builders.

Excuse me. Excuse me. I left out an item. Twenty-eight thousand seven hundred dollars.

Q. Twenty-eight thousand seven hundred dollars. Well, let me add that in. That comes up to nine hundred ten thousand three hundred dollars, if I am correct.

A. That is correct.

Q. So that is the amount of cash that Princess Anne has received?

A. That is the amount of cash Princess Anne Utilities Corporation has received.

Q. And the remainder of the items shown on page thirty-four were contributed to Princess Anne in the form of property?

A. That is correct both by affiliated companies of Princess Anne Utilities Corporation and Third Party Builders.

Q. And how did you determine the dollar value of those properties? Did you have actual figures to determine the dollar value or the dollar original cost of the contributed properties, or did you have to estimate them in some cases?

Gerald D. Sherman

page 98 } A. I had the actual cost of the facilities constructed by affiliated companies of Princess Anne Utilities.

Q. Yes.

A. For unaffiliated—

Q. You estimated?

A. —company distributions, I had to estimate it based upon certain types of cost.

Q. Now, in this new stuff that just came in, question sixteen, the second sentence of your answer interest me. In this particular case, the consumer paid only twenty-eight thousand seven hundred dollars. I judge that that is the last figure shown on Exhibit No. B, Schedule one, page four, is that correct?

A. That is correct.

Q. But those are not the only tap in fees that are shown on that page, are they?

A. That is correct. They are not.

Q. There are other tap in fees which amount to a very substantial amount of money, are there not?

A. That is correct.

page 99 } Q. And when you say here the consumer paid only twenty-eight thousand seven hundred dollars, you are making the assumption, are you not, that when the builder paid the tap in fee he did not pass that cost on to the consumer?

A. That is correct.

Chairman Catterall: The builder would connect, wouldn't he?

A. Yes, the builder would connect, but—

Chairman Catterall: And he would be a consumer as soon as he connected.

A. No, the consumer would be the home buyer. The consumer would be the customer who pays his quarterly billing and the question that was posed by the—

Chairman Catterall: The consumer is the man who taps on originally because he has it, he may sell it later.

A. He is not the party obligated to pay the quarterly revenue and more often than not he was not even the builder of the house. He may have been the land developer, and in cases more often than not he was the land developer. He may have been two parties removed from the homeowner.

Mr. Riely:

Q. But tap in fees are normally paid by whoever connects

the sewer pipes from the house to the sewer main,
page 100 } in the street isn't that correct?

A. I beg your pardon.

Q. The tap in fee is the charge for connecting the sewer pipe form a house to a sewer pipe in the street, is that correct?

A. I don't know whether I am in a position to properly answer that. My guess would be that it is not that in this particular case. In this particular case, I think it is an overall negotiated amount between the land developer and Princess Anne Utilities predicated upon a number of connections has really not nothing to do directly with associating the cost of tapping in with a described fee.

Q. Are you familiar with the Company's terms and conditions on file with this Commission for providing service to customers in the City of Virginia Beach?

A. I have not committed them to memory, Sir.

Q. Well, have you read them?

A. No, I have not read them.

Q. Then, you are not familiar with them?

A. I am only familiar with them insofar as we have discussed them.

Q. Do you know whether they permit lump sum
page 101 } agreements for connection other than the two
hundred fifty dollars per customer?

A. I have no idea.

Q. All right, sir, now let's pass if you will to Exhibit No. B; and I believe if you will turn to Schedule one, page two, you have not reduced the payroll in your estimate as to operating expenses from the actual payroll for the year ending August 31, 1968, is that correct?

A. That is correct, Sir.

Q. And that is true even though the plant facilities are to be abandoned?

A. That is correct.

Q. All right, Sir, now turn to the next page for maintenance expenses. How have you determined your estimate of maintenance expenses?

A. With maintenance and repairs I computed the total of the four prior years for maintenance and repairs of the Company. I analyzed these and excluded these costs attributable to the plant that would be abandoned and determined a four-year average for maintenance and repairs and concluded that a future projection of thirty-two thousand one
hundred fifty-seven dollars and fifty-eight cents.
page 102 } It is probably a conservative figure in view of

the fact the prior four years did not even service the present number of customers.

Q. If you had used an average of the preceding three years, you would have come up with a materially smaller amount, would you not?

A. And I would have come up with less than the last year.

Q. Yes.

A. Okay.

Q. How is maintenance performed?

A. I beg your pardon.

Q. How is maintenance performed under this system?

A. You will have to get that information from someone other than myself. I am an accountant.

Q. In your accounting studies, did you see any bills that were paid to outside maintenance people?

A. Yes, I did.

Q. Could you tell us how much of that during the fiscal year ending August 31, 1968, how much was paid to outside maintenance people?

page 103 } A. When you say outside maintenance—

Q. Not employees of the Company.

A. Thirty-three thousand. Excuse me, thirty-nine thousand two hundred ninety-eight dollars and twenty-four cents.

Q. So the Company had no maintenance expense from its own forces, is that correct?

A. Other than its own payroll, that is correct.

Q. Did it have any supplies?

A. Yes, it did have supplies.

Q. Where are maintenance supplies shown?

A. It is in the thirty-nine thousand two hundred ninety-eight dollars and twenty-four cents.

Q. So how much of the thirty-nine thousand was paid for supplies and how much was paid for outside contract labor?

A. I did not break this information down.

Q. You don't know that?

A. I would not know without reanalyzing the figures.

Q. I see. Now on that same page you have estimated an increase of twenty per cent in collection agency

page 104 } fees, is that correct?

A. That is correct, Sir.

Q. And what is the basis for that estimate?

A. If I may read my testimony, or if I may read the Schedule here, it says: "The present collection fee is ten per cent of gross billings. Since the present method of billing is at a constant rate for each residential customer, the internal control and administrative procedures of the agent is ex-

pedited. The new method of billing for the Hampton Roads Sanitation District introduces a separate charge for each customer which varies based upon a meter reading. This necessitates a two part billing calculation which must be separately entered on each bill. The mechanical operation and the related addition in internal control procedures requires an increase in personnel, equipment and supplies. It is estimated that this increase would be twenty per cent of the current annual agency fee."

Q. Has any negotiation gone on between Larasan Realty Corporation and Princess Anne to your knowledge as to what fee will actually be charged?

A. To my knowledge, there has been—to my knowledge, there has been no discussion.

page 105 } Q. So this is just your estimate of what Larasan would probably charge for this extra work?

A. No, it is more than that. I happen to represent Larasan Realty Corporation and have discussed with them the additional work that would be employed, and as a result of this discussion and my knowledge of what additional personnel would be required, additional equipment would be required for a two-part billing system, I estimated a twenty per cent increase in the cost.

Q. Since you represent Larasan Realty Corporation, who owns its outstanding shares of capital stock?

A. To the best of my knowledge, Mr. Lawrence Sancilio. Mr. Lawrence Sancilio.

Q. Mr. Lawrence Sancilio, who is Mr. Aragona's brother-in-law, is that correct?

A. He is Mr. Aragona's brother-in-law and who also services other utility companies which are unrelated to Mr. Aragona.

Q. Now, if Hampton Roads did its own billing, this forty-nine hundred dollars would not be necessary, would it?

A. That is correct.

page 106 } Q. Do you know whether there has been any discussion between Hampton Roads and Princess Anne about Hampton Roads doing their own billing?

A. I am aware of the letter that you introduced into testimony at the beginning and have discussed this both with the attorney and the principals.

Q. And no agreement has yet been reached?

A. No agreement has yet been reached.

Q. You say that Section 362(c) of the Internal Revenue Code precludes depreciation on these facilities. I am awfully

stupid about taxes. Is there no taxpayer who is filing a Federal Income tax return who is taking depreciation on this three million dollar facility?

A. I really have not examined all the taxpayers who received contributed facilities in the United States.

Q. Do you know whether any taxpayer is taking depreciation on any of these facilities?

A. Yes, I do.

Q. Suppose you name them.

A. Tel Service Company of Wyoming Valley in accordance with the Third Circuit Court of Appeals decision.

page 107 } Q. No, Mr. Sherman, I am talking about the three million dollar facility shown on your exhibit.

A. Oh, I beg your pardon. Maybe I did not understand the question. Would you repeat that question, please.

Q. Is there any taxpayer to your knowledge taking depreciation for Federal Income tax purposes on any of the three million three hundred thirty-nine thousand dollars of facilities shown on your Exhibit No. A to your report?

A. You are speaking of tax purposes specifically?

Q. For Federal Income tax purposes.

A. I would guess that there is a possibility. I cannot say for sure.

Q. Do you know what taxpayer that would be?

A. It could be John Aragona Enterprises, and it might be some of the builders in either Kings Grant or Windsor Woods who are using their property for investment purposes; but I do not know this for a fact.

Q. You do not know this for a fact, but they might be entitled under the Internal Revenue Code to take depreciation on some of these facilities?

page 108 } A. The Internal Revenue Code is very broad, and they may be entitled to it, that is correct.

Q. Let me go back to one more thing. You show an annual allowance of officers' salaries for eighteen thousand dollars on Exhibit No. B, Schedule one, page three, is that correct?

A. Eighteen thousand, did you say?

Q. Yes.

A. Yes, Sir.

Q. How many officers are paid from that eighteen thousand dollars?

A. This eighteen thousand dollars merely represents the salary of the president. There is a possibility that office per-

sonnel is an officer of the Corporation. This eighteen thousand dollars is purely the president's salary.

Q. That is paid to the president?

A. This is estimated as part of our projected cost that should be paid to the president. That is correct. His salary has been substantially higher than that.

Q. And on Exhibit No. B, this is confusing, Mr. Sherman, because there are two Exhibit Nos. B, but in page 109 } the other Exhibit No. B you show officer's salary twenty-eight thousand dollars for the fiscal year ended August 31, 1968, is that correct?

A. That is correct.

Q. How many officers were paid from that?

A. That twenty-eight thousand represents the president's salary.

Q. The president's salary?

A. One president.

Q. One office?

A. That is correct.

Q. And is the president Mr. John Aragona, Jr., who testified here today?

A. No, Sir, he is not. The president is Mr. John Aragona.

Q. Oh, and Mr. John Aragona, Jr., testified that he spent all his working time for this Company, isn't he paid anything?

A. I would have to review the payroll records. I do not know.

Q. He's an officer?

A. He claims he is. Mr. John Aragona, Jr., page 110 } testified he is an officer of the Corporation. I do not know without going back to work papers whether his salary is included in any of this. My guess is it is not.

Q. Well, Mr. Sherman, presumably this is a certified statement. If any salary were paid to Mr. John Aragona, Jr., it would appear opposite officers salary on your report, would it not?

A. It should have been classified as officers salary. However, I can state that to my knowledge I am not sure of whether it was. My work papers would so show.

Q. But you don't have them with you?

A. I do not have them with me. However, excuse me, we do have the tax return.

Q. Good. Let's look at the tax return.

A. The tax return on page two says John Aragona twenty-

eight thousand dollars. Therefore, none of it was John Aragona, Jr.

Q. So John Aragona, Jr., works for this Corporation full time for nothing, is that correct?

A. This I do not know.

Q. You don't know?

A. No, Sir, I do not know.

page 111 } Q. Well, he doesn't get any compensation. You do not know whether he works full time?

A. No, I do not know whether he gets compensation or not, Sir. I would assume—I would presume it would not; otherwise, it should have been classified as officer's salary.

Q. And your report would be in error, would it not?

A. And my report would be in error.

Q. And we are fairly certain that is not true?

A. That would be correct, Sir.

Mr. Riely: I have no further questions of Mr. Sherman.

Commissioner Hooker: Mr. Staples?

CROSS EXAMINATION

By Mr. Staples:

Mr. Staples: If the Commissioner please, I would like to clarify that question sixteen and seventeen and the answers for eighteen and nineteen and the answers thereto have not been admitted as testimony that Mr. Riely has referred to in cross examination, and we will have to assume that it it is in. I just wanted to clear up the point.

page 112 } I think Mr. Riely has made it clear in his cross examination that in that response to question sixteen the assumption there is that the only contributions by consumers was twenty-eight thousand seven hundred dollars of tap in fee.

A. No, this is not an assumption. This is a fact that twenty-eight thousand seven hundred dollars of contributions in aid of construction were paid directly by the consumer to the utility corporation. This is not an assumption.

Q. And the builders who contributed—

A. Either builders or—

Q. —are distinguised from consumers?

A. That is correct. Also are distinguished are the associated companies which are one hundred per cent commonly controlled by the Princess Anne Utilities Corporation as to their portion of contributions in aid of construction.

Gerald D. Sherman

Q. If they were not so classified, then there would have been very little basis for depreciable property, is that correct?

A. I do not believe—

page 113 } Q. If you had contributors whom you had classified the properties contributed by the builders in the same category as the tap in fees for the consumer, then there would not have been a basis for depreciable property?

A. The facts remain that they were treated the same, and that is why we have no depreciable property.

Q. But you didn't respond to my question. My question would lend itself to a "yes" or "no" answer. If the property that had been contributed by the builders and developers had been classified the same as the tap in fees for the consumers, then there would not have been a basis for depreciable property.

A. You are hypothecating. It is an hypothesis of what you are saying. The fact remains that the answer would be "yes."

Q. Fine. Then the answer that you have given on question seventeen is only relevant if a utility has depreciable property?

A. That is correct.

Mr. Staples: I have no further questions.

Commissioner Hooker: Stand aside.

A. May I—excuse me—may I answer that ques-

page 114 } tion again.

Commissioner Hooker: Yes, Sir.

A. No, that is not correct. The correct answer would be it would have no depreciation for tax purposes for generally accepted accounting principles prescribed by the American Institute of Certified Public Accountants and the National Associated of Railroad and Utilities Commissioners, it would have depreciation. For tax purposes, it has no depreciation, so I would appreciate it if all this testimony that I am being cross examined on is specifically predicated upon why this treatment for tax purposes not generally accepted accounting principles prescribed by the National Association of Railroad and Utilities Commissioners.

We are talking completely about apples and oranges, although we have been emphasizing this for the last forty-five minutes.

Mr. Staples: That is all I have.

Gerald D. Sherman

RE—DIRECT EXAMINATION

By Mr. Kellam:

Q. Mr. Sherman, you have made some reference to related companies. Who are you talking about when you refer to related companies?

page 115 } A. I am speaking about John Aragona Enterprises, Inc. and its subsidiary—its wholly-owned subsidiary corporations.

Q. And is Mr. Aragona the sole stockholder in these related companies?

A. Yes, he is.

Q. So that the funds that came for the related companies came from Mr. Aragona?

A. That is correct.

Q. Now you—in an answer you said something about tap in fees and you said they were not paid by the consumer.

A. That is correct.

Q. Would you explain what you mean when you say the tap in fees were not paid by the consumer?

A. The tap in fees were paid by the builders or land developers to Princess Anne Utilities Corporation as part of a negotiated transaction for the most part representing two hundred dollars per tap in. However, the mere fact that they paid this, in my opinion, was not passed on to the consumer as such. The consumer purchased his property as an improved lot. Regardless of who put these

page 116 } improvements in, the valuation for FHA and VA appraisal would have been exactly the same. If I may draw the analogy, if I owned a piece of land and the City of Virginia Beach were to build a highway adjacent to my property and increase its valuation tenfold, the value for my property would be worth ten times what it was before they put the street in; yet, I did not pay a penny for it. So I believe in this particular situation, especially when it comes to Princess Anne Plaza where the builders were directly given a credit for these tap in fees. May I amplify this?

Q. Yes.

A. Mr. Aragona, when he sold his land, would negotiate with the builder for a price. Let's presume that the price was twenty-five hundred dollars. They agreed on a price of twenty-five hundred dollars for an improved lot. After this price was agreed upon, Mr. Aragona allocated two hundred dollars per lot out of that twenty-five hundred dollars to pay it in the form of tap in fees to Princess Anne Utilities.

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Accordingly, the associated or affiliated companies reduced the amount of income they would have been entitled to by two hundred dollars per plot, and this would not page 117 } have been directly passed on to the consumer since the builder paid for an improved lot site.

Mr. Riely: Are you through with this gentleman?

Mr. Kellam:

Q. Suppose that the related companies that you had referred to here have bought capital stock with this money that they contributed.

A. Yes, Sir.

Q. What would the situation have been then?

A. For tax purposes, the Company would have been entitled to depreciation on its facilities; as was the case, the facilities were paid for by the utility company or the affiliated companies, which were issued capital stock.

Q. Or if he had taken a note for this money, the result would have been the same?

A. Exactly the same.

RE—CROSS EXAMINATION

By Mr. Riely:

Mr. Riely: May I ask one question, one, I think.

Q. Mr. Sherman, let's take the case where the builder paid the tap in fee to Princess Anne Utilities. Suppose he paid two hundred and fifty dollars; that is what he page 118 } is suppose to pay under the terms and conditions. Now you know all about *incomes* taxes, and I don't know anything. Wouldn't it be true that the two hundred and fifty dollars would be a part of the builder's basis in that house?

A. It would be true.

Q. And so when he sold it for tax purposes, he would determine his profit by what he sold it for less his basis which would include the two hundred and fifty dollars?

A. Well, you are very learned about income taxes. For income tax purposes, that is so.

Q. Now suppose we put the builder under generally accepted accounting principles, won't the same be true?

A. Same would be true.

Charles A. Larson

Q. And under those circumstances, I judge you conclude that the consumer did not pay this tap in fee?
A. That is correct.

Mr. Riely: Thank you, Mr. Sherman, that is all I want.

RE—DIRECT EXAMINATION

By Mr. Kellam:
Q. May I ask you just one thing. Mr. Riely asked you about the cost of the house. As a matter of fact,
page 119 } this sewerage cost is related to the land, is it not, and not to the house?
A. That is correct. In fact, the price of the house would not have changed one whit regardless of who put in the sewer system. Even if the City of Virginia Beach had put it in, the FHA and VA would have appraised it as improved lot.
Q. And the price of the lot would be determined by the improvements?
A. That is correct.
Q. All right, Sir.

Commissioner Hooker: Stand aside, if that is all.

Witness Stood Aside.

page 120 } Mr. Lawler: Mr. Larson.

CHARLES A. LARSON, a witness introduced on behalf of the Applicant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lawler:
Q. Please state your name, occupation and business address.
A. My name is Charles A. Larson. I am Vice President and Director of the Regulatory Services Division of Commonwealth Management Consultants. Our offices are at 1250 Connecticut Avenue, Washington, D. C., 20036.
Q. What are your educational qualifications?
A. I received the degrees of B.S. in electrical engineering and M.B.A. in public utility economics from the University of Wisconsin in 1948 and 1950, respectively. I did graduate

study in accounting at the Graduate School of Business at the University of Denver. At the Graduate School of Business at the University of Denver. At the Graduate School of Business of New York University I did graduate study in economics, statistics and finance.

Q. Are you a member of any professional
page 121 } associations?

A. I am a member of the following professional associations:

American Economic Association
Southern Economic Association
American Statistical Association
National Accounting Association
Institute of Electrical and Electronic Engineers Society of Petroleum Engineers
American Association of Cost Engineers

Q. Were you in the military service?

A. Yes, during World War II I was a Naval Officer assigned to air intelligence with a research and development task force.

Q. What was your first professional experience?

A. I was a systems study engineer with the Wisconsin Electric Cooperative. My economic-engineering duties were to make economic feasibility studies of rural electric distribution systems in Western and Northern Wisconsin.

Q. When did you begin your management consulting experience?

A. In 1950, I joined the firm of Middle West
page 122 } Service Company in Chicago, Illinois. This firm was engaged in management and engineering consultation to utility companies.

Q. What were your responsibilities in that firm?

A. My responsibilites were primarily directed to the preparation of rate and cost analysis. In this capacity I designed rates and prepared costs of service for numerous gas and electric utilities.

Q. Have you had previous experience in the operations and management of a utility company?

A. Yes, in 1954 I accepted the position of Rate Analyst with Public Service Company of Colorado in Denver, Colorado. This firm is a combination utility which sells gas and electricity in the various counties of Colorado and in addition, steam heating service in the City and County of Denver, Colorado and provides bus service in the City of Boulder, Colorado. I worked in the Department of Rates,

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Real Estate and Property Accounting in the Accounting Division. My responsibilities were to (one) prepare cost of service, (two) design rates, (three) supervise the gathering of rate statistics, and (four) review periodically

page 123 } customer contracts and rules and regulations for gas, electric, steam and bus customers.

Q. Have you had experience as an economist?

A. I was an economist for the Edison Electric Institute in New York City. EEI is a trade association for the electric utility companies.

Q. What were your responsibilities with EEI?

A. I was responsible for economic studies of the electric utility industry including forecasts, taxes, executive compensation and energy competition. I represented the Staff at meetings on the Rate Research Committee.

Q. Did you have additional experience before joining Commonwealth Management Consultants?

A. For nearly ten years I was a Senior Consultant with National Economic Research Associates, Inc. in New York City, a firm of consulting economists.

Q. What were your responsibilities for that firm?

A. I was responsible, primarily, for analyzing the cost of finding, producing, processing, gathering, transmission and distribution of natural gas.

Q. Did you testify before the Federal Power

page 124 } Commission on these cost accounting matters?

A. Yes. I prepared numerous cost and financial studies in cases involving natural gas companies and have appeared as a witness on numerous occasions before the Federal Power Commission.

Q. Have you ever testified before a court?

A. Yes. I appeared as a witness presenting financial statements before the Federal District Court in United States of America versus El Paso Natural Gas Company, C-143-57.

Q. Have you had experience in water supply and/or waste disposal operations?

A. Yes. I was a member of the South Cos Cob Association's Sewage Committee which was organized for the purpose of obtaining adequate sewage treatment in the town of Greenwich, Connecticut.

Q. What were your responsibilities on this sewage committee?

A. I was chairman of a task force which was organized to study the economic feasibility of constructing a treatment

plant and the construction of transmission mains to carry the sewage from the distribution mains into this
page 125 } sewage treatment plant located on an island in Long Island Sound.

Q. What is the purpose of your testimony in these proceedings?

A. I asked to prepare a cost of service for Princess Anne Utilities Corporation employing the rate base valuation determined by Mr. Chewning and employing the operating costs provided to me by Mr. Sherman. In addition, I was asked to design rates to produce the revenue requirements determined from my cost of service.

Q. Have you prepared an exhibit showing this cost of service and the revenues from the proposed rates?

A. Yes, it has been designated Exhibit D.

Q. Please explain that exhibit.

A. Schedule D-one of Exhibit D shows a calculation of revenues at the proposed rates for the year 1969. The various classes of service, namely residential, apartments, and commercial, are shown in the first column. The average number of customers for each of these classes of service is shown in column (A). The proposed quarterly sewage rate for each of the several classes of service is shown in column (B). For the residential class of service the pro-
page 126 } posed quarterly sewage rate is twenty-eight dollars and fifty cents. The rate for apartments is based on two-thirds of the residential rate of twenty-eight dollars and fifty cents per customer per quarter, or nineteen dollars. The two-thirds basis for apartments continues the present relationship and, in addition, reflects the relative consumption of water. For the commercial class the proposed quarterly sewage rate is the base residential rate of twenty-eight dollars and fifty cents times a factor. The factor for each individual commercial customer represents that customer's 1967 water consumption divided by the average water consumption for the residential class of service in 1967. Footnote three states that it was calculated that the average commercial customer uses fives times as much water as the average residential customer. Column (C) shows the number of quarters per year which figures are used to calculate the annual revenues in Column (D). Annual revenues under the proposed rates are as follows:

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Class of Service	*Annual Revenues*
Residential	$537,512
Apartments	36,480
Commercial	54,720
Total Revenues	$628,712

page 127 } The proposed rates will produce six hundred twenty-eight thousand, seven hundred twelve dollars for the test year 1969 as compared with revenue requirements of six hundred twenty-nine thousand, two hundred seventy-one dollars. This indicates that there would be a slight revenue deficiency of five hundred fifty-nine dollars annually.

Q. Please explain Schedule D-two of your exhibit.

A. Schedule D-two shows a calculation of the revenue requirements for 1969. The first line shows operating expenses at fifty-six thousand, one hundred seventy-three dollars which figure was provided to me by Mr. Sherman. Similarly, line two shows depreciation, maintenance and repairs of one hundred eight thousand, four hundred eighty-nine dollars. This figure was also provided to me by Mr. Sherman. Amortization of sewage treatment facilities is shown on line three amounting to twenty-nine thousand, two hundred eighty-two dollars. Since the Hampton Roads Sanitation District will provide the treatment of sewage in the future the treatment plant of Princess Anne Utilities Corporation will have to be abandoned. Thus, as shown in Footnote page 128 } two, the present value of two hundred ninety-two thousand, two hundred eighty-two dollars should be written off the books over a ten-year period.

Administrative and General Expenses of sixty-seven thousand, seven hundred sixty-seven dollars and Rate Case Expenses of eight thousand, three hundred thirty-three dollars are shown on line four and five, respectively. It was estimated as noted in Footnote three, that the Rate Case Expenses of twenty-five thousand dollars should be amortized over a three-year period.

Income Taxes are shown on lines six and seven. State Income Taxes of nine thousand, three hundred ten dollars are calculated in Footnote four. It is pointed out that bond interest of one hundred seventy-three thousand, thirty-six dollars is derived in Footnote seven on page two of Schedule D-two. In the derivation it assumes a debt/equity ration of seventy-five percent and an interest rate on new bonds of

seven and seven-eights per cent. After deducting the expenses and bond interest from the six hundred twenty-nine thousand, two hundred seventy-one dollars of revenue requirements, the taxable income is one hundred eighty-six thousand, one hundred eighty-one dollars. Applying
page 129 } the state income tax rate of five per cent to the taxable income produces state income taxes of nine thousand, three hundred ten dollars. Federal income taxes are computed in Footnote five on page two of Schedule D-two. The taxable state income of one hundred eighty-six thousand, one hundred ninety-three dollars is carried over into this calculation. The nine thousand, three hundred ten dollars of state income taxes are subtracted from the state taxable income leaving a taxable Federal income of one hundred seventy-six thousand, eight hundred eighty-one dollars. At the Federal income tax rate of fifty-two and eight-tenths per cent, which is the forty-eight per cent base rate plus the ten per cent surcharge, Federal income taxes amount to ninety-three thousand, three hundred ninety-three dollars. However, the Internal Revenue Service Code provides a twenty-five thousand dollars exemption from the surtax which amounts to seven thousand, one hundred fifty dollars as shown on line thirty-four. The result is net Federal income tax of eighty-six thousand, two hundred forty-three dollars. On line eight, Return on Rate Base at a nine per cent rate is shown to be two hundred sixty-three thousand, six hundred seventy-four dollars. The sum of
page 130 } all of these costs and expenses is six hundred twenty-nine thousand, two hundred seventy-one dollars as shown on line nine.

Q. Please explain Schedule D-three of Exhibit D.

A. Schedule D-three shows the determination of rate base at December 31, 1968. The first line shows the evaluation provided to me by Mr. Chewning in the amount of two million, eight hundred ninety thousand, two hundred two dollars. To this was added the Hampton Roads Sanitation District Commission's required deposit of twenty thousand dollars. In addition cash working capital of nineteen thousand, five hundred twelve dollars is added. This cash working capital is calculated in Footnote three as the cash expenses divided by eight which represents forty-five days of operating cash. This is a conservative amount for cash working capital since the Company has a three month's lag in billing. The rate base is the sum of the valuation of the property plus the Sanitation District Commission deposit, plus the cash working capi-

tal which when totaled provide a rate base of two million, nine hundred twenty-nine thousand, seven hundred fourteen dollars.

Q. How did you determine the rate of return to be used in the calculation of the revenue requirements?

page 131 } A. I evaluated the most probable financial structure assuming the valuation provided to me by Mr. Chewning. Basically, I assumed that this rate base could be financed using seventy-five per cent bonded indebtedness. The remaining twenty-five percent would be provided by equity money.

Q. What was the next step in your financial evaluation?

A. I made an evaluation of the trend in interest rates. Thus, Chart D-four shows long-term government bond yields from 1946 to 1968 and the Federal Reserve discount rate in New York City for the same period. You will note that the long-term government bond yield has increased form about two per cent in 1946 to about five and one-half per cent in 1968. The Federal Reserve discount rate has increased from one per cent in 1946 to five and one-half per cent in December, 1968. I might point out that the best corporate customers are presently being charged at a seven per cent rate from prime bank loans.

Chart D-five shows the average annual yield of Baa public utility bonds, 1959-1968. In my judgment Princess Anne Utilities Corporation could not obtain a yield

page 132 } as favorable as those of Baa public utility bonds. These Bonds were selling in the early 1960's at about a four and three-fourths per cent interest rate which rate now exceeds seven per cent. In my estimation the Princess Anne Utilities Corporation could not market bonds to finance seventy-five per cent of its valuation for less than seven and seven-eights per cent including the cost of marketing those bonds. I might point out that FHA (Federal Housing Authority) has just increased its interest rate ceiling to seven and one half per cent from home mortgages.

Q. What yield did you assume on the equity?

A. The twenty-five per cent equity should earn at least twelve point three seven five per cent if Princess Anne Utilities Corporation is to attract the necessary capital for future plant expansion and maintain its financial integrity.

Q. How did you determine this return on equity?

A. I evaluated the returns on equity for numerous utility companies. Table D-six, for instance, shows the return on equity investment for Class A and B electric utilities in the United States from 1958 to 1967. You will note that for 1967

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page 133 } the average return on common stock equity for these electric utilities was twelve point seven eight per cent. In my judgment a fair rate of return on the equity investment for Princess Anne Utilities would be in the range of thirteen to fourteen per cent. The twelve point three seven five per cent rate which I have used in my calculation is the lowest reasonable rate of return for a utility of this type. A thirteen—fourteen per cent rate of return on equity would be comparable to that earned by other companies engaged in operations of commensurate risk.

Q. Can you tell us how you calculated the nine per cent rate of return based on the seven and seven-eights per cent interest rate and the twelve point three seven five per cent minimum return on equity?

A. Yes. The table below shows the calculation of the nine per cent rate of return.

Capital	*Capitalization (Per Cent)*	*Rate (Per Cent)*	*(Per Cent) Rate of Return*
Bonds	75%	7.875%	5.096%
Equity	25%	12.375	3.094
Total	100%		9.000%

page 134 } Q. And you have been requested to make certain studies in connection with this hearing?

A. I have.

Q. And I note that much of your testimony relates to a rate predicated upon the reproduction cost of the facilities. I would ask you whether or not you have also prepared a proposed rate based upon the original cost.

A. Yes, I have. I have prepared Exhibit D, Schedule D-three, page two of two which shows the determination of the rate base based on the original cost of the properties and making the assumption that a fair rate of return and the original cost rate base would be nine point nine five per cent. The revenue requirements shown on Schedule D-two, page one of two or six hundred twenty-nine thousand, two hundred seventy-one dollars would remain unchanged.

Q. I see, Sir, and would you rates remain unchanged—that is the rate which you have determined on the basis which you have related—the same for the reproduction cost less depreciation and the original cost?

A. Are they the same rates? Yes.

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Q. And what rate was it that you concluded
page 135 } was fair and reasonable?
A. I have three rates. I have a residential rate of twenty-eight dollars and fifty cents which I recommend; an apartment rate of nineteen dollars per quarter—

Mr. Staples: If the Commission please, I thought this was going to be non-related to the assumptions, but I can find nothing—

Commissioner Hooker: I understood that he is talking about completely original cost.

Mr. Staples: Page forty-four of his testimony said that he was asked to prepare cost of study based upon the valuation by Mr. Chewning and employed the operating cost provided by Mr. Sherman which both include—Mr. Sherman's testimony included depreciation rates based upon Mr. Chewning's cost.

Commissioner Hooker: Let the witness explain that.

A. Yes, I can explain. The rate base which I have used comes form Mr. Sherman's exhibit and the operating cost and the depreciation cost comes from Mr. Sherman's and they are both based on original cost.

Mr. Staples. As determined by this trend factor
page 136 } which started out with—
A. As determined by Mr. Sherman, Sir.

Mr. Staples: That is not original cost.

Mr. Riely: The testimony of Mr. Sherman, as I understood the Commission, was excluded.

Mr. Staples: That is right.

Mr. Riely: Because it was based on the engineering—the report of the engineering firm of Chewning, Goodwin and Hoggard—of replacement value discounted by the cost index factor to the year of installation and I believe that was what—

Commissioner Hooker: You didn't get your studies from the books of the company?

A. Well, I understand Mr. Sherman got his costs from the books of the company, or in those cases where such costs were not known, he made estimates of original costs and I took them from Mr. Sherman.

Commissioner Hooker: You couldn't tell from the books completely what the plant would cost?

A. No, my understanding is that this company has kept its books for tax purposes and because of that they have
never had a rate based on cost. They have never
page 137 } determined a rate basis for this company and

therefore, for the first time the cost figures for this company were determined and some of these costs you will have to ask Mr. Sherman exactly how much. A certain amount of those costs had to be estimated because they didn't keep records on all of the property owned by this corporation.

Chairman Catterall: You are testifying to what the rates would have to be to yield nine point nine per cent, did you say?

A. Nine point nine five per cent on original cost rate base, yes, Sir.

Chairman Catterall: In other words, your testimony is that the rates you recommend are the rates that would yield substantially ten per cent of the estimated original cost based on this evidence that we have been—some of it we are considering and some we are not considering. That is all your testimony?

A. Substantially, yes. Some of it is per books and some of it is estimated.

Commissioner Hooker: Anything else of this witness?

Mr. Riely: Yes, Sir, I have plenty of cross
page 138 } examination. I wondered though—

Chairman Catterall: All he has testified to is that—

Mr. Riely: He has testified to lots of things in here. (indicating)

Chairman Catterall: You have got some more things besides this?

Mr. Riely: There is quite a bunch of stuff in here. (indicating)

Chairman Catterall: Oh, excuse me.

Mr. Riely: But I wondered in view of the time—

Commissioner Hooker: No. We are going until one o'clock. The Governor has requested that the office close at three o'clock today, so we are not going to give you the usual recess for lunch. We are going to cut a half hour off.

CROSS EXAMINATION

By Mr. Riely:

Q. Mr. Larson, you are both an economist and an engineer, is that correct?

A. Yes, Sir.

Q. And what prior experience have you had
page 139 } with sewer and water facilities?

Charles A. Larson

A. I explained that in my testimony on page— I believe it is page forty-four of Exhibit A that I have had some sewerage experience as a member of the South Cos Cob Sewerage Association Committee.

Q. Was that a paid assignment?

A. No, Sir.

Q. That was a public service?

A. Yes, Sir.

Q. And that has been your entire experience in sewer and water treatment facilities?

A. Well, not so with water. A number of utilities I have worked with, I have worked with water cost and water rates.

Q. I see, but as far as sewer is concerned, your only experience has been *pro bono publico.*

A. If by that you mean the work I did in regard to the Public Law Six Sixty of the eighty-fourth Congress which provided Federal grant funds in the aid of construction in sewerage work, yes.

Q. No. I was referring to Cos Cob.

A. Yes, Sir. Well, this is why I was working
page 140 } on this project. We wanted to get better treatment facilities in the town of Greenwich, Connecticut.

Q. I see, and that free service is your only sewer experience?

A. Yes, Sir.

Q. Schedule D-three that is based on Mr. Chewning's replacement cost entirely at the top—

Mr. Lawler: Excuse me, what part are you referring to?

Mr. Riely: Schedule D-three is the only thing it says at the top of my page.

A. Well, that should say page one of two. Page two of two is based on original cost.

Mr. Riely: All right.

A. Page one of two is based on Mr. Chewning's reproduction cost new depreciated studies.

Mr. Riely: All right, we'll write page one of two at the top of that, under Schedule D-three, and I will move to the Commission that it be stricken from the record.

Commissioner Hooker: What is that page?

page 141 } Mr. Riely: Page one of two of Schedule D-three.

Commissioner Hooker: Reproduction cost, of course, is not admitted.

Mr. Staples: What is the caption at the top of that?

Charles A. Larson

Mr. Riely: Princess Anne Utilities Corporation Determination of Rate Basis, December 31, 1968.

A. Your Honors, there are some footnotes here which should be part of page two of two. In fact, footnote three on page two refers to the footnote on page one and suggests the top part should be stricken, if it's going to be stricken.

Mr. Staples: This is the sheet—

Commissioner Hooker: Whatever relates to reproduction cost will be stricken.

A. Yes, Sir.

Mr. Staples: These are sheets, Mr. Riely, that were submitted later?

Mr. Riely: No, this is the one in the book.

Mr. Staples: But page two of two would be—

Mr. Riely: Page two of two came in the mail the other day.

page 142 } Commissioner Hooker: I think it is clear in the record. Now, anything that is reproduction cost will not be considered. Go ahead.

Mr. Riely:

Q. Well, let's look at page two of two. What is this twenty thousand dollars for Hampton Roads Sanitation District?

A. As shown in Footnote three—

Q. What is shown in footnote three? Footnote three said Exhibit D, Schedule D-three, page one.

A. Right, and so if you refer to page one, you will find the answer, which says that that relates to the Hampton Roads Sanitation District rate schedule. In other words, as I understand, there is a prepayment of twenty thousand dollars.

Q. There is a prepayment of twenty thousand dollars that is required just to connect up, regardless of anything else?

A. I think the situation is this and—

Q. Have you read the rate schedules of Hampton Roads Sanitation District?

A. Yes, Sir.

page 143 } Q. You have? Well then, you ought to be able to give us exactly why this twenty thousand dollars is required, can't you?

A. Well, I understand that they require payment in advance and basically, Princess Anne Utilities request payment from its customers after the quarter has been passed. And so this is working capital, in effect. They would have to make prepayments to the Hampton Roads Sanitation District.

Charles A. Larson

Q. And this is the exact figure required by the rate schedule of Hampton Roads Sanitation District?

A. This is an estimate of what they would have to pay.

Q. Who made that estimate?

A. Mr. Sherman provided me with that figure.

Q. Mr. Sherman provided you with that figure and you did not make that estimate yourself?

A. No, Sir.

Q. You said you had read the tariff schedules of Hampton Roads Sanitation District.

A. Yes, Sir.

Q. Could you confirm this estimate made by Mr. Sherman from reviewing those schedules?

page 144 } A. Not just by reviewing the schedules, no, Sir. I would have to know the estimated consumption of Princess Anne Utilities customers.

Q. And you didn't make a study of those?

A. No, Sir. That would be quite an expensive study for me to make.

Q. And you didn't make it?

A. No, Sir.

Q. Where did you get the number of customers shown on Exhibit D, Schedule D-one?

A. Those were provided to me by the company and they represent the customers of the company.

Mr. Riely: When you said—

A. May I finish, please.

Q. Sure. I beg your pardon.

A. —the customers—the number of customers billed by Princess Anne Utilities Corporation as of August 31, 1968. That would be for the quarter starting in July. June, that is. June, July and August, so they represent the average number of customers for the year.

Q. Well, what was the number of customers being served at August 31, 1968?

page 145 } A. I will—the answer is shown on Schedule D-one, four thousand, seven hundred fifteen residential customers, four hundred eighty apartments; ninety-six commercial customers.

Q. Those were the customers actually being served in August 31, 1968?

A. Yes, Sir.

Q. Well, what does that little word "average" at the top of that column mean?

Charles A. Larson

A. There must be an intermediary figure which it would have to be in order to derive the estimated revenue that represents an average figure. This is a common practice in industry to do this.

Q. So you are assuming that—what is your test year?

A. 1968.

Q. The calendar year?

A. 1969. I'm sorry.

Q. Test year of 1969?

A. Yes.

Q. The calendar year 1969?

A. The calendar year of 1969. Yes, Sir.

page 146 } Q. And you are using the actual number of customers at August 31, 1968 as a measure for the test year, 1969, is that correct?

A. Yes, Sir, because the costs are matched to the test year, 1969, so you have a proper matching of revenue and cost.

Q. So when somebody testified this morning that the word "average" at the top of that column meant that those were not the actual customers at August 31, 1969, his testimony was in error. Is that correct? 1968.

A. The testimony that I heard that they were not the actual customers as of December 31, 1968. They are the actual number as of August 31, 1968 and there is a proper matching of revenues and cost.

Q. And you took that as mid-year in your test year, 1969, is that correct?

A. Yes, Sir.

Q. I see.

A. You can't think of this alone. You have to think of this in relation to the cost, which was testified by Mr. Sherman. He used as his 1969 estimated cost of 1968 basis as is common in the industry to do that.

page 147 } Q. But if you used cost related to the fiscal year ended August 31, 1968, wouldn't it have been more realistic for you to use the actual number of customers six months prior to the end of that test year—

A. No, Sir, it is not—

Q. —to reach an average for that test year?

A. It is not my understanding that he used cost based on the year ended August 31, 1968. That is contrary to fact. That assumption is contrary to fact.

Q. What cost did he use?

A. He used the cost in 1968, it is my understanding.

Q. The cost in the calendar year 1968?

Charles A. Larson

A. Yes, as adjusted to reflect the abandonment of the treatment plant.

Q. And he used the cost for maintenance and payroll for the calendar year, 1968, is that correct?

A. May I just take a minute to check?

Q. I thought you just gave me an answer to that question.

A. Well, since you sound so persistent, I want to check. I am sorry. I am mistaken. It is for the year
page 148 } ended August 31, 1968. I was mistaken.

Then, since he used cost for the year ended August 31, 1968, it is not proper, is it, to say that the customers at August 31, 1968 are "average" for that cost year?

A. I believe it is proper as an average for the test year, which is the year 1968 adjusted for known changes.

Q. It is an average of what, could you tell me?

A. Well, it will—

Q. Wait. Excuse me. When I average two and six, I add two and six and divide by two and get four. Now, when I look at the average number of customers, what have you added together and divided by something, Mr. Larson?

A. I didn't—excuse me, I did not do it that way, Sir.

Q. You did not do it that way? Well then, is it really an average?

A. It represents the average even though it is a point of time figure. It is the estimated number of custo-
page 149 } mers which will produce the revenue shown there for the test year to property amassed against the cost as shown by Mr. Sherman.

Q. Exhibit D, Schedule D-one, Footnote three says, "calculated at five times the residential rate based on average water consumption." Where did you get that average water consumption and what was the basis for any calculation that you made concerning it?

A. I got this information from the records of the company.

Q. What information did you get from the records of the company?

A. The water consumption of each of the commercial customers.

Q. How many commercial customers were there?

A. Ninety-six.

Q. You got the consumption for each of the commercial customers?

A. Yes, Sir.

Q. What was that consumption?

A. I have work papers which show—

Charles A. Larson

Q. Do you have your work papers with you?
page 150 } A. —what it is for each.
Q. Do you have the aggregate for all commercial customers?
A. Yes, Sir. Sure.
Q. May we have it, please?
A. May I leave the stand?

Note: Witness Returns to Stand and Looks Through Work Papers.

A. Sir, it was not necessary for me to get a total. I have the individual figures here which, if someone takes an adding machine and adds them up—what I did is calculate the factor for each of these commercial customers and used that factor.
Q. Tell me how you—
A. It comes out four point nine nine.
Q. Tell me how you computed that factor.
A. You compute a factor for each commercial customer.
Q. What factor—what did you divide by what?
A. I divided the consumption of each of the commercial customers—the water consumption by the average water consumption for the average residential customer, which is twenty-four hundred cubic feet per quarter.
page 151 } Q. Yes?
A. And added up the factors—the ninety-six factors—
Q. And divided by ninety-six?
A. Right.
Q. And it came out to four point nine nine. Is that correct?
A. Yes, Sir, I have the work papers here.
Q. Now, let's turn to Schedule D-two. Where did you get your depreciation figure?
A. The depreciation figure is footnoted to Exhibit B. That is Mr. Sherman's exhibit.
Q. Mr. Sherman had so many Exhibit B's. I wish you would tell me which one.
A. Yes, Sir.
I am referring to page thirty-one of Exhibit A.
Q. I see.
A. And the amount is seventy-six thousand, three hundred thirty-one dollars and twenty cents.
Q. Now, amortization of sewerage treatment facilities—are they in fact being amortized on the books in
page 152 } the company?

Charles A. Larson

A. I do not know.

Q. You do not know. Do you know when they were constructed?

A. Not exactly. These were the treatment facilities—I do not know how long nor do I know if they were constructed in one piece.

Q. And the value that you used is the replacement value provided by Mr. Chewning, is that correct?

A. Yes, Sir, I do not know how else you could get that figure.

Q. So again, you are using replacement value by Mr. Chewning. Is that correct?

A. Well, it may be the same as the original cost—as estimate of the original cost.

Q. But you don't know.

A. No, I just had the information shown in my footnote.

Q. What is the basis for the estimate of rate case expense?

A. That is estimated on a total cost of twenty-five thousand dollars amortized over three years, a com-
page 153 } mon basis for amortization.

Twenty-five thousand dollars is the absolute cost of this case, is that correct?

A. Yes, Sir.

Q. Now, for income taxes I guess we have to go to the next page, do we not? Now, you state in the last item on that page, "assuming a bonded indebtedness of seventy-five per cent of two million, nine hundred twenty-nine thousand, seven hundred fourteen dollars." You are familiar with Mr. Sherman's report showing a balance sheet of the company, are you not?

A. Yes, Sir.

Q. And I believe that shows a—not a tax balance sheet, but as Mr. Sherman testified, a balance sheet prepared in accordance with the Uniform System of Accounts, does it not?

A. Yes, Sir.

Q. And the stockholders' equity, if I read that balance sheet correct, is a deficit of two hundred forty-three thousand, seven hundred eighty-three dollars and eighty-four cents. Is that correct? Do you have a copy of it there?

page 154 } A. No, Sir.

The stockholders' equity as I would read that balance sheet, would be the sum of three million, two hundred thirty-three thousand, eight hundred forty dollars and thirty-nine cents; and ten thousand dollars of capital stock.

Charles A. Larson

Q. Oh, you say contributions in aid of construction are part of the stockholders' equity?

A. Yes, with the exception that I would deduct that part of the contributions actually contributed by the customers—the twenty-eight thousand, seven hundred dollars.

Q. We are not going to have to get in that customer argument again, are we, Mr. Larson?

A. Not if you don't want to.

Q. I don't think I do. But the three million, two hundred thirty-three thousand, eight hundred forty dollars and thirty-nine cents was not contributed by any stockholder, was it?

A. Since Mr. Aragona is the sole stockholder, I believe that most of it was contributed by him. My understanding is that none, except the twenty-eight thousand dollars was contributed by customers.

page 155 } Q. It was contributed as—

A. Certainly the incidence of that contribution was not, did not go to the customer.

Q. Are you familiar with the uniform system of accounting?

A. Yes, Sir.

Q. Well, Mr. Larson, if this were a contribution to capital by Mr. Aragona, would it probably have been accounted under a contribution in aid of construction, category?

A. Not if it were a capital stock item. If it were a donation, it probably would be reported as it is reported here.

Q. So it wasn't a capital stock item, was it?

A. It seems to me it is a capital donation.

Q. And it all came from Mr. Aragona, except the twenty-eight thousand dollars, is that correct?

A. Well, Mr. Sherman has the breakdown. Some came from builders, associated builders, some came from non-associated builders.

Q. But you don't put bonded indebtedness against all that, even though there is no possible need for it in

page 156 } the capital structure of the company, is it?

A. My assumption, Sir, is that to a willing buyer who would pay the fair market value for this property, he could finance the property, using seventy-five per cent bonded indebtedness and thus would have this interest deduction for tax purposes.

Q. So you would think that a willing buyer would be willing to pay, say, three million dollars for this property, is that correct?

A. Yes, Sir. That is the fair market value.

Charles A. Larson

Q. And would he be permitted to in any normal rate proceeding to earn a return on the basis of the purchase price of three million dollars?

A. Yes, he would be allowed, except for that small part which is contributed by customers.

Q. But you have got to admit, or would you admit, excuse me, I shouldn't have addressed it that way, that this company, on its present balance sheet, has no need for two million dollars of bonded indebtedness, does it?

A. Well, I couldn't agree with you. This may be a very expensive way to finance the operation. I would

page 157 } think it is, to have a one hundred per cent equity, as shown here—practically a hundred per cent.

Q. Supppose it went out and sold two and a quarter million dollars worth of bonds. What would they do with that capital, do you know? Could you guess?

A. May I have the question read?

Q. Is there any need for two and a quarter million dollars of additional cash in this company, as shown by this balance sheet?

A. Well, not for expansion purposes, no.

Q. So on what basis can you assume that, as a matter of fact, the company would go out and sell two million and a quarter dollars worth of bonds?

A. Well, that is not my assumption. My assumption is that a willing buyer would finance it using two and a half million dollars in bonds.

Q. Well, are we establishing rates for this company or for a willing buyer for this company?

Chairman Catterall: Aren't we getting into—

Commissioner Hooker: I don't see why you are bringing all that up, myself. One time you want it in and one time you want it out.

page 158 } Mr. Riely:

Q. Well, your income tax figure is based on the assumption of this interest deduction for bonds that are not shown on the books of the company, is that correct?

A. Yes, Sir, it would be much higher if you assumed the one hundred per cent equity as shown on the balance sheet prepared by Mr. Sherman.

Q. The bonded interest is entirely correct?

A. There is no bonded interest.

Charles A. Larson

Mr. Riely: I have no further questions.

Commissioner Hooker: Stand aside, if there is nothing else of this witness.

Mr. Staples: No questions, your Honor.

Commissioner Hooker: Is that all for this witness?

Note: No response.

Witness Stood Aside.

page 159 } Commissioner Hooker: The Commission will recess until two o'clock. 12:50 P. M.

2:00 P. M. The Commission resumes its session.

Commissioner Hooker: All right, Mr. Kellam.

Mr. Kellam: If it please the Commission, again without being persistent, I would like to move—

Commissioner Hooker: You say without being persistent?

Mr. Kellam: Yes, Sir, I would like to move the Commission to admit the testimony of Mr. Chewning on the basis that almost the total cross examination or a large part of the cross examination of the City of Virginia Beach and Mr. Riely has been directed to the very point that he has been objecting to and it seems to me, by his own cross examination, he has raised the issue and now the matter is before the Commission and the testimony should be admitted.

Commissioner Hooker: The ruling the Commission formerly made stands. Mr. Riely, do you have any

page 160 } testimony?

Mr. Riely: Yes, your Honors. I tendered to the Commission at the time stated by the Commission's order the testimony of nine witnesses with related exhibits. I was informed by Mr. Kellam and Mr. Staples that they did not desire the first six of these witnesses available for cross examination and accordingly I ask the Commission to copy into the transcript the testimony of Paul Johnson, Thomas E. Humphreys, Donnell P. Davis, Glenn B. McClanan, Mrs. E. E. McAlpin, and Mrs. B. C. Yoder, with two exhibits tendered by Mr. McClanan and one exhibit tendered by Mrs. Yoder.

Commissioner Hooker: Any objection to that?

Mr. Kellam: Yes, your Honor, we object to the admission and I think that it is well stated by the first witness and the question asked, "You and your association are then still opposed to this rate increase?" and his answer is, "Yes, we are. We do not purport to know the technique to establish

rates, but we are convinced that the rate increase sought by this company is out of line." Now we are here on a hearing for a rate increase and if their testimony does not relate to a rate increase, and none of them do,

page 161 } their only objection to a rate increase without having any basis for objection—

Commissioner Hooker: They are just opposed to a rate increase. That is all that it amounts to.

Mr. Kellam: Just opposed to a rate increase—yes, and, therefore, I move to exclude them.

Chairman Catterall: The evidence can go into the file.

Commissioner Hooker: Yes, the evidence won't be excluded, of course.

Mr. Riely: I cannot deny that goes to the weight of the evidence, but it does not go to it—admissibility.

Commissioner Hooker: No, that is right.

Mr. Staples: They could be entered just as the two hundred ninety-three letters we have received.

Commissioner Hooker: Yes.

Mr. Riely: I now have three other witnesses—

Mr. Staples: I would like to add—

Mr. Riely: I beg your pardon.

Mr. Staples:—that the Commission Staff has visited these persons since one or two of them did come in upon a service defect, and we have investigated the service de-

page 162 } fect.

Commissioner Hooker: All right, Mr. Riely.

Mr. Riely: I now have three other witnesses, the first of whom is Mr. Scott, City Manager of Newport News and I ask that he come around. Virginia Beach—I beg your pardon—I crossed the water too fast.

Commissioner Hooker: You are getting him closer to Richmond all the time.

ROGER M. SCOTT, a witness introduced on behalf of the Intervener, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Riely:

Q. Mr. Scott, you are the Roger M. Scott whose testimony consisting of eight pages and five exhibits, I believe—let me check that—has been prepared and tendered in this case, are you not?

A. Yes, I am.

Roger M. Scott

Q. And if I were to ask you the question there you would give me the answers except in one particular, I believe, isn't that correct?

A. That is correct.

page 163 } Q. Would you point out to the Commission the one error that I made in helping you prepare your testimony?

A. Yes, Sir, on page seven—the second answer relating to North Gate. It was recorded in King's Grant and, in fact, North Gate is in Kennett Grove.

Q. Kennett Grove?

A. Right.

Q. K-e-n-n-e-t-t?

A. I would assume that spelling is correct.

Mr. Riely: If it please the Commission, I offer the testimony of Mr. Scott and submit him for cross examination.

Q. Please state your residence.

A. I live at 4504 Par Drive, Virginia Beach, Virginia.

Q. What is your occupation?

A. City Manager of the City of Virginia Beach, Virginia.

Q. How long have you held the position of City Manager?

A. Since July 1, 1968.

page 164 } Q. Prior to that time by whom were you employed?

A. I was Assistant City Manager of the City of Virginia Beach.

Q. And how long did you hold this position?

A. Since March 1, 1965.

Q. What is your previous experience?

A. I was Assistant City Manager in Albany, Georgia, for three and a half years. I was also Assistant Planning Engineer for the City of Roanoke prior to that time.

Q. Mr. Scott, what is the interest of the City of Virginia Beach in this proceeding?

A. The City of Virginia Beach is vitally interested in this proceeding in two ways: First, the City Government is, of course, the representative of all citizens of the City and is anxious to be of all assistance to the citizens and to the Commission so that the Citizens will not pay more than a proper rate for sewerage service. That is the principal interest, but the City also has a more immediate interest within the area served by Princess Anne Utilities Corporation.

page 165 } There are seven schools now operating in its

service area and there will be two additional schools in operation within the very near future. There are also one fire station, one library and one communication center.

Q. What would be the effect on the City if the rates requested in this proceeding would be granted?

A. During 1968, the City government paid Princess Anne Utilities Corporation approximately four thousand two hundred ninety-six dollars for sewerage services. When the two new schools are added our charge would be five thousand four hundred ninety-six dollars under the present schedule. Assuming the same proportionate increase as for residential customers, our estimates are that if the new rates are put into effect the additional cost to the City of sewerage service, including the charges made by Hampton Roads Sanitation District, will be about nine thousand four hundred dollars, making a total charge of nearly fifteen thousand dollars. This is an increase of one hundred seventy-five per cent. This increased expense of nine thousand four hundred dollars is an amount that the City would have to pay annually from now on and this is an amount that the City can ill afford to pay.

page 166 } Q. Mr. Scott, I hand you what purports to be a copy of a letter dated December 10, 1965, from Mr. John Aragona, addressed to Mr. W. Russell Hatchett, City Manager. I ask you, are you familiar with that letter?

A. Yes, I am.

Mr. Riely: Your Honor, I would like to introduce this letter as Exhibit No. RMS 1.

Commissioner Hooker: It will be received as Exhibit No. RMS 1.

Q. In this letter, Mr. Aragona suggests the sale to the City of Virginia Beach of Princess Anne Utilities Corporation and Aragona Utilities Corporation, does he not?

A. Yes, he does.

Q. Does he state the price for which he would be willing to sell?

A. Yes, he does. The price is two million, four hundred thousand dollars.

Q. Does he allocate the purchase price between Aragona Utilities and Princess Anne Utilities?

A. No, he does not.

Q. Did the City accept that offer?

page 167 } A. No, we did not.

Q. Mr. John Aragona, Jr., has filed with his testimony a copy of a letter dated June 15, 1966, from Mr. Hatchett to Mr. Aragona, Sr., in which Mr. Hatchett states that he is willing to recommend that the two utilities be purchased for one million dollars. Are you familiar with that letter?

A. Yes, I am.

Q. Was that proposal accepted by Mr. Aragona?

A. No.

Q. In his testimony Mr. Aragona, Jr., states the following:

"The City then had an appraisal as it was considering a condemnation of the Utility. When the appraisal came in, it was apparently so high that the City gave up its idea of condemnation."

To your knowledge was there any appraisal made of the properties of Princess Anne Utilities Corporation by or on behalf of the City of Virginia Beach after June

page 168 } 15, 1966?

A. No.

Q. Were you ever present at conversations between Mr. Aragona and Mr. Hatchett with regard to the sale to the City of Princess Anne Utilities Corporation?

A. Yes, I was on several occasions.

Q. Did Mr. Aragona ever in your presence make other offers to sell the properties of the utility corporations to the City?

A. Yes, he did.

Q. What was the purchase price?

A. Mr. Aragona said to Mr. Hatchett that he would sell the corporations to the City for one dollar per quarter per customer, the purchase price to be paid over a long period of time, perhaps fifty years, and that the City could make money on the deal without increasing rates.

Q. Did Mr. Hatchett recommend acceptance of this proposal?

A. No, indeed he did not.

Q. Has Mr. Aragona sought to initiate negotiations for the sale of the corporations to the City within this year?

A. Yes, sometime in the area of last fall, 1968,

page 169 } Mr. Aragona approached me as City Manager and again requested that we consider the purchase of his utilities. I told him that it was my understand-

ing that the utilities were initially conceived in order that he might be able to develop the property in a residential area because sewer service was required before it could be developed, that it was my further understanding that the utilities were not considered as a money making venture, and that, in my judgment, he had achieved his initial desires and had had sufficient time to amortize the cost of this installation. I suggested to him that he give the utilities in their entirety to the City of Virginia Beach.

Q. Did he take you up on this proposal?

A. No, he did not.

Q. Are any negotiations now pending with the City?

A. No.

Q. Are you familiar with Ordinance No. 205 adopted by the Council of the City of Virginia Beach on April 24, 1967?

A. Yes, I am.

page 170 } Mr. Riely: Your Honor, I would like to introduce Exhibit No. RMS 2.

Commissioner Hooker: It will be received as Exhibit No. RMS 2.

Q. What was the occasion of the adoption of this ordinance?

A. The City constantly received numerous complaints about all of the utilities concerning service and repair activity.

Q. Were these utilities making adequate response during off-hours?

A. No, they were not.

Q. Since adoption of this ordinance, have you in your capacity as City Manager received any complaints about the inability of customers to obtain service in other business hours?

A. Yes, I have. I have, in particular, received complaints as to Princess Anne Utilities Corporation.

Q. Have you made any effort to assist these customers?

A. Yes, I have called the emergency number listed and received no answer and at other times have been

page 171 } informed by a telephone answering service that no service or repairs could be made until 9 A.M. on the following day.

Q. In this connection, Mr. Scott, in your capacity as City Manager, have you received at any time a complaint from the Director of the Virginia Beach Health Department with

regard to the operation of Princess Anne Utilities Corporation?

A. Yes, on February 13, 1969, Dr. Madge D. May, Director of the Virginia Beach Health Department, and M. J. Owens, Chief Sanitarian, came to my office to report that raw sewage was flowing through Northgate Court in the Kennett Grove area and presented me with five photographs.

Q. Are these the five photographs that I now hand you?

A. Yes, they are.

Mr. Riely: Your Honor, I would like to introduce these as Exhibit No. RMS 3.

Commissioner Hooker: They will be received as Exhibit No. RMS 3.

Mr. Riely:

Q. What action did you take?

page 172 } A. I asked Dr. May to prepare a written report, which she did on the same day in the form of a letter and submitted the same to me.

Q. Is the letter that I now hand you a copy of Dr. May's report?

A. Yes, it is.

Mr. Riely: Your Honor, I would like to introduce this as Exhibit No. RMS 4.

Commissioner Hooker: It will be received as Exhibit No. RMS 4.

Mr. Riely:

Q. What action did you take?

A. On February 25, 1969, I wrote a letter to Mr. John X. Aragona (Mr. Aragona, Jr.).

Q. Is this a copy of that letter?

A. Yes, it is.

Mr. Riely: Your Honor, I would like to introduce this as Exhibit No. RMS 5.

Commissioner Hooker: It will be received as Exhibit No. RMS 5.

Mr. Riely:

Q. I note that you state in this letter that

page 173 } if a satisfactory solution is not reached, the City would take legal action. Did you receive a reply from Mr. Aragona?

Roger M. Scott

A. No.

Q. Has legal action become necessary?

A. No. So far as I am aware, this problem has not arisen again and consequently legal action has not been instituted. I am, however, prepared to take legal action if the situation again arises.

CROSS EXAMINATION

By Mr. Kellam:

Q. Mr. Scott, on page two of your testimony you say that your interest here is to be of assistance to the citizens and to the Commission, so that the citizens will not pay more than a fair rate for sewerage services. That is the basis that you appear here?

A. That is correct.

Q. And the present rate of four dollars per month you have considered to be a fair rate?

A. Yes, Sir.

Q. And you say that that rate has been charged for how many years, do you know? How many years

page 174 } have they charged that rate?

A. I do not know about the number of years. I would suspect since the inception of the sewer installation in 1959.

Q. Yes, and you will admit that since 1959 all operating costs have gone up, will you not?

A. Yes, I will.

Q. And, therefore, if that was a fair rate then they would be entitled to an increase in that rate just on that basis alone, would they not?

A. No, I think not.

Q. Well, would you explain to us why you think they would not be entitled to an increase, in view of the increase in all costs of service?

A. It is a very difficult problem for an administrator to explain. It sounds more like a problem for an engineer or for an accountant. But the increase in their business would certainly, if they had a proper ratio of profit, would increase their income.

Q. You feel because they are serving more customers that they ought to get more profit? Is that the idea?

page 175 } A. I did not say more profit. They should have a reasonable profit.

Q. They should have a reasonable profit?

A. Yes, Sir.
Q. Now, is it not true that you, as City Manager of the City of Virginia Beach in the past year have sought a substantial increase in the amount of taxes?
A. I have, Sir.
Q. For the city?
A. Yes, Sir.
Q. And that is—

Mr. Riely: If it please the Commission, I don't consider that that is relevant.
Commissioner Hooker: That is proper in a case of this kind.
Mr. Riely: Very well, Sir.
Mr. Kellam: And that has been due to the fact that cost of service has been increased, has it not?
A. That is correct. It is a public institution and not a private institution and not controlled on a profit motive, though. I think you will have to understand that.

Q. I understand that. I am coming to that, but
page 176 } the cost of labor has gone up, has it not?
A. Yes, it has.
Q. And the cost of material?
A. That is right.
Q. And so, of course, this company has been faced with the same thing that the city has been faced with, has it not?
A. Yes, Sir.
Q. All right, now, is it not true that the city operates some sewerage facilities?
A. Yes, we do.
Q. And what rates do you charge?
A. We charge ten dollars fifty cents per quarter for similar treatment.
Q. Ten dollars fifty cents per quarter?
A. Yes, Sir.
Q. Well, is it not true on some of your facilities you charge exactly the same price that these parties charge?
A. I believe all our facilities for sewerage treatment are based on ten dollars fifty cents per quarter.
Q. I see. Did you calculate that rate, Mr.
page 177 } Scott?
A. No, Sir, I hire professional specialists to run my sewerage department. I do not attempt to do it all from my office.

Roger M. Scott

Q. I see. So you are charging a dollar and a half less than they are charging, at the present time.

A. That is right.

Q. Now how much did that cost—if you can tell me—how much of that cost is actually the cost of operating—operation of this facility is actually absorbed in the amount of money that you get from the customers?

A. I would not be able to tell you that, Mr. Kellam.

Q. And if it is not all absorbed, the rest of it is paid for out of the general fund, is it not, supplemented by taxes?

A. On your supposition that if it is not, that would have to be true.

Q. Yes, and you have not sought and do not have the figures to determine at this time whether or not the ten dollars fifty cents is actually paying your cost of operation, do you?

page 178 } A. Yes, Sir, I think it's paying our part of the operation.

Q. Do you have the figures here which support that?

A. No, Sir.

Q. You do not have those figures and you do not know. Now, as compared with this facility, you pay no income taxes, do you?

A. No, Sir.

Q. And you pay no personal property tax, do you?

A. No, Sir.

Q. And you operate that facility as a part of the city's function and can use personnel both for the operation of this plant and for other purposes, is that not true?

A. We could, but we don't.

Q. I see. You could do it, but you don't.

A. Yes, Sir.

Q. How many facilities does the city operate?

A. Mr. Kellam, I couldn't say for sure. I think the city probably has five such facilities.

Mr. Staples: Your Honor, is your ruling with

page 179 } regard to the taxes extend to the comparison—

Commissioner Hooker: This case is a little different from the usual case because of the city's position in this. I think it will be well to put this in.

Mr. Kellam: Do you remember how many facilities you operate?

A. I think we operate five such facilities.

Roger M. Scott

Q. And how many customers do you have on the five facilities?

A. I do not know, Mr. Kellam.

Q. You wouldn't have any idea?

A. No, Sir. It would be very difficult to remember.

Q. I see. As a matter of fact, hasn't the city laid some lines in the franchised area of this Applicant?

A. I think probably it has, yes, Sir.

Q. And did you come to this Commission and ask for permission to lay these lines in the franchised area that belongs to this utility?

A. I don't think, according to the advice of
page 180 } our city attorneys we have to do that.

Commissioner Hooker: They don't have to. We don't have any jurisdiction over them.

Mr. Kellam:

Q. I see. Well, did you get permission from Mr. Aragona to lay lines in his franchised area?

A. I don't think there is anything that requires us to ask him if we can lay lines in his certificated area.

Q. I see. So that if you feel like that, any time that you want to the city can move in and take from him an area that has been granted to him as a franchise by this Commission?

A. In the public interest, yes, Sir.

Q. I see, and you felt like it was in the public interest for you to install certain lines within the franchised area of this utility?

A. I must have assumed that, yes, Sir.

Q. Yes. Now, have you calculated and do you have any figures that will show that you can furnish these customers sewerage and treatment any cheaper than the present utility is furnishing them sewerage?

A. That was not my point to be here and show
page 181 } that we could do it cheaper. I do not think that
is in my testimony.

Q. Well, is that not the very purpose that you are appearing here, to see that the citizens get the best rates that can be given to them?

A. That they don't pay more than a proper rate for their sewerage service. That is correct.

Q. Well, and the proper rate is the best rate that can be furnished to him with a reasonable return to the man who is furnishing him, isn't it?

Roger M. Scott

A. That is correct.

Q. All right. Now, have you calculated that you can furnish this sewerage to this area any cheaper than the present *franchisee*?

A. No, Sir, I do not think I am in a position to calculate that, being a general administrator and not a specialist in sewerage treatment.

Q. Well, in the interest of the citizens of the city, would it not be your function to see whether or not you could furnish it cheaper than this utility that was already there?

A. That is correct, it would be.

page 182 } Q. And you have not yet calculated that?

A. We have not made an attempt to take over the certificated areas of the private utilities, that is correct.

Q. Well, Mr. Scott, then you don't presume to say to the Commission that the figures that we are asking for is unreasonable. You are only asking the Commission to determine what is a fair figure and to permit that to be charged. Is that what you are saying?

A. In my personal opinion, they are unreasonable, but we would certainly request your Honors to determine what is a fair and equitable price.

Q. Well, but you really have no figure basis to show that they are unreasonable, do you?

A. I think I can use the same thinking that you do—that there has been certain increases and I don't think anybody can justify a hundred and forty per cent increase in the last ten years.

Q. Well, what percentage of increase were most of your taxes?

A. Not a hundred and forty per cent, I don't think, Mr. Kellam.

Q. What percentage would you say?

page 183 } A. I do not know that our taxes are on trial here.

Commissioner Hooker: I don't think the increase in taxes is proper.

Mr. Kellam: All right, Sir.

Q. Now, in your testimony you were asked the question, "To your knowledge was there an appraisal made of the properties of Princess Anne Utilities Corporation on behalf of the City of Virginia Beach, after June 15, 1966?" That is on page four of your testimony.

Roger M. Scott

A. Yes, Sir.

Q. It was not made after June 15, 1966, but you had one made prior to that, did you not?

A. Yes, we did.

Q. I see, and what was the purpose of having that appraisal made?

A. Mr. Aragona had made several approaches to the City that we purchase the utilities and in order to try to establish a price—a value—for his utility, we did ask that the appraisal be made.

Q. And have you seen that appraisal?

A. Yes, Sir.

page 184 } Q. Can you tell the Commission how much those facilities were appraised for?

A. Not to the specific dollar—I don't have the appraisal here.

Q. Well, tell them approximately.

A. About two million dollars.

Q. About two million dollars. Now, did you ever make an offer to Mr. Aragona to pay him the appraised value of those facilities?

A. No, Sir, we did not.

Q. But you made an offer to him to acquire the facilities, didn't you?

A. Yes, Sir, we made a counter offer, I believe.

Q. Yes, and the offer that you made to him was just about one half of that figure, was it not?

A. That is correct.

Q. And you did not expect Mr. Aragona to accept it, did you?

A. Yes, we expected him to consider it. It was a counter offer to an offer that was originally made by him.

Q. I see.

page 185 } A. In negotiations, usually there are offers, counter offers and counter counter offers.

Q. I see, but when you had the facility appraised, you had it appraised to determine its fair value, didn't you?

A. That is correct.

Q. And that is what you expected to pay for it, wasn't it?

A. Not necessarily.

Q. You thought you could buy it for less than its fair value?

Commissioner Hooker: We don't think that will help us in deciding this case.

Mr. Kellam: All right, Sir.

Roger M. Scott

Q. Now, Mr. Scott, you testified—let me ask you this. Does the City of Virginia Beach tax this facility?
A. Yes, Sir.
Q. They do tax it?
A. Yes, Sir.
Q. Now, but in your testimony I believe you testified that you thought Mr. Aragona ought to give the
page 186 } facility to the City of Virginia Beach.
A. That was a statement that I made to Mr. Aragona, yes, Sir.
Q. And why did you think Mr. Aragona ought to give it to them?

Commissioner Hooker: I don't think that has anything to do with this.
Mr. Kellam: All right, Sir. All right, Sir.

Q. Mr. Scott, when the appraisal was made, that was in 1966, wasn't it?
A. 1965.
Q. In 1965?
A. Yes, Sir.
Q. And at that time the appraisal showed it was worth two million dollars?
A. I can't give you the exact figure, but it was close to that figure, yes, Sir.
Q. All right. Thank you.

Commissioner Hooker: Is that all?
Mr. Kellam: Yes, Sir.
Commissioner Hooker: Do you have any questions?
Mr. Staples: No questions, your Honor.

page 187 } RE-DIRECT EXAMINATION

By Mr. Riely:
Q. MayI ask one question?

Chairman Catterall: You would just open up ten more.
Mr. Riely: All right. In view of the pained expression, I will not ask it.
Commissioner Hooker: Stand aside.

Witness Stood Aside.

Carroll G. Clough

page 188 } Commissioner Hooker: Any more testimony?
Mr. Riely: Yes, your Honor. Mr. Clough

CARROLL G. CLOUGH, a witness introduced on behalf of the Intervener, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Riely:
Q. Mr. Clough, you are Carroll G. Clough?
A. That is true.
Q. And it is your testimony, consisting of five pages and three exhibits that has been prepared and presented here?
A. Yes, Sir.
Q. And if I ask you those questions you would give me the answers that are shown in that testimony?
A. Yes, Sir.

Mr. Riely: If it please the Commission, I ask that Mr. Clough's testimony be copied into the record and that his exhibits be admitted in the record and I tender him for cross examination.
Commissioner Hooker: They may be admitted.

Mr. Riely: Please state your residence.
page 189 } A. I reside at 5229 Lake Shore Road, Virginia Beach, Virginia.
Q. What is your present occupation?
A. Purchasing Agent, City of Virginia Beach.
Q. How long have you held this position?
A. Since January 1, 1963.
Q. Have you at any time held any position with respect to utilities?
A. As a member of the Board of Supervisors of Princess Anne County.
Q. What was the period of time of service?
A. From 1955 to 1962.
Q. Were you ever a member of the Princess Anne County Water and Sanitation Authority?
A. Part of the time as a member of the Board of Supervisors, I was also Chairman of Princess Anne County Water and Sanitation Authority.
Q. You were a member of the Princess Anne County Water and Sanitation Authority in January, 1962?
A. Yes, I was.
Q. I hand you a copy of a letter dated January 17, 1962,

page 190 } from the Executive Secretary of the State Water Control Board to Mr. A. J. Chewning, III. It shows a copy sent to the Princess Anne County Water and Sanitation Authority. Are you familiar with this letter?

A. I have seen the letter among the records of the Princess Anne County Water and Sanitation Authority.

Mr. Riely: Your Honor, I would like to introduce this letter as Exhibit No. CGC 1.

Commissioner Hooker: It will be received as Exhibit No. CGC 1.

Q. Mr. Clough, would you read into the record the second and third paragraphs which pertain to the matter of connection of Princess Anne Utilities to new sewage facilities to be constructed by Hampton Roads Sanitation District?

A. These paragraphs read as follows:

"The Board gave technical approval to the plans and specifications for the proposed 2.5 MCD enlargement to the present sewage treatment plant subject to the above outlined conditions. It must be understood that this treatment plant

page 191 } would either have to be discontinued in use or modified to prevent the discharge of nutrients into the Lynnhaven River not later than the time that the Hampton Roads Sanitation District Commission has provided collection facilities for the area. It has been estimated by the Hampton Roads Sanitation District Commission that these facilities will be available some time during 1964.

"During your discussion this date with our staff you have proposed that temporary treatment facilities be installed in lieu of permanent facilities, previously approved. This is to inform you that we will approve interim facilities which shall be designed in accordance with the criteria established by the State Department of Health and this office. You may submit plans for these interim facilities through the State Department of Health at your convenience."

page 192 } Q. Was it your understanding as a member of the Princess Anne County Water and Sanitation Authority in 1962 that the treatment facilities of Princess Anne Utilities Corporation would be discontinued when the Hampton Roads Sanitation District was prepared to receive the effluent from that system?

A. That was and is my understanding.

Q. And was it your understanding in 1962 that the Hampton Roads Sanitation District would be prepared to receive that effluent within three or four years?

A. That was my understanding.

Mr. Clough, are you familiar with the agreement dated September 25, 1962, between Princess Anne County and Princess Anne Utilities, Incorporated, which was recorded in the Office of the Clerk of the Circuit Court of Princess Anne County in Deed Book 753 at page 380?

A. Yes, I am.

Q. Is this a copy of that agreement which I now hand you?

A. Yes.

Mr. Riely: Your Honor, I would like to introduce this as Exhibit No. CGC 2.

Commissioner Hooker: It will be received as page 193 } Exhibit No. CGC 2.

Q. Are you also familiar, Mr. Clough, with an agreement between Princess Anne Plaza Utilities and Hampton Roads Sanitation District Commission dated the 23rd day of February, 1962, and recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach in Deed Book 852 at page 19?

A. Yes, I am familiar with that record.

Q. Is this a copy of that agreement which I now hand you?

A. This is a copy.

Mr. Riely: Your Honor, I would like to introduce this as Exhibit No. CGC 3.

Commissioner Hooker: It will be received as Exhibit No. CGC 3.

Mr. Riely:

Q. Mr. Clough, would you read Paragraph two of the agreement of September 25, 1962, into the record?

A. The paragraph is as follows:

"(2) It is further agreed that, upon the installation of sewage trunk mains adjacent to the lagoons, page 194 } the treatment of sewage at this site will be discontinued and the sewage will be pumped to the sanitary facilities at no expense to the County of Princess Anne or the future City of Virginia Beach."

Q. Mr. Clough, would you likewise read into the record the Paragraph three of the agreement of February 23, 1962?
A. The paragraph is as follows:

"(3) On completion of the Commission facilities and connection thereto, the said Utility agrees to abandon all other treatment facilities serving the Utility System and to thereafter deliver all flow arising within the franchised area (exclusive of overflow during emergency power failure or other breakdown), into the lines of the Commission at the locations designated and by means of facilities provided by and maintained and operated at the expense of the Utility, and Commission agrees to accept and treat all sewage arising in
page 195 } said franchised area as designated on the attached plat so long as the terms of this contract are complied with."

Q. So, Mr. Clough, it is your testimony that from the time that the sewerage facilities of Princess Anne Utilities Corporation were expanded in 1962 it was contemplated that they would be connected to Hampton Roads Sanitation District at the earliest practicable date; is that correct?
A. Yes.
Q. And it was your understanding in 1962 that this linkup would take place within three or four years?
A. Yes.

Commissioner Hooker: Any questions of this witness?
Mr. Kellam: Just one minute, Sir. We have no questions, your Honor.
Mr. Staples: No questions, your Honor.
Commissioner Hooker: Stand aside.

Witness Stood Aside.

page 196 } Mr. Riely: Mr. Overman, if you please.
May Mr. Clough and Mr. Scott be excused, your Honors.
Commissioner Hooker: Yes, they may be excused.
Mr. Riely: Thank you.

WILLIAM C. OVERMAN, a witness introduced on behalf of the Intervener, being first duly sworn, testified as follows:

William C. Overman

DIRECT EXAMINATION

By Mr. Riely:

Q. You are William C. Overman?

A. Yes, Sir.

Q. And your testimony, consisting of twenty-five pages and three exhibits, has been prepared and previously tendered to the Commission?

A. That is correct, Sir.

Q. And if I were to ask you the questions that are shown in that testimony, you would give me the answers that are typed out?

A. That is correct.

Mr. Riely: If it please the Commission, I tender the testimony and exhibits of Mr. Overman and ask that
page 197 } his testimony be copied into the record; that the three exhibits be admitted to the record and tender Mr. Overman for cross examination.

Commissioner Hooker: They will be received.

Mr. Riely:

Q. Please state your residence.

A. 1000 South Bayshore Drive, Virginia Beach, Virginia.

Q. What is your occupation?

A. I am a partner in the firm of Langley, McDonald and Overman, Consulting Engineers of Virginia Beach, Virginia.

Q. What is your educational background?

A. I was graduated from Virginia Military Institute with a degree of Bachelor of Science in Civil Engineering in 1950 and from the University of North Carolina with a degree of Master of Science in Sanitary Engineering in 1951.

Q. What has been your professional experience since graduation from the University of North Carolina?

A. In 1951, I was a Civil and Sanitary En-
page 198 } gineering Instructor in the Civil Engineering Department of Virginia Military Institute. In 1952, and 1953, I was Post Sanitary Engineer for Fort Gordon, Georgia, and a sanitary engineer in the Medical Service Corps of the United States Army in Germany. During this period I was responsible for water and sewerage facilities and supervision of other public health facilities and projects.

In 1953, I became associated as a civil and sanitary engineer with the firm of Greeley and Hansen, Consulting Engineers in Richmond, Virginia. I was responsible for preliminary studies, investigations, and reports of estimated

sewage flows and population, the development and design of facilities, such as intercepting sewers, interceptor and control chambers, tidal gates, plant lay-out, and other structures for the sixteen million dollars sewage treatment and disposal project to serve the City of Richmond, Virginia. In 1954, I became regional engineer for the Bureau of Sanitary Engineering of the Virginia State Department of Health. I was responsible for the review of plans and specifications of proposed water and sewage treatment facilities, general supervision of construction, instruction of operators, and inspection of such facilities upon completion in ap-
page 199 } proximately thirty three counties of Virginia.

In 1955, I became an associate engineer with the firm of Frank D. Tarrall, Jr., and Associates in Norfolk, Virginia. I was in responsible charge of investigations, preliminary studies, reports, design, and supervision of construction of sanitary engineering projects, including water treatment and distribution facilities, sewage treatment and disposal facilities, and drainage provisions for schools, subdivisions, motels, trailer parks, municipalities and other proposed developments. In 1958, I joined my present firm which was then known as Langley and McDonald.

Q. While you were associated with Frank D. Tarrall, Jr., and Associates were you and was that firm engaged in activities in Virginia Beach?

A. Yes. The firm was in charge of the design of many of the private utility facilities being constructed in Virginia Beach at the time and I worked on most of those projects.

Q. When did you become a partner in your present firm, Mr. Overman?

A. In 1961, I became a partner in my firm, and the name of the firm was later changed to Langley, McDonald and Overman.

page 200 } Q. Would you describe some of the projects in which you have been engaged in the past ten years with your present firm.

A. Our firm covers a very broad field. It is engaged in projects relating to railroads, highways, and airfields, and to foundations and structures. It has done a number of projects relating to beach and shoreline erosion. It has been the engineering firm in charge of construction of water front and harbor development, railways, and yacht marinas. It has also had extensive experience in land development, drainage and site improvements. We also are active in the fields of water supply, treatment and distribution and in sewage

collection, treatment and disposal. We have also had experience in planning, land use and zoning in addition to other fields.

Q. What fields have you had particular experience in yourself, Mr. Overman?

A. The fields in which I have been most actively engaged are those of water supply, treatment and distribution, sewage collection, treatment, and disposal; water and sewer utility planning, development and financing; and annexation and merger cases.

page 201 } Q. Mr. Overman, would you name some of the projects in the field of water supply and sewage disposal, with which you and your firm have been connected?

A. Yes, we designed a water supply and distribution for three hundred homes for Nansemond Shores Water Company in Nansemond County, Virginia; water supply and distribution for about four hundred homes in Lakeville Estates, in Virginia Beach, Virginia; for six hundred homes for Merrifields, Incorporated, in Churchland, Virginia; for one hundred homes for H. F. Brown Company, Incorporated, in Chesapeake, Virginia; and for several other such land development projects. We have done extensive work in Albemarle County, Virginia planning and designing a two million gallon per day water supply treatment and distribution facility in Crozet; a five hundred thousand gallon per day water supply treatment and distribution facility for the Town of Scottsville, and an engineering study of water supply distribution facilities for the Charlottesville Magisterial district of that county. We have planned and designed a million gallon per day water supply treatment and distribution facility in Rockingham County, Virginia. We have prepared engineering studies for Henry County, Virginia,

page 202 } Tidewater Water Company in Smithfield, Virginia, Botetourt County, Virginia, Augusta County, Virginia and Campbell County, Virginia. We prepared a study of water supply mains and pumping facilities in Yorktown, Virginia for the United States Coast Guard. We have also done work in Rockbridge County, Virginia and most recently we worked for the Occoquan-Woodbridge Sanitary District in Prince William County, Virginia and prepared studies for Fredericksburg and Spotsylvania Sanitary Authority. These studies for the various counties are done for water or sewer authorities in the county, or, in some cases, for the Boards of Supervisors.

Q. Mr. Overman, you have discussed your work in the water field, what have you done in the way of sewerage?

William C. Overman

A. We have done a great deal in the sewerage field. For Hampton Roads Sanitation District Commission, we designed two miles of interceptor sewer, including a river crossing, and sixteen miles of collection sewers and pumping stations, the latter being in joint venture with Associated Tidewater Engineers. For the City of Suffolk, Virginia we designed a two million gallons per day sewage treatment facility and collection system including pumping stations and

page 203 } prepared a revenue and rate study. For East Suffolk Gardens, in Suffolk, Virginia we designed an eighty thousand gallons per day sewerage system facility. For Wedgewood Building Corporation, in Virginia Beach, Virginia we designed a seventy-five thousand gallons per day sewage treatment facility with a stabilization pond. In association with Oliver and Smith, Architects, we have designed the sewage treatment facilities for about nine schools. For the United States Navy, we designed a sewage collection system and pumping station at Dam Neck, Virginia and sewage pumping station and force main alterations of a two thousand eight hundred gallons per minute pumping station at the Naval Air Station, Oceana, Virginia. We have made engineering studies of sewerage facilities, including collection and treatment facilities for the Counties of Albemarle, Augusta, Henry, Rockbridge and Washington, Virginia. For the County of Roanoke, we designed seventy-five miles of sanitary sewers and interceptors including pumping stations. Our activities for the Occoquan-Woodbridge Sanitary District have also included the design of sewage treatment facilities, and related improvements, ultimately to serve a community of about two hundred forty thousand persons.

Q. Mr. Overman, in these studies have you had

page 204 } experience in the design of sewage and water rates?

A. Yes. Many of these studies were made to serve as a basis for the sale of revenue bonds. In order that revenue bonds may be sold, it is necessary to prove that the facilities will produce adequate revenues to support the bonds. In nearly all the facilities, we were required to prepare rate studies and to design rate schedules that would support them in each of the respective bond issues.

Q. Mr. Overman, are you a Registered Professional Engineer in Virginia?

A. Yes, I hold Registration No. 1258.

Q. Are you a member of any professional society?

A. Yes, I am a member of the American Society of Civil

Engineers, the American Water Works Association, the National Society of Professional Engineers, Virginia Citizens Planning Association, the Water Pollution Control Federation, and the American Society of Planning Officials.

Q. Mr. Overman, what was your assignment in this case?

page 205 } A. The City of Virginia Beach requested that I serve as Engineering Consultant concerning the rate increases proposed by Princess Anne Utilities Corporation and that my services include review of the available data, determination of the suitability of these rates and preparation of a schedule of rates that, in my opinion, would be just and reasonable.

Q. Is your firm familiar with the physical facilities of Princess Anne Utilities Corporation?

A. Yes. My firm made a study of the facilities of this Corporation in 1966 at the request of the City of Virginia Beach, and this study has been recently brought up to date. We have verified the existence of these facilities and the purpose for which they are used.

Q. Have you prepared an exhibit which shows the general location of the physical facilities owned by Princess Anne Utilities Corporation?

A. Yes, I have. I hand you a plat entitled "City of Virginia Beach, Virginia, Sanitary Sewer System, Princess Anne Utilities Corporation, General Plan" prepared by my firm and dated December 31, 1968, and further identified as W. C. O Exhibit No. 1 (W. C. Overman). This plan reflects

page 206 } the existing sewerage facilities of the Princess Anne Utilities Corporation and has been prepared from data available from and on file with the City of Virginia Beach.

Mr. Riely: Your Honor, I would like to introduce this as Exhibit No. WCO 1.

Commissioner Hooker: It will be received as Exhibit No. WCO 1.

Mr. Riely:

Q. Have you reviewed also the testimony presented in this case on behalf of Princess Anne Utilities Corporation?

A. Yes, I have reviewed in some detail the testimony and exhibits that were filed in this case by Princess Anne Utilities Corporation.

Q. Have you prepared a statement showing the rate base for Princess Anne Utilities Corporation?

William C. Overman

A. No, I have not. It appears to me that the rate base for this company is zero.

Q. Well, what do you mean by this?

A. Well, I have studied with much interest the testimony and exhibits presented by Mr. Gerald D. Sherman, Certified Public Accountant. First of all, it is not clear to me that the company owns all of the property that is re-
page 207 } flected on the "Comparative Balance Sheet, Audit Exhibit A," as of August 31, 1968, presented by Mr. Sherman, but I have assumed for the purpose of my studies, that it does own all of that property. It is clear that the net utility plant of Princess Anne Utilities Corporation is two million, nine hundred twenty thousand, eight hundred ninety-six dollars and seventeen cents as of August 31, 1968. At the same date, the company shows on this exhibit that contributions in aid of construction are three million, two hundred thirty three thousand, eight hundred forty dollars and thirty-nine cents. It thus appears that contributions in aid of construction exceed the net utility plant by more than three hundred thousand dollars.

Q. Mr. Overman, I'm interested in the contributions in aid of construction shown on Exhibit A prepared by Mr. Sherman, in the amount of three million, two hundred thirty-three thousand, eight hundred forty dollars and thirty-nine cents. Is there another statement which shows how these contributions came to be?

A. Yes. Mr. Sherman's Exhibit B, Schedule 1, Page 4, shows a list of these contributions.

Q. Have you analyzed this statement?

page 208 } A. Yes, I have. It appears that four of the items do not relate to tap in fees but relate to facilities that were constructed by others than Princess Anne Utilities Corporation and that they were conveyed as permanent capital to the Princess Anne Utilities Corporation by the people who constructed them. These include the second item on the page of nine hundred seventy-seven thousand, eight hundred fifty-five dollars and nine cents, the third item on the page of one hundred fifteen thousand, nine hundred eighteen dollars and seventy-nine cents, the fifth item of six hundred fifty-seven thousand, five hundred forty-six dollars and sixty-four cents, and the seventh item of five hundred seventy-two thousand, two hundred nineteen dollars and eighty-seven cents. The total of these items is two million, three hundred twenty-three thousand, five hundred forty dollars and thirty-nine cents and it represents the total of property constructed by others and contributed to

Princess Anne Utilities Corporation as permanent capital. Exhibit A, prepared by Mr. Sherman, shows gross utility plant at three million, three hundred thirty-nine thousand, eight hundred eighty-six dollars and ninety-seven cents. If I deduct the two million, three hundred twenty-
page 209 } three thousand five hundred forty dollars and thirty-nine cents from this amount of gross utility plant the remaining amount is one million, sixteen thousand, three hundred forty-six dollars and fifty-eight cents, including land. This figure is presumably the amount invested by Princess Anne Utilities Corporation itself.

Now, according to a number of different statements contained in the testimony presented by Princess Anne Utilities Corporation there appear two figures representing the number of customers. Mr. Aragona testified that the number of customers at December 31, 1968, was five thousand, five hundred eighty-two, while Mr. Larson's Exhibit B, Schedule D-1 shows an average number of customers of five thousand, two hundred ninety-one. If the Corporations' tariff filed with this Commission provides for a tap-in fee of two hundred fifty dollars per residential connection, we can multiply any one of this number of customers by two hundred fifty dollars and come up to more than one million, three hundred thousand dollars. If we simply use two hundred dollars, which according to some indications has been the tap-in fee actually charged, we come up again to substantially more than the one million, sixteen thousand, three hundred
page 210 } forty-six dollars and fifty-eight cents which the company's own exhibits show is the total investment made by the company itself. On the assumption that the tap-in fees had been collected as they should have been, it is clear that the sum of the plant contributed by others and the tap-in fees exceed the total amount of the investment made by Princess Anne Utilities Corporation and this computation confirms my conclusion that there is no rate base on which the company is entitled to earn a rate of return.

Q. Is this conclusion confirmed in any other way, Mr. Overman?

A. Yes. If you total what is recorded to be the tap in fees actually received as shown on Exhibit B, Schedule one, Page four, you will reach a total of nine hundred ten thousand, three hundred dollars. On Exhibit A, Comparative Balance Sheet, the accumulated depreciation as of August 31, 1968, is shown as four hundred eighteen thousand, nine hundred ninety dollars and eighty cents. The total of these figures is materially in excess of the one million, sixteen thousand,

three hundred forty-six dollars and fifty eight cents which is purportedly the investment actually made by
page 211 } Princess Anne Utilities Corporation. Thus, since depreciation is, in at least one point of view, a return on investment, the total of accumulated depreciation and tap-in fees seems to be materially in excess of the amount actually invested by the Corporation. Therefore, my opinion is further confirmed that there is no rate base.

Q. For the benefit of the Commission, did you reach any other conclusions with regard to rate base from your review of the testimony and exhibits of the Princess Anne Utilities Corporation?

A. Yes. I also studied the rate base statement, which is Schedule D-3 presented by Mr. Charles A. Larson. Based upon the assumption that the Utilities Corporation would be permitted to conduct its operations as proposed, I would then be prepared to admit, perhaps, that the deposit of twenty thousand dollars required by the Hampton Roads Sanitation District Commission is proper and that the cash working capital of nineteen thousand, five hundred twelve dollars is also a proper item. However, as previously discussed, contributions in aid of construction, which were supplied by persons other than the Utility, should be deducted from the net investment in Utility Plant. This results in a negative figure in comparison with item four of Schedule
page 212 } D-3.

In summary, in my opinion, there is no rate base on which Princess Anne Utilities Corporation is entitled to earn a return. Therefore, we do not need to further discuss the proper rate of return on investment or any cost of money in connection therewith.

Q. How about the twenty thousand dollars for Hampton Roads, Mr. Overman? What is the reason for this figure, which is Item two of Larson's Exhibit Schedule D-3?

A. As I understand it, the twenty thousand dollars deposit is required by Hampton Roads, because the Utilities Corporation proposes that Hampton Roads send its bills to Princess Anne Utilities Corporation and the Corporation will in turn bill the individual customers for both the Hampton Roads charge and the Princess Anne charge. If Hampton Roads bills direct to the individuals, the twenty thousand dollars deposit would not be required. Since it appears from Mr. Sherman's Exhibit B, Schedule one, Page three that the billing by Princess Anne of both bills would increase operating costs by more than five thousand dollars per year and since it further appears that Hampton Roads is willing to

page 213 } bill direct at no additional cost to the customers, and in fact it suggests that it might be preferable that it do so, it does not seem to me to be fair to charge the customers of Princess Anne with this additional expense. Therefore, I would think that the twenty thousand dollars deposit should in all events be eliminated from the rate base.

Q. Mr. Overman, now let's move on to another item, that of the expense of operating the Utility. In conjunction with this, what expenses do you consider to make up a rate base and have you prepared an exhibit to reflect these expenses for the first year of operation after connection to Hampton Roads Sanitation District facilities?

A. Yes, I have prepared W.C.O. Exhibit No. 2 which I hand you herewith.

Q. Is your Exhibit comparable to any prepared by Mr. Sherman?

A. Yes, my exhibit is comparable to Exhibit B entitled, "Schedule Showing Projection of Operating Costs and Schedule of Contributions in Aid of Construction," consisting of four pages.

Mr. Riely: Your Honor, I would like to introduce this as Exhibit No. WCO 2.

page 214 } Commissioner Hooker: It will be received as Exhibit No. WCO 2.

Mr. Riely

Q. Will you discuss these Estimates of Projected Expenses and the method used to evaluate these costs?

A. The Projection of Operating Costs furnished by Princess Anne Utilities Corporation has been reviewed. Utilizing our experience with similar sewer-service-only utilities, we have analyzed the several expense categories and present the following comments based on the premise that the Utilities Corporation is operated as a properly staffed, efficient organization concerned solely with operating and maintaining its sewage collection and transmission system and billing and accounting for this service.

I would like to direct your attention to Item one of Exhibit 2, entitled Operating Expenses and its four related divisions. As to Operating Payroll, Item one a., we agree that there will be no reduction in this category. However, with the elimination of the treatment facilities, the duties of these personnel will change from treatment plant operation to full-time maintenance of sewers and pump stations. My proposal would

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provide the Utility with a foreman, pump station
page 215 } mechanic and three laborers to provide for both
maintaining and operating the system. As for items one b., one c., and one d., Fuel, Power and Water; Auto and Truck Expense; and Miscellaneous Operating Expenses, we take no exception concerning these items.

Regarding Maintenance and Repairs, we have included Item two at twelve thousand dollars.

With a full-time maintenance crew, the need for contract maintenance will be significantly reduced, although there may be some occasional requirements. It is assumed that the Utilities Corporation owns no excavating or hauling equipment that, when required, this type equipment would be utilized on a rental basis. The cost of this rental is included in this item.

Mr. Sherman used thirty-two thousand, one hundred fifty-seven dollars and fifty-eight cents on Maintenance and Repairs as shown on Page one of his Exhibit B. Despite the discontinuance of the use of the treatment facilities, Mr. Sherman shows neither a reduction in maintenance costs nor decline in payroll costs. It appears to me that this is unrealistic. In my view the present payroll will cover all
the people necessary to accomplish the required
page 216 } maintenance, that is, the foreman and four men.
I judge that Mr. Sherman's thirty-two thousand dollars figure for maintenance is primarily maintenance that was contracted out. If the number of employees is to remain the same, without treatment plant operation, these men can perform sewer maintenance. In view of the Utility's proposal of operation, one, to retain the same personnel and payroll and two, the same method of contract maintenance, I think there is a material duplication in Mr. Sherman's statement when he includes thirty-four thousand dollars for payroll and thirty-two thousand dollars for maintenance. In my view, the figures of thirty-four thousand, eight hundred dollars and twelve thousand dollars as shown on my Exhibit 2 are entirely adequate.

Under Item three, entitled Administrative and General are found some eleven items, the first of which is Officer's Salary. For a utility of this size and type operation, it is my opinion that a salary of fifteen thousand, six hundred dollars is quite sufficient in view of the duties of the administrator.

Item three b., Secretarial, Billing, Bookkeeping Salaries
amounts to twenty six thousand, two hundred
page 217 } dollars. In my opinion, the use of a billing and
collection agency is not considered to be a rea-

sonable means of billing, accounting and providing the proper direction for a utility of this size. All office work, therefore, including secretarial, billing, customer service, bookkeeping and accounting is included in the total of this item. It is contemplated that an office manager, bookkeeper and two clerks could adequately conduct the business of this utility.

On Mr. Sherman's Exhibit B, Page one, he includes twenty-nine thousand, seven hundred sixty-two dollars and seventy-eight cents for collection agency fees. In lieu of this I propose an officer (sic) manager, a bookkeeper, and two clerk-typists who would actually run the billing and accounting records of the Utility, the salaries of which amount to twenty-six thousand, two hundred dollars on my Exhibit 2. I feel certain, a thoroughly competent billing and accounting department for this Utility could be operated with this allocation plus these other related ones, such as materials and supplies.

Q. Mr. Overman, at this point do you have any other comments about Mr. Sherman's twenty-nine thousand dollars figure for collection agency fees?

page 218 } A. Yes. As shown on Page three, Schedule one, Exhibit B, Mr. Sherman increased the current annual rate by twenty per cent because of a two-part billing that would occur when the Hampton Roads bill is placed on the Princess Anne bill. As I have mentioned before, Hampton Roads can bill direct to the customers and that would not entail any additional charge to the customers. Therefore, the five thousand dollars increase shown for collection agency fees is merely an imposition on the customers and in my view should be eliminated.

Q. Mr. Overman, will you now return to your discussion of W.C.O. Exhibit No. 2 and specifically to the next item, three c.?

A. Yes, Sir. No exception is taken to the next five items. They include Real Estate Taxes and Licenses, Legal and Accounting, Rent, Telephone, and General Taxes. These amounts are each the same as shown by Mr. Sherman on the Corporation's Exhibit B, Page one.

Item three h. has been included to cover insurance. For the past years insurance has been one thousand, one hundred six dollars in 1967 and one thousand, nine hundred thirty-three dollars in 1968. Although two thousand,

page 219 } four hundred seventy-five dollars is set aside as the annual insurance cost, it is questioned that

such a cost is the actual average insurance cost or whether this two thousand four hundred seventy-five dollars includes the cost of certain insurance which is due every third year. That the major risk facilities are also being abandoned should be taken into account. Therefore, my estimate of the cost of insurance is on an average annual basis of one thousand five hundred dollars.

As for Billing and Office Supplies, Item three i. has been included. The quarterly billing requires approximately six thousand cards which can be pre-printed (except for the ninety-six commercial customers). It is estimated that mailing costs are one thousand, five hundred dollars; that billing cards, ledger cards, stationery and other supplies would cost one thousand, three hundred dollars.

The next item entitled Engineering is identified as three j. It should be noted that engineering services are not included in the Projections of Operating Costs in the Princess Anne Utilities Corporation Exhibit B. Such services are required in my opinion in rate determinations, guidance
page 220 } in maintenance and repair work, review of plans and general consulting work. Therefore, the cost of these services is included as a proper charge in my Exhibit No. 2 as six thousand dollars.

The final item, three k., is to cover payroll taxes. Such taxes for all personnel have been computed on five per cent of the gross estimated payroll despite the fact that these taxes are not collected on the entire salaries.

It is my conclusion, therefore, that an operating budget of one hundred thirty-four thousand dollars is sufficient to the operation of Princess Anne Utilities Corporation after connection to the Hampton Roads Sanitation District Commission System.

In view of this conclusion it appears obvious to me that certain facts concerning the operation of the Utility are evident. For example, the Utilities Corporation operates in a relatively localized area with all facilities situated in street rights-of-way and as such are easily accessible for inspection and maintenance. Since house connections are made during construction of the sewers, the capability of making new sewer connections is limited to the need to serve those customers located on the subdivision fringe. Therepage 221 } fore, the field payroll is limited to maintenance duties exclusively. Billing and accounting work is also subject primarily to the growth within the subdivision. This limits the scope of their activities considerably.

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Q. How does your amount of one hundred thirty-four thousand dollars compare with the conclusion reached by Mr. Sherman?

A. If you total Mr. Sherman's projected operating expenses of fifty-six thousand, one hundred seventy-two dollars and sixty-seven cents maintenance and repair expenses of thirty-two thousand, one hundred fifty-seven dollars and fifty-eight cents, and administrative and general expenses of sixty-seven thousand, seven hundred fifty-seven dollars and forty-six cents a total of one hundred fifty six thousand, ninety-seven dollars and seventy one cents is reached. This compares with the one hundred thirty-four thousand dollars that I have estimated as adequate operating expenses.

Q. Have you included depreciation?

A. No. Inasmuch as the company has at this time, so far as I can ascertain, no net investment in utility plant it should not be entitled to receive depreciation on
page 222 } plant for which it has not paid. Accordingly, I have not included any item for depreciation expense.

Q. In your view, Mr. Overman, would it be proper for the Commission to allow one hundred thirty-four thousand dollars as the total operating expenses to be used in determining service rates to be charged by Princess Anne Utilities Corporation?

A. Yes, it would.

Q. Now, Mr. Overman, how do you *propse* that service rates be established to produce the one hundred thirty-four thousand dollars that you consider appropriate as total gross revenue requirements of the Company?

A. The only information that I had available was Exhibit D, Schedule D-1 presented by Mr. Larson. This shows total customers of five thousand, two hundred ninety-one. Mr. Aragona testified as to a larger number of customers, five thousand, five hundred eighty-two in December of 1968, but the use of a smaller number of customers is more conservative. Mr. Larson shows four thousand, seven hundred fifteen residential customers and he also shows four hundred eighty apartments and ninety-six commercial customers.
page 223 } Q. Have you prepared an exhibit to show the rate level that you propose and how it will be determined?

A. Yes, I have. It is identified as Exhibit No. WCO 3 and entitled "Calculation of Revenues at Proposed Rates."

William C. Overman

Mr. Riely: Your Honor, I would like to introduce this as Exhibit No. WCO 3.

Commissioner Hooker: It will be received as Exhibit No. WCO 3.

Mr. Riely:

Q. Now, will you explain this exhibit?

A. From the basis that residential customers are considered to be one residential equivalent, I rated the apartment customers at 0.67 of a residential equivalent which is what the present Utility's rate schedule provides. Commercial customers were calculated to be actually three and five-tenths times the residential equivalent although Mr. Larson calculated commercial customers at five times the residential rate. This seems to me inappropriate in view of the Utilities Corporation's revenue experience. I have determined that 1968 commercial customers paid three and five-

page 224 } tenths times on the average as much as a single residential customer, and that 1967 commercial customers paid four and twenty-five hundredths times the single resident. Again, utilizing the lesser number of equivalents represents a more conservative approach. Equivalent residential customers total five thousand three hundred and seventy.

Q. What was the next step in your determination of this proposal?

A. The next step is to divide the required revenues at one hundred thirty-four thousand dollars by the five thousand, three hundred and seventy equivalent residential customers. This produces a revenue requirement of twenty four dollars and ninety-six cents per equivalent residential customer per year. This is six dollars and twenty-four cents per quarter or two dollars and eight cents per month. In my view the rates established on this basis would provide the company with adequate operating revenues to meet its operating expenses. This approach is shown on my Exhibit No. 3.

Q. Were those the rates that you would think proper for Princess Anne Utilities to charge?

A. Yes, I think so. However, I have prepared

page 225 } certain alternative approaches which may be of interest to the Commission.

Q. All right, let's go to the first of these.

A. By referring to Mr. Sherman's Exhibit B, page one, we find that total operating expenses are estimated at one hundred fifty-six thousand, ninety-seven dollars and seventy-one

cents. Assuming these are the proper operating expenses and that this amount is divided by the five thousand three hundred and seventy residential equivalent customers, the charge would be twenty nine dollars and six cents a year or seven dollars and twenty-seven cents per quarter or two dollars and forty-two cents per month. Rates at this level would produce required revenues sufficient to meet the total operating expenses shown by Mr. Sherman.

Q. Have you made another study for the information of the Commission?

A. Yes, I have allowed in the previous approaches no depreciation expense. I do not think depreciation is proper because the company does not now have investment of its own money in the utility plant, but if a replacement allowance

page 226 } were permitted annually by the Commission in order to provide for the replacement of the property over the years, as it wears out, a proper allowance in my view would be about sixty-two thousand dollars representing on a straight-line basis a forty-five year remaining life for gravity sewers and force mains, thirty-seven years remaining life for pumping stations and twelve years for equipment. This has been based upon the Net Utility Plant furnished on Mr. Sherman's Exhibit B, Schedule one, Page two, Item C after abandonment of treatment facilities and certain equipment. If the sixty-two thousand dollars are added to my computation of proper operation and maintenance expenses of one hundred thirty-four thousand dollars, it produces a total annual revenue requirement of one hundred ninety-six thousand dollars. If we relate this figure to the total residential equivalent customers of five thousand, three hundred and seventy, the average residential rate must be thirty-six dollars and fifty cents per year or nine dollars and thirteen cents per quarter or three dollars and five cents per month. Even these rates are below the rates presently charged by the Princess Anne Utilities Corporation.

Q. Have you prepared one final approach for

page 227 } the Commission?

A. Yes, I have. In this case I have added the depreciation expense back to the operation expenses as shown by Mr. Sherman on Exhibit B to reach a total operating expense plus depreciation of two hundred thirty-two thousand, four hundred twenty-eight dollars and ninety-one cents. Again, relating this to residential equivalent customers I obtain a service rate of forty-three dollars and

twenty-eight cents per year or ten dollars and eighty-two cents per quarter or three dollars and sixty-one cents per month.

Q. Now these rates are in addition to the charges by the Hampton Roads Sanitation District Commission, are they not?

A. Yes. And those charges on the average will be four dollars and eighty-eight cents a quarter or about one dollar and sixty-three cents per month per residential customer. To each of the previously described approaches in determining service rates must be added four dollars and eighty-eight cents per quarter or one dollar and sixty-three cents per month in order to be comparable with the present residential rates.

Q. Mr. Overman, have you prepared any
page 228 } schedule of commercial rates for individual classes of business?

A. No, we have not prepared a study showing the rates for the individual businesses because there is not enough information available at this time for us to do so. To make such a study it would be necessary to make a complete analysis of the various customers of Princess Anne Utilities Corporation and that list of customers has not been available to us. When the Corporation Commission determines the proper level of revenues, it will then be possible to prepare an appropriate rate schedule for the commercial customers.

Q. Does this conclude your testimony, Mr. Overman?

A. Yes, Mr. Riely, except possibly to mention for the benefit of the Commission one other factor which is pertinent but was not considered in these studies nor included in the various exhibits. Within the present service area of the Princess Anne Utilities Corporation there are platted and recorded, according to our review of the City's files, a total of about five thousand eight hundred separate residential lots, each of which can be adequately served by the existing
page 229 } system without further construction expense. However, according to Mr. Larson's Exhibit D, Schedule D-1 there are four thousand, seven hundred and fifteen residential customers. Therefore, it can be assumed that about one thousand and eighty-five potential residential customers in the service area still remain to be captured by the Utilities Corporation. Applying the present residential connection charge of two hundred fifty dollars to each, the Corporation could possibly expect to recover an additional amount of two hundred seventy-one thousand, two

hundred fifty dollars. At the prior rate of development in the service area, the Corporation could conceivably expect to receive this within two years.

Aside from this potential revenue, the Corporation would also realize annually, revenue from these one thousand and eighty-five customers the service charges to which it is entitled under an appropriate rate schedule. At six dollars and twenty-four cents per quarter this would mean twenty-seven thousand, eighty-two dollars per year in additional gross revenues.

In addition, our studies have indicated that a total of six hundred twenty apartments are existing or under construction rather than the four hundred eighty indicated in Mr. Larson's Exhibit. From the additional one hundred forty apartments the Utilities Corporation could also expect to derive revenues from connection charges and annual service charges.

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This now concludes my testimony, Mr. Riely.

Commissioner Hooker: Do you have any questions?

Mr. Lawler: Just a few questions, your Honor.

CROSS EXAMINATION

By Mr. Lawler:

Q. Mr. Overman, I note that in your proposed operating budget for the utility, you have reduced the amount required for the maintenance from thirty-two thousand, one hundred fifty-seven dollars and fifty-eight cents to something in the neighborhood of twelve thousand dollars. Would you not say that in view of some of the complaints which have been registered that an increase for the maintenance and repair of these facilities would be indicated, rather than a reduction on the fund for maintenance and repair?

A. Normally, I would say that probably there would be an increase in operational costs along the lines that you are speaking of, Sir, but in this particular case and in preparing a budget, and if you will allow me to refer to that particular page, what we have done is make the assumption as you did that the corporation would continue to maintain the same personnel—staff—that you had before. We would merely be using these personnel who were formerly assigned to the sewerage treatment plant and to other duties in conjunction with the corporation's operation who were there. We would then assign them to

page 231

these duties of maintaining and operating. The twelve thousand dollars has to do with the use or rental cost of heavy equipment which we assume that the corporation does not have, such as a crane, or whatever may be required in the excavations and pure maintenance of the equipment.

Q. Well, don't the records show—of the company show—that the great bulk of the repairs and maintenance was not work as could be done by the personnel of the company and they had to be contracted out to be done?

A. We are of the opinion, Sir, that possibly this was due to the fact that the personnel that are presently employed have certain assignments throughout the corpora-
page 232 } tion's operation, such as the sewerage treatment facilities which will be abandoned. Now these people can be used for maintaining the system. The pumping station, the sewers, the interceptors, force mains, etc., and these people will have a tendency to reduce the cost or the necessity for us to use outside contractual help. This is an estimated figure of twelve thousand dollars for rental of equipment or hauling equipment.

Q. I see. That is your opinion, but it is not based on the company records, is it?

A. No, Sir. It is shown on our testimony on page fifteen and it is explained there.

Q. Now, I note that you make no provision in your proposed rates for payment of income taxes. Now, wouldn't this company have to pay income taxes, whether it showed a profit based upon your figures or not?

A. Well, in the case of our exhibit which is entitled Exhibit No. WCO 2, we have prepared for the Commissioners' benefit a comparison of what we feel would be an operating budget—you might say—for the Princess Anne Utilities Corporation, and one prepared by Mr. Sherman and described as Exhibit B, page one, of State Corporation Com-
page 233 } mission Exhibit A. This is found, I believe, on page thirty-one. There were no taxes shown, other than the general taxes of franchise and registration for eighty dollars, personal property a hundred twelve dollars and eighty cents. We have included a figure in this of two hundred dollars. We do not show in this same listing income tax, nor has Mr. Sherman shown such a figure.

Q. Well, as a practical matter, if you don't show any income tax payable and in fact, income tax is payable by this company, then to that extent your proposed rates are wrong, are they not?

William C. Overman

A. If an income tax should be included, yes, Sir, and rightfully so. I might add that Mr. Sherman did have five items at the bottom of the page I just mentioned—page one, Exhibit B, one of which there is Federal and State income taxes. However, he did not include them in here and, as I said, for the purpose of simplifying the issues and illustrating to the Court, we have prepared a budget projection not unlike that in form to Mr. Sherman's. I might add that the total of the two items are as follows: Mr. Sherman's exhibit is one hundred fifty-six thousand dollars excluding depreciation and ours is one hundred thirty-four thousand. This

page 234 } would be, on the assumption that the present utility corporation would set up its own bookkeeping, clerical system and maintenance and operating crews and would operate it for a utility of this size, and this is the method by which we are suggesting it.

Q. But then you eliminated, in your first proposal, the need for any allowance for depreciation, have you not?

A. Yes, Sir, we do not feel depreciation is a part of the budget, because we do not feel depreciation exists because there is no outstanding investment in the system as such. It has been paid off.

Q. Not even—

A. Excuse me. Therefore, there is nothing to be depreciated.

Q. Now, even if you eliminate the depreciation, isn't it a fact that this company is going to have to pay income taxes represented by the depreciation which would be allowable?

A. I do not know, Sir, if I can answer that exactly.

Q. Let me explain myself a little bit further, to speed things up.

page 235 } A. All right, Sir.

Q. Assuming that the Federal income tax regulations do not permit you or this company to take depreciation deduction because of the items represented by contributions made, by contributions to capital so to speak.

A. Yes.

Q. Now, then. If the company cannot take a deduction for the Federal tax purposes, is it not going to have to pay the tax which is represented by the lack of that deduction?

A. In principal, I would say yes, Sir. I am not certain as to the ruling concerning such matters as depreciation as they are related to this corporation and so forth. I would be under the impression that they would not be paying an amount possibly equal to depreciation or equal to this amount.

However, I am not certain of this.

Q. I see.

Chairman Catterall: Well, if they have no deduction, they pay a higher tax.

A. Yes, Sir.

Chairman Catterall: Regardless of any other consideration.

page 236 } Mr. Lawler: Excuse me.

Chairman Catterall: Regardless of everything else, if they have a lower deduction, they pay a higher tax.

A. Yes, Sir. Our figures do not include depreciation, that is correct.

Q. I see, and then on the last proposal that you had, you have included depreciation, have you not?

A. On Exhibit No. WCO 3 we have prepared pages one and two and I believe you are referring to what we call Approach No. 4.

Q. Yes, Sir.

A. All right, Sir. This particular approach has been prepared for comparative purposes. It shows the total amount included, a total amount of two hundred thirty-two thousand, four hundred twenty-eight dollars and ninety-one cents, as determined by Mr. Sherman's Exhibit B, page one, which would yield or require a service charge of ten dollars and eighty-two cents per quarter, which is somewhat less than the present rate being permitted by the State Corporation Commission.

Mr. Lawler: And that ten dollars and eighty-

page 237 } two cents would be in addition to whatever charge the Hampton Roads Sanitation Commission would require for its treatment service.

A. I think we pointed that out. Yes, Sir.

Q. Yes.

A. Dollar sixty-three cents a month, approximately.

Q. I assume that, and from your testimony it seems clear that you have concluded that this company is not entitled to any return because the contributions in aid of construction exceed what the actual book assets of the company are.

A. That is correct. According to—

Q. Now, in arriving at that conclusion, did you make any distinction in your mind as to the source of what is termed contributions?

William C. Overman

A. To the best of our ability, we did, as I think we indicated in the testimony and in the data that was accumulated and presented in the form of testimony. We stated as clearly as possible that our study had been based almost entirely upon the data that the Princess Anne Corporation had submitted to the Commission. Consequently, it is your data that we are using—not ours. And from this in-
page 238 } formation furnished and as described in your exhibits, we have made this conclusion.

Q. What I am saying to you is—and asking this question, Mr. Overman, you made no distinction between whether or not a contribution in aid of construction came from a related builder or a non-related builder.

A. No, Sir, because of the description on Exhibit B, page four, we felt the tap-ins had been described as such and I believe Mr. Sherman has further described this and there was descriptive information with the various items on this page. However, we feel that by deduction you have approximately one—two—three—four items labeled and described by your exhibit as tap-in fees paid by builders of one sort or another and the other items which we have labeled as "A", which consist of four additional items are those facilities which has been contributed to the corporation as permanent capital. This is how we have concluded that there is no investment. There is nothing left upon which to establish a rate base that the corporation has received in some form or another, a return on its original investment, and therefore the investment does not exist. Therefore, there is no
page 239 } item to depreciate nor amortize.

Q. Now, aren't you saying that because those items appear as contributions in aid of construction—in other words, Mr. Overman, suppose instead of carrying those items which came from the related builders and assuming that those related builders are owned one hundred per cent by the same entity that owns the utility company—if instead of carrying that as a contribution in aid of construction, it had been carried on the books of the company and of the books of the related company, and the transaction had actually been for issuance of capital stock for those facilities, wouldn't your answer be different?

A. I do not think I can make that assumption, Sir.

Q. I say if you were to assume that.

A. Because well, I have not given thought to the issue. As a matter of fact, I have—

Q. Well, give some thought to it, Sir.

William C. Overman

Mr. Riely: If it please the Commission, that assumption is contrary to fact.

Commissioner Hooker: Well, he has the right to ask the question. It is a proper question.

Chairman Catterall: As the answer is so obvious, I don't know what he is hesitating about. It is a hypothetical question.

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A. Yes, Sir. As I said it has been—I would assume that probably, if I understand your question, Sir, the answer would be yes. However, I have made no assumptions along this line because we have based it upon the date as described in your exhibit as contributions in aid and we have assumed this to be correct.

Q. I understand you have done a good bit of work in the issuance of bonds and financial structures of various organizations—

A. Yes, Sir.

Q. —and you are familiar with those—aren't we—what we are really talking about here—aren't we talking about equity capital when we talk about these contributions in aid of construction that came from a wholly owned subsidiary. Aren't we talking about equity capital regardless of what form the financing took?

A. I don't think that I can answer that correctly, Sir, in the same terms.

Q. I see. Wouldn't you feel that in view of the reduced sum that you have allocated for maintenance and repair, there should be some provision for the replacement of the equipment and facilities as they are worn out?

page 241

A. I believe you will find on our Exhibit No. 3 that we approached the problem from four different standpoints. The last two, approach number three and four, did, again for the purpose of the Commission, show the comparison of rates should an allowance be made for the annual replacement of wearing out equipment. It is my understanding that this is not a normal procedure for Corporation Commission's activity and policies that the only return that can be received is on an investment and not on an anticipated investment and if a replacement charge or replacement reserve is provided, it might be considered as in the form of depreciation. In the two approaches number three and four we have provided for an annual replacement which was done on a straight line basis, essentially or somewhat like depreciation, and this provides these two quarterly rates of nine dollars

and thirteen cents and ten dollars and eighty-two cents.

Q. I think that is all we have of this witness.

Commissioner Hooker: Any questions?

Mr. Staples: If it please the Commission, I have just two questions, if I may.

page 242 } CROSS EXAMINATION

By Mr. Staples:

Q. Mr. Overman, Just so I can get these rates that you are suggesting straight in your testimony—

A. All right, Sir.

Q. —on page eight of your testimony referred to the rate base, as you see it, for this company as being zero.

A. Page what, Sir?

Q. Page eight.

A. Excuse me. All right, Sir.

Q. And then you go back to page twenty-one, where you give the rate per quarter that you would—they would be given adequate return for that rate base.

A. That is correct.

Q. Six dollars and twenty-four cents. And then you give these alternative rates that you have just been discussing, if you add that depreciation and then—

A. That is correct. Approach number one has resulted in a rate of six dollars and twenty-four cents a quarter, which has been based upon somewhat of a projected budget of ours as shown on Exhibit No. WCO 2, in which we give you a total estimated operating expense annually of a hundred and thirty-four thousand dollars. This has been equated to residential connections and then can be related to

page 243 } your commercial and industrial and other such connections. On page two of exhibit number three we have approach number two which has been taken from Mr. Sherman's exhibit or is based upon Mr. Sherman's Exhibit B, I believe, on page one schedule—excuse me, Exhibit B, page one. The total of it is on there, which is the Projection of Operating Costs Predicated on a Connection with Hampton Roads Sanitation District facilities. The total cost is one hundred fifty-six thousand, ninety-seven dollars and ninety one cents, exclusive of the item of depreciation. Using that figure along and approach number two and equating it to residential equivalents, the rate per quarter would be seven dollars and twenty-seven cents. Approach number

three includes the possibility of using a replacement cost of approximately, I believe, sixty two thousand dollars.

Q. At the top of page twenty-three?

A. Yes, Sir, and adding it to our projected expenses or budget of one hundred thirty-four thousand dollars, which would result in a total annual required revenue of one hundred ninety-six thousand dollars, which would result in a residential equivalent charge of nine dollars and

page 244 } thirteen cents per quarter. The last approach, number four, on page two of Exhibit number three we have used Mr. Sherman's totals of Exhibit B, page one, or two hundred thirty-two thousand, four hundred twenty-eight dollars and ninety-one cents. Again relating it to residential equivalent, the rate would be ten dollars and eighty-two cents a quarter. On top of each one of these, regardless of which one would have to be used, or may be used if non—you still—the owners or the customers are still burdened with the expense of approximately one dollar sixty-three cents per month or four dollars and eighty-eight cents a quarter from Hampton Roads Sanitation District Commission. This is based on average residential consumption and connection charges and service charges.

Q. Thank you. And one final question. Page twenty-four and twenty-five of this exhibit you eluded to the platted residential lots in the territory service area of the Princess Anne Utilities.

A. We mentioned that there are approximately fifty-eight hundred separate residential lots within the subdivision.

Q. And then you foresee there are one thousand, eighty-five left to be built?

page 245 } A. Approximately.

Q. Now, I would like, it would require a little deviation from procedure, but I have a map on the bulletin board that has been prepared by our engineering department with an orange area which purports to represent the certificated service area of this utility and without having to call Mr. Addison from the engineering department to the stand who drew this and qualify him and get it entered, I wondered if Mr. Riely would agree to—

Mr. Riely: I have no objection.

Mr. Staples: —Let Mr. Overman see if that territory that he is referring to here is the same as that territory there. You do describe it as the service area of Princess Anne Utilities?

William C. Overman

A. Well, without getting up, I believe I have got to qualify an answer. When I said fifty-eight hundred connections, we were speaking of lots that have been recorded and are on file with the City of Virginia Beach, Clerk of Court, and the other departments with which such subdivision plats are recorded. They do not necessarily all belong to one corporation or the other—they belong to any of these corporations, but all, as we understand them, lie within the fran-
page 246 } chised or certificated area. We have prepared a map, Exhibit No. WCO 1.

Mr. Staples: We were not able to reconcile that map with the territories because—the point that I am getting at, your Honors, is the impression that's left that there are a thousand and eighty-five customers left in the area and I wanted to see how that testimony bears with relation to the certificated area.

Chairman Catterall: This map does not give the certificated area. It gives the service.

A. No, Sir, this is a portion of it.

Mr. Staples: It is described as that in the testimony, your Honor.

A. It is actually a service—this is merely a portion of the certificated area that we have shown as Exhibit No. 1.

RE-DIRECT EXAMINATION

By Mr. Riely:

Q. Mr. Overman, are there any properties within the certificated area which to your knowledge have not been subdivided?

A. Oh, yes, I am sure there are.

A. Oh, yes, I am sure that there are.
page 247 } Q. So there would be additional areas that might be developed?

A. Yes, Sir.

Q. In addition to the platted subdivisions?

A. Yes, I feel certain of that, Sir.

Q. Now, will you turn to Exhibit No. WCO 2 for a moment? What is shown in the last line of that exhibit?

A. Total estimated operating expenses one hundred thirty-four thousand dollars.

Q. Now, turn the page to rate determination, approach number one, your exhibit three. Is that same figure shown there?

A. Yes, Sir, in the rate determination approach number

three on page one of our exhibit three we show required service charge per residential equivalent equal to a hundred and thirty-four thousand dollars, divided by five thousand three hundred seventy residential equivalent connections times four.

Q. So you have merely taken the total operating expenses and prepared rates that would produce an amount of money equal to the total operating requirements.

page 248 } A. This should be sufficient to meet the requirements.

Q. Under that basis, would there be any net income available for income taxes?

A. There would be income expected from these future connections.

Q. But, on the basis that you have prepared here, would there be any net income?

A. Assuming no further development, no.

Q. Is that the reason you have not included any Federal income taxes?

A. That is correct, Sir.

Mr. Riely: I have no further questions.

May Mr. Overman be excused?

Mr. Lawler: I have one question, if your Honor please.

CROSS EXAMINATION

By Mr. Lawler:

Q. Mr. Overman, in dealing with the proposed area which you related as something over a thousand customers—potential customers—you don't know how many of those the City of Virginia Beach proposes to serve

page 249 } directly itself, do you?

A. No, Sir, I do not.

Commissioner Hooker: Stand aside.

You may be excused.

Witness Stood Aside.

page 250 } Mr. Riely: That's our case, if your Honors please.

Mr. Staples: I call Mr. Brown to the stand.

Your Honors, I would like at this point to note for the record that we received two hundred ninety-three letters re-

garding this matter. There are two hundred ninety-three persons objecting to the rates. The service complaints that were included in some of these letters have been extracted by the Engineering Division and will be investigated separately. Mr. Addison will pass those to the file.

Commissioner Hooker: They will be passed to the file.

Mr. Kellam: If it please the Commission, of course, we object to them. That has nothing to do with the rates. They just don't want to pay any more money.

Commissioner Hooker: We understand. We are just passing them to the file. They are not evidence.

JAMES H. BROWN, a witness introduced on behalf of the Commonwealth, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Staples:

Q. Will you state your name.

page 251 } A. My name is James H. Brown.

Q. By whom are you employed?

A. I am employed by the State Corporation Commission.

Q. In what capacity, Mr. Brown?

A. I am Chief Accountant.

Q. Have you reviewed the application, testimony and exhibits prepared by Princess Anne Utilities?

A. Yes, I have.

Q. Have you reviewed the testimony and exhibits submitted by Mr. Riely on behalf of his clients?

A. Yes, I have.

Q. Have you or members of the staff of the Accounting Division under your direction or supervision made an examination of the books and records of Princess Anne Utilities Corporation in connection with this rate case?

A. Yes. This matter has been active for some time. In June of 1968, Mr. Edward M. Vassar, a public utility accountant of the Accounting Division of the Commission, spent about three weeks at the Company's offices in Virginia Beach analyzing the books and records for the purpose of determining the net cost of plant to the utility company as

page 252 } at August 31, 1967. Since that time, Mr. Vassar and other accountants have made several trips back to the Company's offices to obtain additional information. For example, the cost of additions made to the utility plant from August 31, 1967, to August 31, 1968, were determined in subsequent audits.

James H. Brown

This Company, I think it has been indicated already, keeps its books on a fiscal year basis ending August 31.

Q. In addition to the determination of plant costs, has the staff reviewed the operating and maintenance expenses of the Company?

A. Yes, and also they have prepared a projection of operating costs in order to show the *pro forma* effect of abandoning the treatment plant upon the connection with Hampton Roads Sanitation District.

Q. Have you made a projection of operating revenues at the present and proposed rates?

A. Yes.

Q. As a result of the investigation made by the Accounting Division of the Commission, have you prepared financial and other statements for filing in this proceeding as

page 253 } staff exhibits?

A. Yes, four statements have been prepared, and for convenience, have been assembled in report form, and I would like to file these at this time.

Mr. Staples: If your Honor, please, Exhibit No. 3.

Commissioner Hooker: It will be received as Exhibit No. 3.

Mr. Riely: May I have one.

Mr. Staples:

Q. Please refer to the first statement of your exhibit—Statement A—and explain it.

A. This statement, Statement A, shows the balance sheets filed by the Company with the Commission as of August 31, 1967, and at August 31, 1968. The first double column on the lefthand side of the sheet shows the assets and liabilities as of August 31, 1967, as filed with the Commission by the Company on December 7, 1967. It shows that total utility plant amounted to eight hundred seventy-one thousand one hundred eighty-one dollars as of August 31, 1967.

The second double column shows the amount included in the 1968 report, which was filed on February 3, 1969,

page 254 } for the fiscal year 1967 as a comparison with 1968 figures to be two million nine hundred seventy-seven thousand one hundred seventeen dollars or two million one hundred six thousand dollars more than was reported to the Commission in 1967. This change is shown in the fifth column, that is the difference between what was

shown in the 1967 report and what was shown in the 1968 report for 1967.

Q. To clarify that, that is a presentation of a report on the same figures for the same date?

A. Yes, Sir.

Q. The last double column shows the amount of utility plant reported in the 1968 report, which is as of August 31, 1968, in the amount of three million three hundred thirty-nine thousand eight hundred eighty-six dollars. When the Commission accountants visited the Company in the middle of February, 1969, the amounts shown on Statement A as of August 31, 1968, had not been entered on the books of the Company. Our accountants were told, however, that the adjusting entries would be made. The books actually indicated a negative balance of about one hundred twenty-one thousand dollars as of August 31, 1968.

I don't know whether these figures as reported to the Commission have actually been entered on the Company's books as of this date or not.

page 255

Q. Mr. Brown, has there been an explanation for the two million one hundred six thousand dollars, why it was reported at the end of August 31, 1967, differently? I know it appears as though it is netted out by the contributions at the bottom.

A. Well, the difference of two million one zero six is simply the difference between what was reported to the Commission last year and what the situation was for last year at the end of the 1968 report. No explanation is given in the report itself, but the figures, as reported in the 1968 report, appear to be the figures indulged by Mr. Chewning and represent—

Q. Results of evaluation.

A. —replacement cost based on evaluation.

Q. Will you turn to the next statement, please—Statement B—and summarize that please for the Commission.

A. Yes. This is a statement of cost of plant to the utility, based on the staff's examination of the records; beginning with the first column and going across the page, the first column represents what is reflected by the books as of August 31, 1967. The actual investment in land was shown on the books in the amount of sixteen thousand sixty-four dollars. The treatment plant was shown as the negative balance eight thousand two hundred fourteen dollars. The books showed an investment in machinery and equipment in the amount of forty-four thou-

page 256

sand five hundred seventy-nine dollars, and the total utility plant amounted to fifty-two thousand four hundred twenty-eight dollars and depreciation reserve amounted to forty-seven thousand two hundred ninety-one dollars. The net cost or investment according to the books amounted to five thousand one hundred thirty-seven dollars.

The second column shows what was reported to the Commission in the annual report filed by the Company for 1967. It will be noted that the net cost per books, and as reported to the Commission—that is, five thousand one hundred thirty-seven dollars as shown on the bottom line—is the same in both columns. But in the report to the Commission, some of the figures are restated. Total utility plant is shown as eight hundred seventy-one thousand one hundred eighty-one dollars. From this is deducted contributions and depreciation aggregating eight hundred sixty-six thousand, leaving the net cost the same as shown by the books of five thousand dollars.

page 257 } Q. Will you please continue.

A. Our accountants made a detailed examination of the records last June for the purpose of determining plant costs. The third column shows the costs that were determined as a result of this study. It will be noted that plant costs were classified by separate plant accounts. Also, it will be noted that the staff determined the cost of total plant to be eight hundred ninety-three thousand five hundred eighty-one dollars, as compared with the reported amount of eight hundred seventy-one thousand one eighty-one. However, adjustments were made in contributions so that this amount was increased to eight hundred seventy-four thousand six hundred fifty-two dollars, as compared with the reported amount of eight hundred eighteen thousand seven fifty-two.

The next two columns, I think, are self-explanatory. The fourth column shows that plant additions were made during the 1967-1968 fiscal year in the amount of two hundred fifteen thousand four hundred seventy-two dollars, and contributions were received in the amount of a hundred thirteen thousand two hundred fifty dollars. Column five is simply the total of column three and column four; that

page 258 } is, it brings the cost of plant as determined by the staff up through August 31, 1968.

I might point out here, I think, that the term "cost" as used in this statement and as used in the Uniform System of Accounts means original cost, and that term is defined as

"the cost to the person devoting it to public service." I think there has been quite a bit of misunderstanding as to what those terms mean.

We show that total utility plant amounted to one million one hundred nine thousand zero fifty-four dollars at the end of August, 1968. We show that contributions amounted to eight hundred ninety-seven thousand nine hundred and—

Q. Nine hundred eighty-seven thousand?

A. Nine hundred eighty-seven thousand nine hundred two dollars and depreciation amounted to one hundred seventy-five thousand six hundred fifty-seven dollars, resulting in a net cost of seventy-three thousand eight hundred sixty dollars; that is, the net cost to the utility.

Q. Have you projected the effect of abandonment of the treatment plant facilities?

A. Yes, I have shown this in the sixth column, and there I have assumed that both the land and the treat-
page 259 } ment plant facilities would be written off. I'm not too certain about the land. I have reduced the total utility plant by writing off the treatment facilities. After that is done, the plant would amount to six hundred ninety-eight thousand fifty-one dollars; and in order to write that off, I reduced the contributions by the amount of the plant so that we arrive at the same net cost in the final column; namely, seventy-three thousand eight hundred sixty dollars.

Commissioner Hooker: The Commission will recess until nine o'clock tomorrow morning.

page 260 } April 1, 1969

9:00 A. M.

The Commission resumes the hearing in Case No. 18661.

Commissioner Hooker: All right, Mr. Brown.

DIRECT EXAMINATION

By Mr. Staples:

Q. I think we stopped on page five of our exchange of questions. I had just asked you if you projected the effect of abandonment of the treatment plant facilities. We were dealing with Exhibit No. B.

A. Yes. This is shown in the sixth column, headed abandonment of treatment facilities. There I have taken

out, or retired, or credited the clients with the proposed abandonment of the treatment facilities in the amount of four hundred eleven thousand dollars. In the last column which shows the amount of utility investment proposed after abandonment of the treatment plant in the total amount of six hundred ninety-eight thousand fifty-one dollars, from that proposed plant figure, of course, is deducted the contributions and the accumulated depreciation, so that page 261 } I arrive at a net cost to the utility of seventy-three thousand eight hundred sixty dollars as of August 31, 1968.

Q. It is very difficult for you to compare this with the Applicant's figures in this area?

A. Yes. I guess we are miles apart. In our total dollars with Mr. Chewning's exhibit—

Q. Which is not now a part of the evidence—

A. —his proposed exhibit shows a net replacement value—

Mr. Riely: If it please the Commission,—

Commissioner Hooker: We don't want that in the record.

Mr. Riely:—that exhibit has been excluded—

Commissioner Hooker: Yes, it has been excluded.

Mr. Riely:—I would trust that it would not be any discussion of it.

Chairman Catterall: We just don't like the sound of the word replacement in any of our utility cases.

A. Okay, Sir.

Mr. Staples:

Q. Let's turn now, Mr. Brown, is there anything that you can offer the Commission further on this point page 262 } before we turn to another exhibit, expenses?

A. Well, I think the only thing that I might add to the figure that I finally came up with here is that as an accountant these are the dollars that—

Q. The seventy-three thousand dollars?

A. Yes, as well as the gross dollars of the plant are the dollars that are attainable and supportable from the books and invoices of the Company. Now any other values that may be, or costs that may be considered to be a rate base must, it would seem to me, represent investment made by people other than the utility company. I think that is about all.

Q. The Statement C, the statement of expenses—

A. Yes.

James H. Brown

Q. Do you make a projection of expenses after connection with Hampton Roads and will you comment on this, please?

A. Yes, this Statement shows a breakdown of expenses for the fiscal year ended August 31, 1968. The first column reflects the book figures before the Company's auditors closing adjustments, which is shown in column two. The third column shows amounts as reported to the Com-
page 263 } mission in the annual report filed by the Company. In the next column, it's simply the difference between the expenses as reported to the Commission and expenses as shown in the Company's exhibit in this proceeding, which is column five. Most of the decreases in column four represent costs which were eliminated by the Company on a pro forma basis in order to project what the expenses would be after abandonment of the treatment plant and expenses related thereto.

Q. Have you reviewed the expenses in column five, which as you have said is the projected operating costs furnished by the utility company in this proceeding?

A. Yes, these expenses in column five are those claimed by the Company in this proceeding in its exhibits, and I have reviewed them and made certain adjustments.

Q. Would you summarize, please?

A. Each of these expense categories has been analyzed by the staff. Those costs shown in column three and those Company adjustments, which are eliminating adjustments shown in column four, which appear to be acceptable from an accounting standpoint, were used by the staff. Based on analysis, other adjustments were also made resulting
page 264 } in projected expenses per staff as shown in the last column. The column headed "SCC Staff Adjustments" simply represents the differences in the several categories between the Company exhibits, which is shown here in column five, and the SCC Staff final figures, shown in column seven.

Q. Have you attempted to determine any estimate of expenses on the premise of an efficiently operated sewer utility or to estimate the number of employees and their proper compensation in order to provide for operating and maintaining the system?

A. No, I don't think I would be qualified to do that, Mr. Staples. Actually, the total expenses projected by the staff on this exhibit in the last column in the amount of a hundred fifty thousand two hundred eight dollars is only slightly less than the operating expenses claimed by the Company in the amount of one hundred fifty-six thousand zero ninety-

seven dollars. That's shown in column five and is obtained by taking the total amount claimed by the Company in the amount of two hundred thirty-two thousand four hundred twenty-eight dollars and eliminating the depreciation of seventy-six. When you do that, you arrive at a total expenses claimed by the Company of a hundred fifty-six thousand and the expenses determined by the staff as being

page 265 } appropriate here on a projected basis is a hundred fifty thousand.

Q. Will you comment on a few of the differences between the Company's figures in column five and your figures in column seven.

A. Yes, the biggest difference, of course, is the item of depreciation. The Company claimed seventy-six thousand three hundred thirty-one dollars for depreciation. I did not include this because there was no depreciation booked and there's no depreciation claimed by the Company for Federal Income tax purposes. Moreover, as shown on my Statement B, there is only net cost of seventy-three thousand eight hundred sixty dollars remaining at August 31, 1968; and one possibility here, I think, would be that this seventy-three thousand eight hundred sixty dollars of net cost to the utility based on our exhibits perhaps could be amortized over a ten-year period in lieu of depreciation.

Q. What did you allow for cost of fuel and power?

A. On this item, I allowed six hundred ninety-three dollars more than was estimated by the Company. What we did was simply to deduct from the total costs of seventeen

page 266 } thousand nine hundred twenty-one dollars, the twelve monthly bills for power applicable to the treatment plant or six thousand five ninety-two and arrived at a figure of eleven thousand three hundred twenty-nine dollars.

Q. What about maintenance and repairs?

A. Here again, I have allowed eleven hundred fifty-five dollars more than the Company's claimed amount. The total reported costs were thirty-nine thousand two hundred ninety-eight dollars. From this figure, we deducted four thousand nine hundred fifty-five dollars which represented the charges or accruals applicable to prior years of operation; and, in addition, by detailed analysis, certain items that could be identified as being applicable to the treatment plant were deducted. These amounted to ten hundred thirty dollars. Subtracting both adjustments from the total figure of thirty-nine thousand two ninety-eight, we arrived at a figure of thirty-three thousand three hundred thirteen dollars, as compared

with the Company's figure of thirty-two thousand one fifty-seven.

Q. Would you go on to the next item, please?

A. Mr. Sherman included in his testimony twenty-nine thousand seven hundred sixty-two dollars for col-
page 267 } lection agency fees, and you will see that figure, Mr. Staples, about half way down in column five. The present costs are based on ten per cent of annual revenues. Mr. Sherman assumed that the current annual rate of collection agency fees, twenty-four thousand eight hundred two dollars, would be increased by twenty per cent, or four thousand nine hundred sixty dollars, which he added to arrive at a total of twenty-nine thousand seven hundred sixty-two dollars. I have arrived at a figure of twenty-six thousand eight hundred sixty dollars, which is based on a flat fee of a dollar and twenty-five cents per bill. The number of bills for the last quarter of 1968 was five thousand three hundred seventy-two, or twenty-one thousand four hundred eighty-eight bills per year. *Muliplying* twenty-one thousand four hundred eighty-eight by a dollar and a quarter produces twenty-six thousand eight hundred sixty dollars. This figure perhaps is somewhat on the high side, but it was the best that I could do with it in the way of making an estimate. It varies slightly from the figure obtained by Mr. Overman and slightly from the figure obtained by the Company, so I think within a couple of thousand dollars we are all in agreement on that estimate.

page 268 } Q. The next significant difference is real estate and license taxes; what did you allow for these costs and how did you arrive at your estimate?

A. I have included one thousand six hundred eleven dollars for real estate taxes, and that is shown in the last column and very near to the bottom of the column. This amount represents taxes on land and pumping station sites, after eliminating taxes applicable to the sewer treatment facilities, in the amount of three hundred twelve dollars and seventy cents. I have also allowed the one half of one per cent license tax of Virginia Beach on the going level of revenues of two hundred sixty-one thousand dollars, or thirteen hundred eight dollars. The sum of these allowances is one thousand six hundred eleven dollars and fifty cents. I have also allowed a hundred twelve dollars and eighty cents for personal property tax and eighty dollars for franchise taxes, or a total of a hundred ninety-two eighty, which is shown in the last column of this statement as a separate item.

James H. Brown

Q. Mr. Brown, have you calculated the revenue requirements which would include, of course, the operating costs shown on Statement C?

page 269 } A. Yes, this is shown on Statement D, which is the last statement of the staff's. This statement shows revenues calculated at present rates and calculated at an eight-dollar basic rate and also calculated at the proposed twenty-eight fifty rate.

First, using the present rates, in the first column, a calculation was made based on the actual number of customers billed during the last quarter of the fiscal year 1968. You will recall yesterday, there was quite a bit of discussion about average customers and so on. In preparing this estimate, I have used the actual number of customers the Company had during the last quarter on the valid assumption without any increase of any kind, the Company projected twelve months ahead would obtain revenue from that number of customers and not on the average number of customers they *made* have had during the year. The actual revenue during the year was some two hundred forty-three thousand. I have projected a figure based on the present rates and based on the number of customers in the last quarter as being productive about two hundred sixty-one thousand dollars.

Commissioner Hooker: Sixty-one?

page 270 } A. Two hundred sixty-one thousand dollars, Judge Hooker, shown in the top figure there at the first column.

During this quarter, there were four thousand seven hundred ninety-one residential customers, one hundred one commercial customers, and four hundred eighty apartments. The present twelve-dollar rate was applied to the four thousand seven hundred ninety-one residential users; the eight-dollar rate was applied to the apartments and the total quarterly billing was then annualized. To this figure, we added the actual billing made to the commercial users for the year. On a going level basis, the present rates would produce annual revenues of two hundred sixty-one thousand seven hundred fifty-nine dollars, as compared with the actual revenues of two hundred forty-three thousand five hundred ninety-one dollars, the difference representing growth during the year.

Q. How was the annualized revenue shown on the first line of the second column determined?

James H. Brown

A. Here again, the number of residential users billed during the last quarter of the 1968 fiscal year was used. An eight-dollar rate was then applied to four thou-
page 271 } sand seven hundred ninety-one customers, which amounted to one hundred fifty-three thousand three hundred twelve dollars on an annual basis. Of the one hundred and one commercial customers, there were eleven for which we were not able to determine the water consumption from information that had been furnished to us; so the estimate for commercial is perhaps fourteen hundred dollars or so understated in this column. Under the Company's proposal, each commercial customer would be billed on the basis of a factor times a base rate, but not less than the base rate, the factor representing the ratio of each commercial customer's water usage for the previous year to the average usage of residential users.

For the apartment customer, we simply used the present eight-dollar rate. Under the Company's proposal, this rate would be two-thirds of the residential rate, so that the estimated revenue from this type of customer is perhaps somewhat overstated. The total estimate of one hundred eighty thousand nine hundred forty-one dollars, however, in my opinion, is an acceptable figure for the purpose of this statement.

In the last column, is the amount of revenue as
page 272 } estimated by the Company which would be derived from the proposed basic rate of twenty-eight dollars and fifty cents for residential, nineteen dollars for apartments, and a formula using a usage factor for the commercial customers.

If these rates were applied to the number of customers billed in the last quarter on an annual basis instead of the average, as Mr. Larson testified to yesterday, the estimated revenue would be six hundred forty thousand one hundred eighty-four dollars instead of six hundred twenty-eight thousand seven hundred twelve dollars.

Q. Now, Mr. Brown, if you will go back to the first column and apply the expenses to the revenue requirements.

A. Yes, under the caption "Revenue Requirements," the first item is operating expenses in the amount of one hundred fifty thousand two hundred eight dollars, which are detailed on Statement C and which I just explained. That figure you will notice carries right across the page under each of the rates.

The next item is an annual allowance of seven thousand three hundred eighty-six dollars for a ten year amortization

of the net cost of plant to this utility which,
page 273 } according to the Staff, amounts to seventy-three
thousand eight hundred sixty dollars as of August 31, 1968.

The next item is an allowance of five thousand dollars to spread the expenses the Company claims it has incurred of twenty-five thousand dollars in connection with this rate case. The Company proposes to spread the expense over a three-year period, and I have used a five-year period for the purpose on the assumption that rate cases don't occur or shouldn't occur too frequently.

State Income taxes and Federal Income taxes are both computed figures, assuming the net taxable income subject to such taxes would be arrived at on the basis of the figures shown on this Statement. In other words, the taxable income subject to State Income tax would be in the first column—would be fifty-one thousand six hundred sixteen dollars plus a four thousand nine hundred fifty-eight dollars as shown for State Income tax plus forty-two thousand five ninety-one as shown for Federal taxes, or ninety-nine thousand one hundred sixty-five dollars would be the taxable income in that first column assuming all of the other figures are correct, and that amount of taxable income would be subject to
a five percent State Income tax. Sewer company,
page 274 } it's not being assessed for any gross receipts
tax as other utilities are required to pay a State Income tax. The ninety-nine thousand four hundred sixty-five dollars less the State Income taxes of four thousand nine fifty-eight would leave a taxable income for Federal Income tax purposes of ninety-four thousand two zero seven. The tax rate at the present time is forty-eight per cent plus ten per cent surcharge. Applying the normal tax rate of twenty-two per cent plus twenty-six per cent on the amount over twenty-five thousand dollars, Federal Income taxes would be thirty-eight thousand seven hundred nineteen dollars. To this, I added the ten per cent surcharge, or three thousand eight hundred seventy-two dollars, to arrive at a total Federal Income tax of forty-two thousand five hundred ninety-one dollars.

The total of all these costs in the first column, taxes, is two hundred ten thousand one hundred forty-three dollars. In other words, this would indicate that the present rates, on a going level basis and on the presentation that I have made here, would produce fifty-one thousand six hundred sixteen dollars more than the required cost.

James H. Brown

Q. Would you quickly cover the other two columns in the same manner?

page 275 } A. Yes, I can do that very quickly because the figures carry across in the same manner. And at the eight-dollar rate, this statement would indicate that an eight-dollar rate would produce some thirteen thousand dollars more than the actual requirements; and in the last column it would show that the proposed twenty-eight fifty rate would produce two hundred sixteen thousand one hundred fifty-seven dollars more than the requirements, and this would be, of course, after the payment of a quarter of a million dollars Federal Income tax.

Q. Is there any summary of these figures that you would like to make, Mr. Brown, anything that you would like to add in light of the testimony that you heard yesterday?

A. I don't think so offhand—

Chairman Catterall: I wish you would clear up one mystery that was left by the testimony yesterday. It was shown that Mr. Aragona, Senior, gets twenty-eight thousand a year and does no work, and that Mr. Aragona, Junior, does all the work and gets nothing. Can you clear up that mystery?

A. No, Sir, I cannot.

page 276 } Commissioner Hooker: It is a father-son relationship, isn't it?

Chairman Catterall: I guess that will remain a mystery. You didn't jot down on your work sheet the salaries actually paid, did you?

A. No, Sir, I do not think so.

Chairman Catterall: Well, we will leave that a mystery.

Mr. Staples: I tender Mr. Brown for cross examination.

Commissioner Hooker: Mr. Kellam.

CROSS EXAMINATION

By Mr. Kellam:

Q. Mr. Brown, you heard or you saw the figures that Mr. Sherman offered yesterday, and he showed that they were in debt some three hundred thousand dollars, did you not, that this utility was in debt some three hundred thousand dollars?

Mr. Staples: Would you like to get that exhibit before you?

A. Yes, I would. I do not recall that they were three hundred thousand dollars in debt.

James H. Brown

page 277 } Mr. Kellam:

Q. All right, just for the time being, let's assume that for the question I am going to ask. Now suppose Mr. Aragona's uncle who realizes his dilemma and gives him a hundred thousand dollars or gives a hundred thousand dollars to this plant, how would you show that on the books of this Company?

Note: Exhibit handed to witness.

A. If he had a rich uncle who gave him—

Q. Yes, gave him a hundred thousand dollars or half a million dollars to pay this debt off, how would you show it on the books of this Company?

A. This would have to be shown, I would think, as a contribution.

Q. A contribution to what?

A. In aid of construction.

Q. It is already constructed, isn't it, the plant is completed? They are trying to pay a debt off.

A. Well, but I presumed the debt would have been incurred by building the plant.

Q. No, the facts show that it was a loss, that the Company has lost this amount of money in its operation.

page 278 } Now this Company has lost this amount of money in its operation and this money has been contributed by Mr. Aragona's wealthy uncle. Now, how would you set it up on the books?

A. Well, that is certainly a hypothetical thing. In the first place, the three hundred ten thousand dollar loss that you are talking about is pure fiction.

Q. Let's assume for the time being it is correct. You say it is fiction, but Mr. Sherman says it is correct; but let's assume for this question that it is correct.

A. Yes, Sir.

Q. And this money has been given by the rich uncle to this utility. Now, how would you set it up on the books of this Company?

A. Well, I think it would depend on the circumstances. If the rich uncle came to the rescue of his *newphew* who needed money in his business, the Corporation could issue him a stock certificate or issue him a note or some other evidence—

Q. Suppose they have not done any of that now. The money is just in that Company, the money is there, is actually in the Company. Now how would you set this up

page 279 } on the books of the Company?

James H. Brown

Mr. Staples: If the Commission please, is this helping the Commission? We are assuming an entirely new utility.

Mr. Kellam: It is going to help me.

Chairman Catterall: I don't see how this is helping us at all. This hypothetical legal accounting question, there is no law in the Uniform System of Accounts, is it, for rich uncles?

A. Not in that way. Actually, we have no Uniform System of Accounts as such for sewer companies.

Commissioner Hooker: Mr. Brown answered it. Seems to me the only way he could; he could either take a note or issue him stock.

Mr. Kellam: Well, what I want to know is—

Commissioner Hooker: If he won't take either or if he wants to give it to him without either, why he has a right to do it.

Mr. Kellam: What I want to know is how he would set it up on the books of this Company. He is coming to you now.

page 280 } We are here for an increase in our rates, and this money is in this Company and I want to know how he would show it on the books of the Company.

Chairman Catterall: He answered that. He said he couldn't possibly show it on the books of the Company.

Mr. Kellam:

Q. Oh, do you mean you would ignore the money that is in there?

A. No, no, if somebody—if I had a company and somebody came and gave me a hundred thousand dollars to put in the company, I would be bound to record that on the books.

Q. All right, now, what would you show it as?

A. And the recordation on the books would take place in this manner: under a double entry of bookkeeping, we don't want to get into that, you would debit or increase the amount of cash that you had because you had received the cash.

Q. All right.

A. You would have to record at the same time an offsetting credit or liability.

Q. What is the liability for? You don't owe it. He gave it.

page 281 } A. Well, then, it would be a credit on the balance sheet.

Q. Mr. Brown, wouldn't it be a contribution to capital? Wouldn't you set it up as a contribution to capital?

James H. Brown

A. Well, maybe, you could, Mr. Kellam—

Q. Well, wouldn't that be the proper way?

A. No, I don't think it would be the proper way.

Q. All right, Sir, what would be the proper way? That is what I am trying to find out.

A. Well, this would be—you see the reason I have difficulty with this sort of question, this would be most unusual; that is, the usual situation for a company is the recipient of a cash donation or amount like that would be that that some stockholder, some owner would have made a contribution to the Company.

Q. Mr. Brown, you won't face the question. That is not what happened. This money has been given to the Company, and it is in there; and I want to know how you would show it on the Company's books.

A. Well, Mr. Kellam, I guess the only way I can answer that—I couldn't agree that it would be a capital item, unless the contributor were a stockholder.

Q. What would you do with it then? How would you show it?

page 282 } A. Well, it would be recorded as a contribution in aid of construction.

Q. They are not constructing anything, the plant is completed.

Mr. Staples: If the Commission please,—

A. That is the only way I can answer that.

Mr. Staples: I don't want to frustrate the counsel's line of questioning, but I don't think we can go into an elementary accounting lesson this morning.

Mr. Kellam: Well, Gentlemen, that is the real issue. That is the very crux of this case right now, and it is obvious that he will not answer the question because if he answers it and answers it according to proper accounting practices, he has got to show that it is a contribution to capital. There isn't any other way to do it.

Mr. Staples: Proper accounting practices are yet to be determined, your Honor.

Mr. Kellam:

Q. All right, let me—

Chairman Catterall: Well, you would typewrite in a footnote and say, "This is so peculiar that we have left it out altogether."

James H. Brown

page 283 } Mr. Kellam:

Q. Now suppose it was done this way. Suppose instead of Mr. Aragona's uncle giving it to the Company, he gave it to Mr. Aragona; and Mr. Aragona put it into the Company. How would you show it?

A. Well there, it wouldn't make any difference how Mr. Aragona got the money, whether he got it from a rich uncle or whether he got it in some other manner. But if Mr. Aragona—

Chairman Catterall: But he is not a stockholder, remember.

A. Well, Mr. Aragona is a stockholder.

Chairman Catterall: He is talking about the son.

Mr. Kellam: No, I am talking about the owner.

Chairman Catterall: You mean the old man?

Mr. Kellam: Yes, Sir.

Chairman Catterall: This is a great uncle then, isn't it?

A. If the owner and sole stockholder or one of the stockholders puts money in the Company for which he desires to receive no additional stock, then that should be recorded as donated capital.

page 284 } Q. Yes, that is right.

A. Yes, Sir.

Q. Now you distinguished between the difference—you make the distinction between the fact that in one instance it went directly from uncle though it was done for the benefit of his *newphew,* and the other instance, when he gave it to the nephew and the nephew put it in, you make a distinction there.

A. Well, accounting—the whole purpose of accounting is to record the facts, and the facts that you have given me are different. I tried to answer both sets of facts.

Q. All right, Sir. All right, Sir. Now, may I ask you one more question. Hypothetically, suppose Mr.—this plant has been appraised at some three million dollars and suppose Mr. Aragona found a charitable organization that he could give this utility to. For tax purposes, he would get a complete tax deduction for the full amount of it, wouldn't he? All of this what you say that he is not entitled to he would get a deduction for it tax-wise, wouldn't he?

A. Subject to whatever limitations that may
page 285 } be in the tax law, Mr. Kellam—

Q. Yes.

James H. Brown

A. —but I agree that normally the Internal Revenue Service will allow as a deduction the value of any charitable gift that you might wish to give.

Q. Yes, and the wouldn't distinguish between the fact that it was contributions in aid of capital, would they?

A. No, Sir.

Q. Now, coming back to your accounting the figures which you have offered here, from what source did you get them?

A. They were obtained from the records of the Company and from invoices that Mr. Vassar was able to review and analyzed at the Company's office.

Q. Now, did you put in your figures here, any items which you were not able to verify from the books or from invoices?

A. No, Sir.

Q. And did you put them in at what the invoices showed them to be or what the books showed them to be?

A. Well, they were put in at what the invoices

page 286 } showed.

Q. I see, put in at what the invoices showed them to be.

A. That is the reason we have got a little higher figure than the books.

Q. Well, now, what about these items that were put in there that were built by other people?

A. Oh, I see your point, Mr. Kellam. I think the answer to all of these sort of questions now can be made by anticipating some of your other questions. The situation here is, I think, that Aragona Enterprises, one of Mr. Aragona's development companies, as well as non-related development companies undoubtedly have expended monies and put in the sewer lines to serve the customers and undoubtedly that is so; and secondly, that represents monies expended by them in putting these facilities in. All I am saying is that people other than the utility corporation made these expenditures, and these expenditures are not on the books of the corporation but on the books of the developer's.

Q. Now, Mr. Brown—

A. I did not have excess to all of the developer's books.

Q. Let me stop you right there when you say

page 287 } they were not on the books. They were on the books for the year 1968, were they not?

A. Not at the time our man was there, Mr. Kellam.

Q. Well, when was your man there for 1968?

A. Well, he went down the last time about the middle of February, and at that time these—

Commissioner Hooker: February, 1969?

A. 1969. These amounts that you have submitted here were not on the books at that time, so he advised me.

Q. I see, and so the figures you—let me digress just a minute. The figures that you were talking about for the construction that was done by others than the utility itself, you don't even consider those?

A. No, Sir. No, I am dealing with the Princess Anne Utilities and not with some development.

Q. I see. Now I want to read you a statement here out of Mr. Sherman's testimony.

Mr. Riely: What page please, Mr. Kellam?

Mr. Kellam: I think it is on page thirty-six I believe it is.

page 288 } A. Mr. Sherman—

Mr. Kellam: Yes, Sir.

Q. I believe, Mr. Brown, you said you could not reconcile your figures with Mr. Sherman. You could not reconcile the two.

A. That is correct, Sir. I have no idea how much money these developers may have spent.

Q. I am reading from page thirty-six, and here is what he says: and this has to do with his audit:

"Our examination was conducted in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

"The Board of Directors," excuse me, I'm sorry.

A. I haven't found that yet.

Q. That is on page thirty-six.

Mr. Lawler: On page thirty-six.

A. You are reading from the letter.

Mr. Kellam:

Q. Yes, Sir. Do you have it now?

A. Yes.

page 289 } Q. "The Board of Directors, through corporate resolution, have instructed that the books and records of the Corporation be corrected to reflect the unrecorded cost of construction of contributed facilities, in accordance with generally accepted accounting principles prescribed by the National Association of Railroad and Utilities

Commissioners; and that depreciation rates be adjusted to those prescribed in an engineering valuation report, computed on a straight line basis."

Now if you take that into consideration and you heard Mr. Sherman testify here yesterday, did you not?

A. Yes.

Q. And you heard him say that originally up until this, that the books were kept for income tax purposes only, you understood that?

A. Yes.

Q. Now, with this explanation, does that not explain to you why there is a difference between what you found on the books and what Mr. Sherman reported to the Commission?

A. Oh, yes, I know what the difference is.

page 290 } Q. Yes, I see. Now are you familiar with this book that is called "The Uniform System of Accounting for Class A and B Water Utilities"?

A. Yes, Sir.

Q. As a matter of fact, you use it, don't you?

A. Yes, Sir, I helped to write it.

Q. Yes, I thought that you were familiar with it.

Commissioner Hooker: As a matter of fact, you wrote most of it, didn't you?

A. Well, I was on the committee that—

Commissioner Hooker: I am familiar with it.

Chairman Catterall: Every committee has one man who does all the work.

Mr. Kellam:

Q. I want to read you from this book—

Commissioner Hooker: He was Chairman of the committee.

Mr. Kellam:

Q. I am sure you will agree with it, since you say you wrote it. This is on page ten, paragraph D.

page 291 } "Utility plant contributed to the utility or constructed by it from contributions to it of cash or its equivalent shall be charged to the utility plant accounts at cost of construction, estimated if not known. There shall be credited to the accounts for accumulated depreciation and amortization the estimated amount of depreciation and amortization applicable to the property at the time of its contribution to the utility. The difference between

the amounts included in the utility plant accounts and the accumulated depreciation and amortization shall be credited to account 271, Contributions in Aid of Construction."

Now, you agree with that, don't you?

Mr. Staples: Would you like to look at that before you answer the question?
A. No, I am familiar with it.
Mr. Kellam: All right, now, I want to call your attention to—this is all good accounting practice, isn't it?
A. Yes, Sir, I hope so.

page 292 } Q. All right, I want to read you item eleven on the definitions on page two of this book and see if you agree with this, and I am sure you do.

"'Depreciation,' as applied to depreciable utility plant, means the loss in service value not restored by current maintenance, incurred in connection with the consumption or prospective retirement of utility plant in the course of service from causes which are known to be in current operation and against which the utility is not protected by insurance. Among the causes to be given consideration are wear and tear, decay, action of the elements, inadequacy, obsolescence, changes in the art, changes in demand and requirements of public authorities."

And you agree with that?
A. Yes, Sir.
Q. Do you not?
A. Yes, Sir.
Q. All right, Sir.

Chairman Catterall: Do you agree with everything in that pamphlet?
A. I think so, Judge Catterall.
page 293 } Chairman Catterall: Well, that answers all the questions.
Mr. Staples: That is, in the proper context.
A. Yes, in the proper context.

Mr. Kellam:
Q. Now, on page three I am reading to you item twenty-six.

"Service value" means the difference between the original cost and the net salvage value of the utility plant.

A. Yes.

Q. You agree with that, do you not?

A. Yes.

Q. Now, I believe you say that you consider that these are all good accounting practices?

A. Yes.

Q. And is it not true that Mr. Sherman in his revised statement, the one that he gave to the Commission yesterday, has followed these principals of accounting?

A. I do not think so, Mr. Kellam.

Q. Now, would you tell us in what measure he has failed to follow those principals of accounting?

page 294 } A. Well, I think the place where he has not followed the principals is that the values which he has placed on this property, based on the testimony as I read it examined here, is said to be replacement cost.

Q. No, no, Mr. Sherman didn't say that. Mr. Sherman said he put actual value. Mr. Chewning said he had replacement cost. Mr. Sherman said that he used actual values.

Mr. Staples: How were actual values determined?

A. But I think the figures are the same, are they not?

Mr. Kellam:

Q. No.

A. They're not?

Q. No, Sir. So you would agree that if he has used that method, that it is proper, would you not?

A. Well, if he has.

Q. Yes, if he has used that method, that is proper.

A. Yes.

Q. Now, in some of the figures which you have used here, you have estimated, have you not?

page 295 } A. Right.

Q. And your estimates are what you consider, under the circumstances, to be proper from your experience, and so Mr. Sherman, who has been the accountant for the company for some length of time and who is very familiar with the records, has also made estimates?

A. Well, when you say that I made estimates, I am not so sure that I made estimates in the sense that Mr. Sherman has.

Q. Well, let's look at your Statement C here, and let's look

at some of the items that you have changed. Under Statement C you have deducted from the fuel and power, an item six hundred ninety-three dollars and eighty-seven cents, have you not?

A. No, I have added—I have increased it.

Q. Oh, I beg your pardon. You did in that one, yes. In the following one then, here in the depreciation, you deducted the item seventy-six thousand three hundred thirty-one dollars and twenty cents?

A. Yes.

Q. And you deducted that because that had been taken as depreciation?

page 296 } A. Well, I did not deduct it because it had been taken as depreciation. I deducted it because there was no depreciation recorded on the books of the company and there was no depreciation taken by the company for Federal tax purposes.

Q. All right, Sir. Now, let's say that is true, when you make estimates of these things, you recognize there is depreciation because you have just said so here, don't you? You cannot ignore that factor. That is a factor that has to be reckoned with, is it not?

A. There would be depreciation, of course, on estimated original cost, yes.

Q. Yes. And so you recognize that there must be depreciation considered in this operation, do you not?

A. Well, I am not going to say yes to that, Mr. Kellam, because I think we are dealing here with a—I mean—I wouldn't mind saying yes normally, but we are dealing here with a very unusual situation. The facts are that the developers who have put in this property or who have paid for it and I cannot prove this, of course. I would think that your own tax accountant would know that. They have recovered these cost and therefore, the company

page 297 } cannot recover them again and that is the reason that Internal Revenue Service won't permit depreciation to be taken.

Q. Excuse me. You cannot recover depreciation and you cannot take it until you have it, can you? So they couldn't take depreciation that they have not had—let me give you an example, Mr. Brown, of what I am talking about. You are familiar with sewer lines, I know, and you recognize that one of the greatest difficulties in sewer lines is hydrogen sulfide gas, isn't it?

A. I am not at all familiar with that, Sir.

James H. Brown

Q. Well, isn't it true that hydrogen sulfide gas can eat up a whole line in a matter of a few years?

A. I wouldn't have the slightest idea, Mr. Kellam.

Q. Well, if that is correct, and let's assume for the minute that it is correct, if that is correct and a whole line has been eaten up with this hydrogen sulfide gas, it would have to be—

Mr. Staples: If the Commission please, Mr. Brown has got to take this assumption?

Mr. Kellam: I am asking him to take this as-
page 298 } sumption.

Mr. Staples: He said he doesn't know.

Commissioner Hooker: What value is it to this Commission if it is assumption?

Mr. Kellam: I think we can show—

Commissioner Hooker: We don't decide cases on assumptions and—

Mr. Kellam: It does happen and I think we can show that it does happen and anyone who is familiar with sewer operations knows that it happens, but I want to illustrate here the point of depreciation.

Mr. Staples: This witness is not the proper vehicle, your Honor.

Commissioner Hooker: He said he didn't know. I don't see how he could illustrate it.

Mr. Kellam: All right, Sir.

Q. Well, just for the purpose of my question, we'll assume that that is correct. How would you replace—

Mr. Staples: I renew my objection, your Honor.

Mr. Kellam: How would you replace—

Commissioner Hooker: It looks like to me, Mr. Kellam, that we are just wasting time because that certainly cannot help the Commission decide the case—

page 299 } Mr. Kellam: Your Honor, if you will bear with me—

Commissioner Hooker:—by asking assumed questions for assumed answers—what good does that do the Commission?

Mr. Kellam: Your Honor, the answer is not going to be assumed. I am going to tie it in, if you will be patient with me I can show the point that I am trying to make.

Chairman Catterall. The great trouble is—

Mr. Riely: I would like to join in the objection made by Mr. Staples.

James H. Brown

Chairman Catterall: The great trouble is, Mr. Kellam, is that these are all arguments about accounting. It is like arguing law with a lawyer on the stand, and accounting with an accountant, and all of these assumptions and what not are purely argumentative and there is no question about the facts that have been testified hereto, and you are just arguing with him about accounting. Now, it seems to me that that doesn't help us in the slightest, to hear you argue with Mr. Brown.

page 300 } Mr. Kellam: Your Honor won't let me finish my question. If you will let me—I am going to tie it in and it does show and I want to show the fallacy of not allowing depreciation.

Commissioner Hooker: Well, if you are going to tie it in, do it. You don't have to ask so many questions, tying it in.

Mr. Kellam: All right, Sir.

Q. Now, if that had happened and you had no depreciation, out of what fund would this company replace that line?

A. Well, Mr. Kellam, I think I can answer that very easily. Depreciation, many years ago, was predicated on the theory of replacement. That is what it was for—renewals—and they used to call it renewals and replacement, but that is not the concept of depreciation today and what would happen if this company had to replace a section of sewer main today—

Q. Yes.

A. —that has been corroded or eaten away in some way, would be that if the company did not have a developer who did this and gave it to the company as has been

page 301 } the case in most of this property and the company had to pay for this replacement itself, it would have to go out and borrow money or sell stock, or raise capital in some manner and put this line in. Now, if it did that, that would increase its rate base and then it would be entitled to earn, of course, on the investment in this new line. That is the best answer I can give.

Q. Well, now, you are of course assuming that the company is in a position that it can borrow money.

Commissioner Hooker: Now, you are the one that has been assuming. The question was an assumption.

Mr. Kellam: No, Sir, but he is saying that they would borrow money—you have got to assume—

Commissioner Hooker: Well, assume they did borrow money

A. Well, Mr. Kellam—

James H. Brown

Q. You have got to assume that they are capable of borrowing money.

A. Mr. Kellam, I would like to point out that no utility in the whole world that I would know about would maintain cash reserves equivalent to the depreciation. I

page 302 } mean there isn't any cash readily available to any utility for replacement.

Q. All right, Sir. Now, you have in your page here, you have deducted some twenty-nine hundred dollars for collection fees.

A. Well, I haven't really deducted it, Mr. Kellam. I tried to explain that what we did there was simply to take the number of bills and we arbitrarily made an allowance of one dollar and a quarter and the difference between what we got and what the company had happens to be twenty-nine hundred dollars, and you can call it deduction if you like.

Q. Yes. And of course that is purely an assumption on your part?

A. Right, Sir. Yes, I have so testified.

Q. And you have not communicated with the man who is making these collections to see whether he will make these collections on the basis which you have assumed?

A. That is correct. I would say that the assumption on the part of Mr. Sherman, I guess it was, who added twenty per cent, is purely an assumption also.

Q. No, Mr. Sherman testified that he had talked to the man who was making the collection and that he said

page 303 } that that is what he would charge. Now you disagree with that, though. You have not discussed it with him, is that right?

A. Well, I have—

Mr. Staples: Subject to the review of the transcript—

Commissioner Hooker: That is heresay he is talking about. It is just what somebody told him.

A. I explained how I got my figure, Mr. Kellam.

Q. All right, Sir, and then again, purely on an assumption, you have deducted four hundred twenty-five dollars from engineering and supervision.

A. Well, again, not deducted. We have arrived at a figure independently and it happens that the difference between our figure and the company is four hundred and twenty-five dollars. I might be able to explain that if you want an explanation of that four hundred and twenty-five dollars.

James H. Brown

Q. Well, it is purely based on your estimates, isn't it, Mr. Brown?

A. I wouldn't say it is based on an estimate, no, Sir. It is based on an analysis.

page 304 } Mr. Riely: Your Honor, I have a few questions that I would like to ask Mr. Brown and since ten o'clock is approaching, I do not know how much longer—

Commissioner Hooker: We are going ahead with this case.

Mr. Riely: We are going ahead with this case. Thank you.

Mr. Kellam: I won't be very long, your Honor. I will be through in just a few minutes.

A. I can answer that in just a minute, Mr. Kellam.

Q. All right, Sir.

A. I have to find my work papers. The one thousand, six hundred seventy-five dollars which is the figure that we allowed, do you see it in the last column?

Q. Yes.

A. That represents fees paid to accounting firms for auditing service which were one hundred twenty-five dollars per month in 1968. They were seventy-five dollars in 1967, but in order to get this thing on a proper projected basis, we used the current rate of one hundred twenty-five times twelve, which gave us fifteen hundred dollars. Then

page 305 } there was a legal item in there of one hundred seventy-five dollars which we allowed, and that is how we got the sixteen hundred seventy-five dollars. I am not saying that that is the proper amount to allow. I have no way of knowing what would be a proper charge for that.

Q. You took into consideration the cost of this hearing?

A. Well, that has been taken into consideration in the twenty-five thousand dollars.

Q. I see, Sir. Now, on your real estate and city licenses, you heard Mr. Sherman's testimony, did you not?

A. Yes.

Q. And I believe he testified to the fact that he had determined his from actual figures and actual costs. Did you do this or is this estimates on your part?

A. No, these are not estimates. I think that if I could refer to what he said, I think he took one and a half and multiplied it by two, but regardless of what he did, what the staff

did was by going through the tax bills that were actually paid and we set those down and we found that in 1968 the taxes, real estate taxes paid—

page 306 } Q. Mr. Brown, if you want to look at Mr. Sherman's testimony, it is at the bottom of page thirty-three.

Commissioner Hooker: He is answering what he did. He is not saying anything about Mr. Sherman's testimony.

A. The real estate taxes that we found that were paid in 1968 amounted to ten thousand, four hundred sixty-seven dollars and there was one thousand, fifty-seven dollars and seventy-four cents paid to the City of Virginia Beach for license tax. I mean those were factual items that we found in the record. Now, in analyzing these costs, we found that of the ten thousand, four hundred sixty-seven dollars and ninety-six cents, ten thousand three hundred ninety dollars and fifty-six cents appeared to be applicable to the sewer treatment plant properties, which we took out. Now, what Mr. Sherman did was simply to take this same ten thousand, four hundred sixty-seven dollars, which is an actual tax bill, and took fifty per cent of it, so that is how we got a difference. What we did, we took out of that total tax bill the taxes which had been assessed against the treatment facilities which are now going to be abandoned.

page 307 } Q. Yes, but there are other properties that—

A. Right.

Q. —company owns which will continue to be taxed, is it not?

A. That is right. There were several pumping station sites and I think there were some eight or nine or ten or so pumping stations sites and we took the ones that we could find on that and added that to this figure. We found that there were some ten of them and it seems to me to be a low assessment. It averaged out at about thirteen dollars, seventy-six cents, so we allowed ten sites at thirteen dollars and seventy-six cents.

Q. I see. Now, did you reduce the abandoned facilities—that is, the plant being abandoned by the related and accumulated depreciation in Exhibit B?

A. No, I think in my testimony I stated that we reduced the amount of contributions by the same amount of the plant that was being reduced by the abandonment of the facilities.

Q. Well, wouldn't it be proper for you to reduce the related accumulated depreciation?

A. Well, I have no objection, if you want to deal with it that way on the books.

page 308 } Q. Wouldn't that be the proper way to do it?

A. Well, I am not so sure that it would be, because these contributions that have been received, Mr. Kellam, were for the purpose of constructing the treatment plant, so that under the accounting rules when property is abandoned for which contributions have been received, you would reduce the contributions.

Q. You think that the—you think that is the proper way to do it?

A. That is the—that is what the rules prescribe, yes, Sir.

Q. Now, in considering these contributions, you have not made any differentiation between those which came from wholly owned corporations owned by Mr. Aragona and those which came from related builders to which he had given a credit on a lot which he sold to them and those which came from customers or people who would be customers. You have not made any difference.

A. No.

Q. You have excluded them all, even though those that came from related corporations in which Mr. Aragona is the sole stockholder, it was money out of Mr. Ara-

page 309 } gona's pocket that he took from one corporation and put into the other. You have made no distinction between them.

A. Well, now, Mr. Kellam, I think we are really talking about two different things and I would like to clear that up and I will be glad to try to answer your questions.

Q. All right, Sir.

A. If you are talking about the two or three million dollars of contributions that appears in the report filed by the company—

Q. Yes.

A. —I do not know what those are. The contributions that I have dealt with are those that we were able to obtain from the records down there and which amount to some eight or nine hundred thousand dollars. Now, for those I can tell you what they are, if you would like to know.

Q. I understand what they are. All I am trying to find out is that you excluded that, even though it came out of Mr. Aragona's pocket.

A. Well, I don't think so much of it was out of Mr. Aragona's pocket.

Q. Wasn't he the sole owner of the stock in that corporation?

James H. Brown

page 310 } A. Suppose I read these in the record, if you would like.

Q. I do not know what you are talking about, Mr. Brown.

A. Well, I think we are talking about contributions and I understand—

Q. Yes, and I asked you about contributions that were made by corporations that Mr. Aragona was the sole stockholder in. That is what I am asking you about and I asked you if you had made any distinction between those and other contributions that were made.

Mr. Staples: If the Commission please, maybe Mr. Brown could read what he has in mind and see if Mr. Kellam agrees that that is what he is talking about.

Mr. Kellam: All right, go ahead, Sir.

A. The figure that we have here of some eight hundred seventy-four thousand dollars, plus the one hundred thirteen thousand that was added in the fiscal year 1968 and I will have to get that from another source, but it is made up of five hundred thirty-seven thousand, six hundred dollars which represents two hundred dollars a lot paid for two thousand six hundred and eighty-eight lots paid to Aragona Enterprises. Five hundred twenty-eight lots at page 311 } two hundred dollars per lot, Windsor Farms, one hundred five thousand, six hundred dollars; one hundred eighty-four lots at two hundred dollars per lot in section sixteen, Princess Anne Plaza, thirty-six thousand, eight hundred dollars; thirty-five thousand, three hundred fifty dollars cash, connection fees, commercial establishments. There were one hundred fifty-two thousand, eight hundred two dollars representing cash for contributed assets for the development of the plant, to be applied to house connections in Kings Grant area.

Q. Yes. And where did that come from? What was the source of those funds?

A. I guess the source of funds was from the developers in Kings Grant area.

Q. Yes. That is right.

A. Then there were some other—there were two adjustments here that I am not sure that I can explain precisely, but that represents the bulk of that figure.

Q. Now, suppose, Mr. Brown, that stock had been issued for each of those contributions. It would have been a proper transaction, would it not?

A. Yes, indeed, it would.

page 312 } Q. Now, if stock had been issued, what would the effect have been on the home owner. Would his position have changed in any way from what it is if they had issued stock?

Commissioner Hooker: He could tell you the answer is obvious.

Q. Yes, that is right. It would not have made any difference. All right, Sir, now are you in a position to say—I believe testimony here has been that Mr. Aragona and his related companies in which he was the sole stockholder contributed one million, nine hundred thousand dollars in the construction of this utility. In other words, that amount of money came directly out of Mr. Aragona's pocket. Are you in a position to refute that, or do you think that is correct?

A. No, I have no knowledge of that. As I say, Mr. Kellam, these sewer lines were built by various developers and the costs are on their books. I have no knowledge of that. I do not know. This is a tangled web and I cannot answer that.

Q. I see. Now, from your experience as an accountant and in your work generally, how do other utilities

page 313 } treat contributions in aid of construction?

A. How do they treat it?

Q. Yes, Sir.

A. In exactly the same way I have advocated here.

Q. How is that?

A. When a contribution is received, the company accounts for that in an account called Contributions in Aid of Construction.

Q. Yes, but is it not, Mr. Brown, added to the capital, or else it is considered as income to the company?

A. No, Sir, it is not.

Q. All right, now, how does the V E P company do it? What do they do with the tap-in fees?

A. What company is that?

Q. The V E P Company. What do they do with their tap-in fees? How do they show them?

A. V E P?

Q. Yes, Sir.

Mr. Staples: Mr. Brown, are you sure you know which company this is?

Mr. Kellam: Virginia Electric and Power Company.

page 314 } A. Yes, I recognize the company.

Chairman Catterall: Are we talking about gas or electricity?

Mr. Staples: Does Virginia Electric and Power Company have sewerage facilities?

Mr. Kellam: No, I am talking about for their tap-in fees or for their connecting fees that they get from customers.

A. Well, I am not sure that I can answer that completely, Mr. Kellam. If you are talking about a connection fee in the sense of a customer applying for service and the company comes out and connects the meter.

Q. Yes.

A. That is a relatively small fee and that would be accounted for as revenue.

Q. As income?

A. As income.

Q. Yes, and does that reduce their rate base any?

A. No, Sir.

Commissioner Hooker: It might reduce their rates, though.

Mr. Riely: That would be a matter the Com-
page 315 } mission would have to decide.

Mr. Kellam: Your Honor, would you bear with me just a moment, to confer with my consultants here? This is a technical matter and I am not as well equipped to ask the questions.

Commissioner Hooker: All right.

Mr. Kellam: Thank you, gentlemen, we are through.

Commissioner Hooker: All right, Mr. Riely.

CROSS EXAMINATION

By Mr. Riely:

Q. Mr. Brown, I was confused by one answer that you made to a question of Mr. Kellam's just now. He was talking about contributions and said if they had been, instead of contributions, in the form of capital stock, they would have gone into capital. Were not a great many of these contributions—the two hundred—the two hundred fifty dollars tap-in fee that is required by the terms and conditions?

A. Yes, those tariffs were filed with the Commission.

Q. And those tap-in fees could not have been
page 316 } put into the capital account in any way, could they?

James H. Brown

A. No, not in the capital account, no. They are accounted for as a contribution.

Q. They have to be accounted for as contributions under the terms and conditions?

A. They have to be, yes, Sir.

Q. Now very briefly, Mr. Brown, would you turn to your statement B and there is one item that confused me, that I know you can explain, towards the bottom of the page, is an amount of surplus transferred to depreciation reserves, in the figure of one hundred twenty-eight thousand odd dollars. It appears in columns two, three, five and seven. Would you explain that entry to me?

A. Yes.

Note: Witness looking through papers to find Statement B, mentioned above.

Mr. Riely: Maybe I can explain it to you.

A. No, in the first column you will note there are no amounts shown in contributions.

Q. Yes.

A. But in the second column, there is an amount eight hundred eighteen thousand, seven hundred fifty-
page 317 } two dollars shown in contributions.

Q. Yes.

A. That amount was restated, taken out of surplus, and shown in contributions. Likewise, the one hundred twenty-eight thousand dollars was taken out of surplus and shown in the depreciation account, because if you note the amount of depreciation per books is forty seven thousand, two hundred fifty-one dollars. Do you see that, Mr. Riely? Are you looking on Statement B?

Q. Yes, I am looking on Statement B.

A. Do you see the forty-seven thousand, two hundred ninety-one dollars depreciation?

Q. Yes, Sir.

A. Now, to that figure they added one hundred twenty-eight thousand, three hundred sixty-six dollars when they restated these figures and that amount came out of the surplus account—cleared out of surplus and added—took it out of surplus and added it to the depreciation reserve. It is a restatement of accounts.

Q. Does that leave a deficit in surplus?

A. Yes. The surplus has a deficit because of the depreciation.

page 318 } Q. Where is the one hundred seventy-five thousand dollars at least to the—Am I correct in saying—and I probably am not—correct in saying that the one hundred seventy-five thousand dollars had been accrued by annual charges and depreciation in excess of available earnings resulting in the deficit?

A. Well, I think a little better way to say it, Mr. Riely, if I could rephrase that, I think that the fact that the surplus shows a deficit would indicate that the earnings did not fully cover the amount of depreciation.

Q. Well, if the use of this one hundred twenty-eight thousand dollars—does it have the effect of permitting the company to recoup past losses—that is really the question I had in mind.

A. Well, I do not know how to answer that. I am sorry.

Q. Does it not have some of that effect?

A. I really do not know, Mr. Riely. The only purpose that I have used it here is to show how the company restated certain of its accounts without changing the total on the bottom line. I had no other purpose in showing it and I do not know.

page 319 } Q. I simply asked you that question because it seemed to me that that was possible, but let's pass on to Statement C, if I may. Am I correct in saying that you have not changed the payroll expense from that shown by the company as actually incurred in 1968?

A. That is correct. The current payroll, as shown by the company, is thirty-four thousand eight hundred ten dollars. I did not change that.

Q. Yes, and you have mildly adjusted upward—increased the maintenance expense—to reflect what you found as actual maintenance expense incurred, is that correct?

A. That is correct.

Q. You have adjusted maintenance expense to eliminate maintenance related to the plant properties that are to be retired, have you not?

A. Yes.

Q. You made no adjustment to payroll expense because of retirement of plant properties?

A. That is correct. I do not think I am qualified to say what the company's payroll should be or the number of people should be, and that sort of thing.

page 320 } Q. You made no assumption that the payroll would be less because of the retirement of the plant property?

A. No, Sir, I am not qualified to do that.

James H. Brown

Q. Now, on the billing expense you have used a dollar and a quarter bill. Is that correct, collection agency fee?

A. Yes, Sir.

Q. Did you assume that the Hampton Roads charge would be based separately on that bill in estimating the dollar and quarter charge?

A. I didn't really give any consideration to that, Mr. Riely. I personally do not see that that would have any effect —any bearing on it.

Q. It would not have any bearing?

A. I don't see why it would cost any more—or very much more—to prepare a bill with two party rates.

Q. You saw Mr. Sherman increased his billing fee because of that two party rate.

A. Yes, Sir, that is what he said.

Q. And you do not believe it would have any substantial effect on billing?

page 321 } A. I do not think so. I did not give it any consideration.

Q. Now, one other item on Schedule C. What is this interest expense that you have put on next to the bottom line?

A. I guess I have to plead a little ignorance on that. That is simply an interest expense item that was on the books and I just did not disturb it.

Q. Mr. Sherman took it off, I notice, did he not, as shown by your Column four?

A. Yes, he took it off.

Q. Do you know to what this interest was paid? Was it to a short term debt or—

A. As I say, it was a small item and I probably just overlooked it. I really did not—

Q. Well, it was on the books and you put it on without analysis.

A. It was on the books and I just left it on the books.

Q. And now Statement D. As I understood what you said about the eight dollars rate—

A. Yes, Sir.

page 322 } Q. You were charging eight dollars for both residential customers—that is, homes—and for apartments, is that correct, in determining the annualized revenue? You did not give the apartments a reduced rate?

A. Yes, this eight dollar basic—that is the reason I used the word basic, Mr. Riely—that is computed there on the basis that the residential would be eight dollars and the apartment would be two thirds of that.

James H. Brown

Q. Two thirds of that?

A. Yes.

Q. And your next line is total expense of one hundred fifty thousand, two hundred eight dollars and then you amortized the plant over ten years. Why did you select a ten-year period? A lot of this is pipes in the ground and things like that that are going to last a lot longer than ten years.

A. Purely arbitrary.

Q. Purely arbitrary?

A. Yes.

Q. And the rate case expense of five thousand dollars which gives a total expense of one hundred sixty-two thousand, five hundred ninety-four dollars, is that

page 323 } correct?

A. That is correct.

Q. Now, that is all the money they really need to carry on this business, is it not?

A. According to this statement, that would be correct, yes.

Q. And that leaves eighteen thousand, that figure is eighteen thousand and some odd dollars less than the annualized revenue on the eight dollar basic rate, is it not?

A. That is correct, yes.

Q. Now, if you were to reduce that annualized revenue by about eighteen thousand dollars, you could reduce the basic rate to about seven dollars and a quarter a quarter, couldn't you?

A. That is right. Ten per cent of eight dollars would be eighty and eighty from eight dollars would be seven twenty—and so—seven dollars and a quarter, yes.

Q. And that would produce all of the revenue requirements for their expenses and amortization of net cost, net of plant and rate case expense—seven dollars and a quarter rate, wouldn't it?

A. Yes, seven dollars and a quarter would

page 324 } match expenses and revenues.

Mr. Riely: Thank you. I have no further questions.

RE-CROSS EXAMINATION

By Mr. Kellam:

Q. Mr. Brown, in your Statement D, of course you have excluded any rate base, have you not?

A. That is right. I did not find any rate base.

Q. I see, and you have excluded any depreciation, have you not?
A. That is right.
Q. That does not include either item?
A. That is right, Sir.

Mr. Kellam: Mr. Brown, may I ask you this question?
A. Yes, Sir.

Q. Have you examined Mr. Sherman's statement for the year 1968?
A. The annual report that he had filed?
Q. Yes.
A. Yes.
Q. In your examination of it, would you say
page 325 } that he had followed good accounting practices in the statement that he has made up?

Mr. Staples: Mr. Brown, if you really don't—
Commissioner Hooker: He wouldn't want to comment on the other man's testimony.
Judge Catterall: Also, this is not rebuttal. I am sure we went over the accounting practices.
Commissioner Hooker: He wouldn't want to comment on the other witness's statement, anyway.
Mr. Kellam: All right, Sir. All right, Sir.
Commissioner Hooker: Stand aside.

Witness Stood Aside

page 326 } Commissioner Hooker: Next witness.
Mr. Staples: Mr. Dalby, please.

C. EDWARD DALBY, a witness introduced on behalf of the Commonwealth, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Staples:
Q. Would you state your name, please?
A. C. Edward Dalby.
Q. Will you spell that last name?
A. D-A-L-B-Y.
Q. Mr. Dalby, by whom are you employed?

C. Edward Dalby

A. Parker Realty Corporation, Norfolk, Virginia.

Q. In what capacity?

A. Working as the real estate sales agent.

Q. And does your company sell real estate in the area that is served by the Princess Anne Utilities?

A. Yes, basically I work in the central core of Virginia Beach area—more particularly in the Kings Grant area.

Q. Kings Grant area.

A. Right.

page 327 } Q. Are you familiar with the construction of homes in that area?

A. I represent several builders—one in particular the largest and the controlling factor, at the moment, of all remaining lots available for building homes on.

Q. Can you give the Commission the benefit of your experience in this area—how many homes are under construction now and how many homes do you foresee?

Mr. Kellam: If I might ask, I would like to know the purpose of this testimony. I see no relationship—

Commissioner Hooker: I think he is entitled to know.

Mr. Staples: If your Honor please, we have had several —Mr. Overman has referred to it and the number of tap-in fees that will yet be developed in this area by the construction of—

Commissioner Hooker: How many houses are going to be built there in the future?

Mr. Staples: Yes, Sir.

Mr. Riely: The area available for expansion of the company's present service area in the future. I suggest, your Honors, that it is relevant.

page 328 }

Chairman Catterall: We heard a lot about it yesterday.

Mr. Staples: Yes, Sir.

Commissioner Hooker: And we heard that there wasn't but so much left.

Mr. Riely: I think this witness, from what I have understood, I haven't talked with him, will give a different story.

Commissioner Hooker: We make rates on the facts before us and not what might happen two or three years from now. I'm thinking about a rate case now. We do not make rates on what may develop twelve months from now. You might see the general statement from him and see just what he has in mind.

Mr. Staples: I think the witness can also tell us what the

experience of the builders has been, your Honor, with respect to the tap in fees charged.

Commissioner Hooker: Of course, the tap in fees are all a matter of record.

Mr. Staples: They are a matter of record, your Honor, but it is suggested that perhaps in practice, the
page 329 } records here do not reflect what is being charged.

Mr. Kellam: Yesterday, the Commission heard testimony that the city was also operating in this area and they had put in lines and were expanding their facilities in your area, so what is available there is no indication that it will be available to this utility, even based on this man's testimony.

Commissioner Hooker: I don't see why it would help us in deciding this case, to show how many houses are going to be built or availability of land to build houses in the future. We have to go on the information that is in this record—revenue information and dollar information.

Mr. Staples: I just suggested to you that the witness was here yesterday and heard the testimony—

Commissioner Hooker: Yes, I understand.

Mr. Staples: —and he did come back and would like to offer us some of his experience with respect to the growth in the area. If the Commission doesn't desire to hear it—

Commissioner Hooker: I think we can take
page 330 } judicial notice that Virginia Beach is growing rapidly, as far as that part is concerned. You may stand aside.

Witness Stood Aside.

page 331 } Commissioner Hooker: Is that all in this case?

Mr. Kellam: That is our case.

Commissioner Hooker: Are you through?

Mr. Kellam: Yes, Sir. Wait just a minute, Sir. We did have one man in rebuttal. I am sorry. I spoke too fast.

Mr. Sherman, please.

GERALD D. SHERMAN, resuming the stand, testified as follows:

RE-DIRECT EXAMINATION

By Mr. Lawler:

Q. Mr. Sherman, in connection with the testimony that has

been given here, do you have a further statement that you would like to make in connection with your testimony in this matter?

A. Well, I would just like to amplify for one moment what I consider a very hazy issue that would take a very understanding accountant even to comprehend, and that has been the definition of cost bases as opposed to the definition of rate bases. They are two different animals and there is no question about the tax, and I am sure Mr. Brown will agree with me that in accordance with the regulations of the

page 332 } National Association of Railroad and Utilities Commissioners, which book Mr. Brown contributed to, is in accordance with the accounting method reflected in the annual financial statement of the utility company, in that it properly reflects original cost. This is the cost basis for accounting purpose, having nothing to do with taxes, which has also been made a very fuzzy area in all this cross examination and has nothing to do with rate bases. We had an original cost of some three million dollars in accordance with the regulations. I would just like to make that statement.

Q. Now, Sir, in connection with the facilities which were contributed by Mr. Aragona through stock ownership in related companies, can you tell us, Sir, what those facilities amount to in terms of dollars and cents?

A. The facilities contributed by all companies?

Q. Companies related to the owner of Princess Anne Utilities.

Commissioner Hooker: Wasn't that put in yesterday?

A. This was put in yesterday.

Mr. Lawler: If the Commission is satisfied

page 333 } they *they* have that figure, that is all right.

Commissioner Hooker: It is repetitious.

Mr. Lawler:

Q. Now, have you prepared another exhibit based upon the original cost of these facilities? Have you, Sir?

A. Yes, Sir, we have.

Q. And that is now referred to as Statement E?

Mr. Riely: If it please the Commission, I didn't know there was any testimony as to this original cost in the record yet.

Mr. Kellam: Mr. Sherman has testified—

Mr. Lawler: I think it is in there. That is for the Commission to decide, I would think.

Mr. Riely: I would object to this exhibit on that ground, if it please the Commission.

Chairman Catterall: Let's hear what he has to say.

Mr. Lawler:

Q. Will you explain that exhibit, please.

A. Well, we are actually recasting Mr. Brown's exhibit to show how the figures would have come up under different alternatives.

page 334 } Mr. Kellam: Now, you are referring to Mr. Brown's Exhibit D?

A. That is correct.

Mr. Staples: If it please the Commission, the book that has been referred to so many times here states that original cost applied to utility plants means the cost of such property to the person first devoting it to public service. Is this the cost?

A. Yes, Sir.

Commissioner Hooker: Go ahead.

A. We have computed an alternative rate, based on original cost, employing some of the principals proposed by the City of Virginia Beach and the staff of the State Corporation Commission. In effect, we have excluded all contributions in aid of construction, not attributable to Princess Anne Utilities and its one hundred per cent commonly owned associates. We submit this without prejudice to ourselves, that what we have deducted should be reclassified as Paid in Surplus Having Not Come From Customers and/or Miscellaneous Revenue and not reducing rate base at all. Now, we start with my original Exhibit A, page thirty-
page 335 } eight, original cost of three million, three hundred thirty-nine thousand, eight hundred eighty-six dollars and ninety-seven cents.

Mr. Riely: If it please the Commission, I again object to this exhibit. This is not rebuttal testimony. This is just a rehash of what has been in Mr. Sherman's original statement and I suggest that it is not proper rebuttal and—

Commissioner Hooker: He is comparing the statements. We'll let him go ahead with it.

A. We have deducted from that Kings Grant contributions which were reflected on Exhibit A, page thirty-four as seven hundred fifty-five thousand, nine hundred forty-six dollars and sixty-four cents; Windsor Woods contributions,

Gerald D. Sherman

Exhibit A, page thirty-four, seven hundred seventy-seven thousand, eight hundred nineteen dollars and eighty-seven cents; and customers' contributions, twenty-eight thousand, seven hundred dollars, coming up with a sub-total of a million, seven hundred seventy-seven and some odd thousand dollars. There was a sixty-five hundred dollars adjustment reflected on the books and records of Kings Grant contributions reflected as tap-in fees of sixty-five hundred

page 336 } dollars, bringing this down to a total of one million, seven hundred seventy thousand, nine hundred twenty dollars and forty-six cents, which can be related to Mr. Overman's testimony of yesterday. We took off the accumulated depreciation on these facilities amounting to three hundred thirteen thousand, nine hundred twenty dollars and seven cents. The depreciation was only computed on these facilities and come from my work papers, bringing down a net plant of a million, four hundred fifty-seven thousand dollars and thirty-nine cents. Then we take the net original cost of the abandoned treatment plant and also deduct that of three hundred twenty-nine thousand, five hundred twenty-two dollars, and come up with an adjusted net plant based upon original cost of one million, one hundred twenty-seven thousand, four hundred seventy-seven dollars and eighty-seven cents, adding to that work capital requirements for the Hampton Roads Sanitation District of twenty thousand and the cash working capital of nineteen thousand, five hundred twelve dollars. We propose or we suggest that this schedule shows the rate base of one million, one hundred sixty-six thousand, nine hundred eighty-nine dollars and eighty-seven cents.

Mr. Lawler: Now, Sir, has there also been a

page 337 } variation of Mr. Brown's statement D computed and labeled Statement D, Revised?

Note: (Witness looking through papers)

A. All right, Sir.

Mr. Lawler: All right, Sir. Now, will you please explain this statement, Mr. Sherman?

A. Yes. Yes, there has, but I would prefer that Mr. Larson explain it but for one figure which I feel relates to accounting.

Mr. Lawler: All right, Sir.

A. And that is for the fact that in the total expenses we used Mr. Brown's figure that he shows in his schedule of

approximately one hundred fifty thousand dollars. We accept Mr. Brown's figure and we have added to that the seventy-six thousand some odd dollars depreciation which we feel is in accordance with generally accepted accounting principals and those prescribed by the National Association of Railroad and Utilities Commissioners, so we come up with a total expense of two hundred twenty-six thousand, five hundred thirty-nine dollars, combining Mr. Brown's factors and the depreciation that was excluded from his computations. From this I would like to have Mr. Larson complete the testimony.

page 338 } Mr. Lawler: All right. Now, if you will answer any questions these gentlemen have—

RE—CROSS EXAMINATION

By Mr. Riely:

Q. Mr. Sherman, do you have your work papers with you?

A. I have some work papers with me—not the annual work papers of the corporation.

Q. You have the work papers, I judge, that produced these figures that shows "from Mr. Sherman's work papers."

A. Yes, I do.

Q. What was the adjustment of sixty-five hundred dollars. Explain that to me, please.

A. The sixty-five hundred dollars was an amount received, I would say, about five or six years ago, that was reflected in contributions in aid of construction received by the utility company and recorded in its plant account, different from contributed facilities. This was cash and accordingly, it is a duplication and we feel in all fairness it should reduce the base.

Q. How could it be a duplication?

page 339 } A. In effect, had it been recorded as cash and credited to contributions in aid of construction as opposed to being recorded as a debit to facilities and credited to contributions in aid of construction, in effect we duplicated the Kings Grant—we understated the Kings Grant tap-in fees by sixty-five hundred dollars exactly.

Q. Now, your Kings Grant contributions, Windsor Woods contributions and—did they represent tap-in fees or not?

A. Included in the Kings Grant tap-in fees was ninety-eight thousand, four hundred dollars.

Q. Where does that show on your exhibit?

A. That is in Exhibit B, Schedule one, page four.

Gerald D. Sherman

Q. Where does it show on your statement E?

A. That is part of the seven hundred fifty-five thousand, nine hundred forty-six dollars and sixty-four cents. It is a combination of the two figures.

Mr. Riely: Well, let's look at Schedule one, page four of Exhibit B. Take the second item—nine hundred seventy-seven thousand.

A. Yes, Sir.

page 340 } Q. Does that construct any facilities to which any customers were attached?

A. Yes, Sir, that was the—will you repeat the question? Are you getting to the sixty-five hundred—

Q. This is my question, if you will listen to my question, please, Mr. Sherman, I think we'll get along better.

A. Go ahead.

Q. Does the nine hundred seventy-seven thousand relate to the construction of any facilities to which customers were attached?

A. Yes, Sir.

Q. Where are the tap-in fees for those customers?

A. That is in the five hundred seventy-seven thousand, six hundred dollars.

Q. I thought you said that the nine hundred seventy-seven thousand dollars paid for those facilities.

A. I did not say that. I said these were facilities constructed by John Aragona Enterprises and contributed for no remuneration to Princess Anne Utilities.

Q. Now, do your figures on statement E show tap-in fees for each customer who is connected with Prin-

page 341 } cess Anne Utilities?

A. No, Sir, it only shows the tap-in fees for those customers which were not directly subsidized by Princess Anne Utilities Corporation or its related companies.

Q. Mr. Sherman, I have a great deal of difficulty in determining the factual answer from your rhetoric. How many customers are not—tap-in fees for how many customers are not shown on statement E?

A. I have no way of knowing that.

Q. You have no way of knowing that?

A. No.

Q. Could it have been a thousand customers?

A. No, Sir.

Q. How do you know it couldn't?

A. Based upon general knowledge.

Gerald D. Sherman

Q. I thought you said you do not know.
A. I do not know the exact amount.
Q. Well, can you give us an estimate.
A. Of what.
Q. Of the number of customers who are connected to the facilities of Princess Anne for whom tap-in fees are not shown on statement E.

page 342 } A. No, Sir.

Q. I thought you said you knew it couldn't be a thousand.
A. It could not be a thousand. That is correct.
Q. Could it be two thousand?
A. No, Sir.
Q. How do you know?
A. I know it is under five hundred.
Q. You just said it could be a thousand, Mr. Sherman.
A. No, I didn't say it could be a thousand. I did not think it was much as a thousand, Sir.
Q. Mr. Sherman, I give up. I have no further questions.

RE—CROSS EXAMINATION

By Mr. Staples:
Q. Mr. Sherman, I would like to get one thing straight. The three million, three hundred thirty-nine thousand odd dollars listed at the top of the original cost—do you state that that is the original cost of those items to Princess Anne Utilities?

A. I said that is the original cost as defined

page 343 } in the uniform system of accounts, yes, Sir.

Q. Is that a yes or no to my question?
A. Would you repeat your question?
Q. Three million, three hundred thirty-nine thousand odd dollars at the top of this page—original cost—is the cost of those facilities to Princess Anne Utilities?
A. Is that the original cost of those facilities to Princess Anne Utilities?
Q. Yes.
A. Yes, Sir.

Chairman Catterall: Well, no, no. The question is not that. The question is whether Princess Anne Utilities paid for those different things.
A. That is a different question.
Chairman Catterall: Well, now that is the question he asked and you evaded it.

A. Excuse me, your Honor, he didn't ask me that, but may I answer that, Sir?

Chairman Catterall: That is the question.

A. The original cost of the facilities to the person first donating it for public use were a million dollars

page 344 } and Princess Anne Utilities paid two million dollars for it. May I ask the attorney here what the original cost would have been? The answer is the same million dollars, regardless of who or how much was paid for it, in accordance with regulations.

Mr. Staples: I really don't know how I got on the witness stand.

A. —because the ship turns, don't try to use it against the company.

Chairman Catterall: You'd better give up on that question because he keeps loading the answers and you can't ask him a loaded question.

Mr. Staples: I do give up.

Commissioner Hooker: Stand aside.

Witness Stood Aside.

page 345 } Commissioner Hooker: Anything else?
Mr. Lawler: Mr. Larson

CHARLES A. LARSON, resuming the stand, testified as follows:

RE—DIRECT EXAMINATION

By Mr. Lawler:

Q. Mr. Larson, have you had an opportunity to review statement D submitted by Mr. Brown?

A. Yes, I have, and I have made three adjustments to Mr. Brown's statement D.

Q. And that is the paper which has been circulated to the Commission and counsel entitled "Statement D Revised"?

A. Yes, Sir.

Q. And will you state what the distinctions are between the revised statement and the original statement as submitted?

A. Mr. Sherman pointed out one difference, which was the difference on line two to total expenses. There is the amount of seventy-six thousand, three hundred thirty-one dollars of depreciation added to the total expenses, there bringing the

total to two hundred twenty-six thousand five
page 346 } hundred thirty-nine dollars. The second difference is on line three, where the original cost rate base as determined in statement E with a ten per cent rate of return applied to it is shown at one hundred sixteen thousand, six hundred ninety-nine dollars. The third adjustment is for the amortization of the original cost of the sewerage plant to be abandoned of thirty-two thousand, nine hundred fifty-two dollars.

Q. And with those changes, what does statement D reflect?

A. It reflects that the twenty-eight dollars and fifty cents basic rate which I have proposed will meet the—will almost meet the revenue requirements of Princess Anne Utilities Corporation with these assumptions.

Q. And what would be the result of the twelve dollar base rate?

A. Using a twelve dollar basic rate, there would be a deficiency of one hundred sixty-six thousand, nine hundred eighty dollars.

Q. And using the eight dollar basic rate?

A. At the eight dollar basic rate there would be a revenue deficiency of two hundred five thousand, three
page 347 } hundred eighty-five dollars.

Mr. Lawler: All right, Sir, now answer these gentlemen's questions.

RE—CROSS EXAMINATION

By Mr. Riely:

Q. Mr. Larson, I don't want to belabor this point, but using the eight dollar basic rate under your figures there would be—the expenses would materially exceed the revenues, would they not?

A. Yes, the revenue requirements would be much greater than the income.

Q. Don't you think in fairness you might have adjusted the income tax figures?

A. No, the income tax figures are not adjusted on any of these.

Q. Why weren't they?

A. For tax purposes.

Q. They were not changed for tax purposes?

A. That is right.

Q. Are you sure of that, Mr. Larson?

Charles A. Larson

A. Yes, Sir.

Q. The amortization of the plant would not
page 348 } have been deductible for tax purposes—the amortization of the sewerage plant to be abandoned would not—your testimony is that there has been no change in the taxes.

A. That is right. In other words, Mr. Brown's tax figures are appropriate for Statement D, Revised.

Mr. Riely: I have no further questions.

Mr. Staples: No questions, your Honor.

Commissioner Hooker: Stand aside.

Witness Stood Aside.

Mr. Lawler: That is all we have, your Honors.

Commissioner Hooker: The Commission will take this matter under advisement, if that is all. The Com-
page 349 } mission will rise.

Mr. Riely: I think we have something more in the other case.

Chairman Catterall: Oh, yes. We were going to talk about oral argument, weren't we?

Commissioner Hooker: Have you all agreed on a time?

Mr. Riely: No, Sir. If we are going to have oral arguments, don't you think we ought to have briefs?

Commissioner Hooker: If you had rather have briefs, which had you rather do?

Mr. Kellam: That is agreeable with us, your Honor.

Commissioner Hooker: That is agreeable, all right. And you want briefs after you get the transcript?

Mr. Reily: That is right, your Honor.

Commissioner Hooker: How much time do you want after you get the transcript?

Mr. Riely: How much time do you want, Mr. Kellam? You will file the opening brief, I judge.

Mr. Kellam: Thirty days.

Commissioner Hooker: Thirty days after—

Mr. Riely: All right, thirty days—

page 350 } Commissioner Hooker: Thirty days after you receive the transcript.

Mr. Riely: And we shall have thirty days to reply.

Commissioner Hooker: That is fine, and then you want fifteen to reply?

Mr. Kellam: Yes, Sir.

Mr. Riely: Can we set a date for oral argument by correspondence? I will call Mr. Kellam and we will get together.

Commissioner Hooker: Yes, you all can get together on that.

Mr. Riely: I suppose that it will be understood that the present rates will be in effect until this case is decided, and it will not mean that the Company can pass on the Hampton Roads rate if they connect.

Commissioner Hooker: Have they got rates filed effective such and such a date?

Mr. Kellam: Yes, Sir, they have rates filed.

Commissioner Hooker: That effective date, of course, will have to be extended until we get through with the rates here.

page 351 } Mr. Riely: The rates will stay at twelve dollars for complete sewer service.

Commissioner Hooker: Until the case is decided by the Commission.

Mr. Riely: Yes, Sir.

Mr. Kellam: We can't do that. We don't have anything to do with what Hampton Roads charges. We have no control over that.

Mr. Riely: These people ought to take—

Commissioner Hooker: We will look into that, but, of course, we have nothing to do with Hampton Roads either.

Chairman Catterall: No, that will be a charge to the Sewer Company. The Sewer Company wants to pass it on.

Mr. Staples: And, your Honors, this Company is no longer rendering a sewerage treatment service, and the customers in effect will be getting a double charge.

Mr. Riely: They would be getting a double charge.

Chairman Catterall: They can't raise that until we finish this—

Commissioner Hooker: Until this case is

page 352 } finished.

Chairman Catterall: I don't know why you can't file briefs sooner than thirty days.

Mr. Kellam: Fifteen days will be all right with us on the brief.

Mr. Riely: Fifteen days will be all right with us.

Commissioner Hooker: Reply in fifteen, and then you will—

Mr. Riely: So long as it doesn't come during the Norfolk and Western Case or anything like that.

Commissioner Hooker: All right. Call the next case.

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* * * * *

At Richmond, May 19, 1969

* * * * *

This Matter was heard on March 31, 1969 and April 1, 1969. Upon motion of counsel, time was granted for filing of briefs and oral arguments.

Now, on This Day pursuant to agreement of counsel, after receipt of the transcript of this hearing, the Commission has agreed to June 25, 1969 as the date to hear oral arguments on the briefs to be filed herein.

It is, Therefore, Ordered that oral agruments on the briefs to be filed herein will be heard at 10:00 A.M. June 25, 1969 in the Commission's Courtroom, Blanton Building, Richmond, Virginia.

An Attested Copy hereof shall be sent to Edwin C. Kellam, Board of Trade Building, Norfolk, Virginia 23510; John W. Riely, Box 1535, Richmond, Virginia 23212; and, to the Accounting and Engineering Divisions of the Commission.

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At Richmond, June 26, 1969

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After Hearing oral arguments, this matter was taken under advisement on June 25, 1969.

The Commission, after considering the testimony, exhibits, briefs and arguments, is of the opinion and finds that the rates as applied for by the applicant are excessive, unreasonable and unjust and should be denied:

That in lieu thereof the Commission finds that rates should be approved producing gross revenue of approximately $181,000 per annum based on the number of customers served by the applicant on August 31, 1968; and

That the following schedule of rates are just, reasonable, and should be placed into effect on all billings on or after July 1, 1969:

(1) Each residential customer, $8.00 per quarter
(2) Each apartment customer, 6.00 per quarter
(3) Each commercial customer to be billed according to the following schedule based on water consumption, with a minimum bill of $12.00 per quarter.

1st 1300 cut. ft. $3.90
next 7700 cu. ft. @ 26¼¢ per 100 cu. ft.
next 90,000 cu. ft. @ 21½¢ per 100 cu. ft.
all over 99,000 cu. ft. @ 18⅜¢ per 100 cu. ft.

It is, Therefore, Ordered:
(1) That the applicant file rate schedules reflecting the rates shown above found by the Commission to be just and reasonable; and
(2) That these rates be placed in effect on all billings on or after July 1, 1969.
An Attested Copy hereof shall be sent to Edwin C. Kellam, Board of Trade Building, Norfolk, Virginia 23510; John W. Riely, Box 1535, Richmond, Virginia 23212; and, to the Accounting and Engineering Divisions of the Commission.

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Opinion, CATTERALL, *Chairman*:

For the decade, 1959-1969, the applicant rendered a complete sewage service to its customers. It collected the sewage in its pipelines and treated the sewage in its lagoons. During June of this year the Hampton Roads Sanitation Commission extended its pipelines to the area served by Princess Anne Utilities Corporation, the customers' lines are now connected to the Hampton Roads Sanitation pipelines, and the lagoons are no longer in use. The customers are billed separately by Princess Anne for the use of its pipelines and by Hampton Roads for the use of its pipelines.

In fixing sewage rates, a base rate is fixed for residential customers; and the rates for apartment houses and commercial establishments are fixed at a fair relationship to the base residential rate. When the application was filed in this case the company's residential rate was $12.00 per quarter. The company applied for a residential rate of $28.50, and the Commission's order of June 28, 1969, fixed the rate at $8.00.

The reduction from the past $12.00 rate to the future $8.00 rate is accounted for by the fact that the Sanitation Commission will provide in the future part of the service furnished by the company in the past, at a saving to the company of about $82,000 in annual expenses. The page 356 } Sanitation Commission will send the bills for its services directly to the consumers.

The difference between the rate applied for and the $8.00 rate authorized results from the fact that the company has a near-zero rate base. Practically the entire plant was built by contributions in aid of construction. No principle of utility rate-making is more firmly established than that investors are entitled to a profit on their investment, from which it follows that they are not entitled to a profit on the investment of others, and that contributions of customers to plant are excluded from the rate base.

Princess Anne, of course, does not dispute this principle. Its argument is that the principle is inapplicable because the contributions were made by land-development corporations and not by the consumers who first flushed their sewage into the pipes. If the 5,400 consumers had contributed to construction directly, there would be no argument. Although their money went into the sewer system indirectly, it was the consumers who paid for the construction of the system. The cash flow was as follows:

Mr. John Aragona, Sr., bought a tract of land. In order for him to make a profit by subdividing it, building houses on it, and selling it, sewage service had to be provided. He obtained a charter for a sewage corporation and charters for several land corporations. The fact that he owned all the stock in these corporations does not keep the corporations from being separate legal entities. A man cannot get a corporate charter and then argue that the corporate fiction should be ignored whenever ignoring it will be to his financial advantage.

These land corporations owned by Aragona, and other corporations not owned by Aragona, put up the money to build the sewer system on the tract of land. The subdivided tract of land is now owned and occupied by 5,400 page 357 } consumers of the sewer service.

Aragona, like every seller, sold the land for the highest price he could get. The purchasers of the land, whether or not they were his wholly-owned corporations, paid prices that covered the contributions in aid of construction. (Counsel for the applicant characterizes that as a reduction of the price of the land; but that characterization did not make a penny's-worth of difference to the pur-

chasers.) The first purchasers sold the land to other purchasers, and so on until it ended up in the hands of 5,400 consumers. Each sale was made at the highest price the seller could get. As counsel points out at page 11 of his brief: "... the builders, or other land developers, purchased not an interest in a utility company, but an improved property, and the price that was paid for the land was determined by the market, ..."

Each of those many sales was made by the seller in an effort to make a profit. In order for the seller to make a profit the selling price had to be higher than the sum-total of the costs, including the amounts of the contributions in aid of construction, and those amounts, along with all the other items of the seller' costs, came out of the pockets of the 5,400 consumers. A public utility cannot earn a return on money that came out of the pockets of the consumers. The real-estate developers paid for the construction of the plant and got their money back from the purchasers of lots.

This method of financing a sewer or water company is common. The developers of land have to install a sewer system before they can sell lots, and are reimbursed by the consumers who buy the lots. It sometimes happens that a city, county or other public corporation buys or condemns the system. When it does, it has to pay the reproduction value of the property, with the result that the utility
page 358 } receives a capital gain. In 1966, for example, the City of Virginia Beach offered to buy the plant of Princess Anne Utilities for $641,000. If the company had accepted the offer it would have made a net profit of $641,000 on its zero investment in the property. The existence of this unrealized capital gain adds weight to the view that making the consumers pay the company a return on the contributions in aid of construction would be unjust.

From what we have said, it follows that the rates must be sufficient to pay only the expenses of operating the system. A margin of profit sufficient to enable the company to attract capital need not be provided for a company of this kind. Exhibit 2 discloses that Aragona owns all the capital stock of the company, for which he paid $10,000. He causes the company to pay him a salary of $18,000 a year. And he has caused this company to lend $264,618.26 to his other companies. Capital that the company will need to extend its lines to new customers will be provided by the new customers.

The Commission's Chief Accountant, James H. Brown, estimated the annual operating expenses at $150,200. The rates authorized by the Commission can be expected to yield $181,000.

The company argues that it is entitled to earn an additional sum of $76,000 a year to cover depreciation of the contributed property. The evidence does not show exactly how the company arrived at the figure of $76,000. The company's annual report of August 31, 1967, reports total plant of $871,000. The Commission's staff found that the correct figure was $894,000. During the following year $215,000 was added to plant, and the abandonment of the lagoons subtracted $411,000 from the plant now serving the public, leaving a total plant value of $698,000. At the hearing the company asserted that its plant cost $3,000,000.

page 359 } When our accountants examined the company's books in February, 1969, the additional millions did not appear on the company's books. Mr. Brown testified (p. 252):

"The last double column shows the amount of utility plant reported in the 1968 report, which is as of August 31, 1968, in the amount of three million three hundred thirty-nine thousand eight hundred eighty-six dollars. When the Commission accountants visited the Company in the middle of February, 1969, the amounts shown on Statement A as of August 31, 1968, had not been entered on the books of the Company. Our accountants were told, however, that the adjusting entries would be made. The books actually indicated a negative balance of about one hundred twenty-one thousand dollars as of August 31, 1968.

"I don't know whether these figures as reported to the Commission have actually been entered on the Company's books as of this date or not."

In the circumstances it would be impossible to allow annual depreciation of $76,000. The company claimed no deduction for depreciation in its Federal Income Tax return filed January 14, 1969.

When the land companies paid for the construction of the sewer system, it cannot be said that the payment was a gift to the company. A gift is a transfer without consideration. The consideration flowing from the utility to the land companies was the utility's undertaking to operate the sewer system in a way to enable the land companies to sell their lots to the consumers. If a friend gives me an automobile on condition that he shall have the use of it, it is not strictly-speaking a gift. In *Detroit Edison Company* v. *Commissioner of Internal Revenue,* 319 U. S. 98, 87 L ed 1286, the court, denying a deduction from gross income of depreciation on contributions in aid of construction, said:

"But we think the statutory provision that the 'basis of property shall be the cost of such property' [§113 (a)] normally means, and that in this case the Commissioner was justified in applying it to mean, cost to the tax-
page 360 } payer."

* * * * *

"The Company, however, seeks to avoid this result by the contention that what it has obtained are gifts to it or contributions to its capital of the property paid for by the customer, and that therefore by the provisions of §113 (a) (2) and (8) (B) it takes the basis of the donor or transferor. It is enough to say that it overtaxes imagination to regard the farmers and other customers who furnished these funds as makers either of donations or contributions to the Company. The transaction neither in form nor in substance bore such a semblance.

"The payments were to the customer the price of the service."

In the circumstances of the present case we cannot require the consumers to pay higher rates than those authorized by our final order. Those rates will *yeild* an ample return to the company for the public service that it is rendering. Since Mr. Aragona is the sole stockholder, he is the real party in interest. He invested $10,000 in the company's stock and draws a salary of $18,000 a year. The services he renders in return for the salary are not mentioned in the transcript. From the testimony of his son, who devotes his full time to managing the company, it looks as if the sole stockholder spends very little time managing the company. The authorized rates are just and reasonable as between the investor and the consumers.

Hooker, *Commissioner,* concurs.

Dillion, *Commissioner,* absent.

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At Richmond, July 28, 1969

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Princess Anne Utilities Corporation having filed due notice of appeal by Counsel, Joseph J. Lawler, in this case.

It is Ordered that the original exhibits filed with the evidence numbered and described as follows, be certified and forwarded to the Clerk of the Supreme Court of Appeals of Virginia to be returned by him to this Commission with the mandate of that Court:

Exhibit No.	*Description*
A.	Princess Anne Utilities Corporation, Application for increase in rates, evidence and exhibits of witnesses John Aragona, Jr., Gerald D. Sherman and Charles A. Larson.
1.	Professional qualifications and testimony of A. J. Chewning, III with present day valuation of Princess Anne Utilities Corporation (pages 14 through 22 of Exhibit A).
2.	U. S. Corporation Income Tax Return of Princess Anne Utilities Corporation.
3.	Princess Anne Utilities Corporation Application for Increased Rates.
	Testimony and exhibits submitted by the City of Virginia Beach, Virginia, of witnesses Paul Johnson, Thomas E. Humphreys, Donnell P. Davis, Glenn B. McClanan, Mrs. E. E. McAlpin, Mrs. B. C. Yoder, Roger M. Scott, Carroll G. Clough, and William C. Overman.

* * * * *

page 362 } Commonwealth of Virginia
State Corporation Commission

Certificate

Pursuant to an order entered herein on July 28, 1969, the original exhibits listed therein are hereby certified to the Supreme Court of Appeals of Virginia to be returned by the Clerk thereof to this Commission with the mandate of that Court.

It is further certified to the Supreme Court of Appeals of Virginia that the foregoing transcript of the record in this proceeding, with the original exhibits contains all of the facts upon which the action appealed from was based, together with all of the evidence introduced before or considered by this Commission.

Witness the signature of H. Lester Hooker, Acting Chairman of the State Corporation Commission, under its seal

and attested by its Clerk, this 28th day of July, 1969, at Richmond, Virginia.

H. Lester Hooker, Acting Chairman

Attest: William C. Young
Clerk

Certificate

I, William C. Young, Clerk of the State Corporation Commission certify that within sixty days after the final order in this case, Princess Anne Utilities Corporation, by Joseph J. Lawler, Board of Trade Building, Norfolk, Virginia, 23510, of Counsel, filed with me notice of appeal therein, which has been delivered to opposing counsel, to Counsel for the State Corporation Commission and to the Attorney General of Virginia pursuant to the provisions of Section 13 of Rule 5:1 of the Rules of the Supreme Court of Appeals of Virginia.

Subscribed at Richmond, Virginia, this 28th day of July, 1969.

William C. Young, Clerk

* * * * *

A Copy—Teste:

Howard G. Turner, Clerk.

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