STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 18-W-0554

PETITION FOR APPROVAL, PURSUANT TO PUBLIC SERVICE LAW SECTION 113(2), OF A PROPOSED ALLOCATION OF CERTAIN TAX REFUNDS BETWEEN NEW YORK AMERICAN WATER COMPANY, INC. AND RATEPAYERS

# DIRECT TESTIMONY OF

# NYAW PROPERTY TAX REFUND PANEL

Dated: October 12, 2018

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## INTRODUCTION

1. **Q. Please state the names of the members of this Property Tax Refund Panel ("Panel").**

   A. Our names are John S. Tomac, Don Distante, and Gary Naumick.

2. **Q. Mr. Tomac, please state your occupation and business address.**

   A. I am employed by American Water Works Service Company, Inc. ("AWWSC") as Senior Director, Rates and Regulatory – Eastern Division. My business address is 1025 Laurel Oak Road, Voorhees, New Jersey 08043.

3. **Q. What are your responsibilities in this position?**

   A. My present responsibilities include managing rates and regulatory issues for New York, New Jersey, Maryland, and Virginia, including planning, forecasting, monitoring, implementing, and preparing work papers, exhibits, and pre-filed testimony in this proceeding and in other regulatory matters for New York American Water Company, Inc. ("NYAW" or the "Company").

4. **Q. Please describe your educational background and professional experience.**

   A. I received a Bachelor of Science degree in Accounting from Central Connecticut State University and a Master of Business Administration degree from the University of New Haven. Before assuming my current position, I was the Senior Manager of Rates and Regulatory Affairs at Virginia American Water Company where I was responsible for all regulatory filings. Prior to that, I was the President and Owner of John S. Tomac Consulting, LLC where I provided management, financial and rate case consulting services to water utilities throughout the United States. I hold a

professional membership in the National Association of Water Companies and am currently a faculty member of the National Association of Regulatory Utility Commissioners' Rate School.

5. **Q. Have you previously testified before the New York State Public Service Commission ("Commission")?**

A. No.

6. **Q. Mr. Distante, please state your occupation and business address.**

A. I am an independent consultant at Black and Veatch ("B&V"), currently working on NYAW's proposed conservation program. My business address is 82 Irving Street, Mystic, Connecticut 06355.

7. **Q. What are your responsibilities in this position?**

A. My consultancy includes work for water utilities in the areas of water resources assessments, water demand forecasting, capital project alternative evaluations and conservation.

8. **Q. Please describe your educational background and professional experience.**

A. I hold a Bachelor's degree in Natural Resources from Cornell University and a Master of Science in Environmental Engineering from Manhattan College. Prior to becoming an independent consultant in 2018, I worked for 20 years at SUEZ Water ("SUEZ") in various roles such as engineer, managing engineer for the New York Division of SUEZ and Director of Planning for SUEZ's corporate engineering department. From 2015 to 2017, I led the effort to develop and implement a

conservation plan for SUEZ Water New York Inc. ("SWNY"). Prior to working at SUEZ, I worked as a consultant on projects involving water supply planning and many other topics in the environmental engineering field.

**9. Q. Have you previously testified before the Commission?**

A. Yes. I have testified numerous times before the Commission, including on behalf of SWNY regarding a conservation program in Case 16-W-0130.

**10. Q. Mr. Naumick, please state your occupation and business address.**

A. I am employed by AWWSC as Vice President of American Water Engineering. My business address is ~~1025 Laurel Oak Rd, Voorhees~~1 Water Street, Camden, New Jersey ~~08043.~~08102.

**11. Q. What are your responsibilities in this position?**

A. I am responsible for directing the engineering functions for American Water Works Company, Inc., including strategy, standards, governance and oversight for water and wastewater system master planning; capital budgeting and capital investment management; asset technical standards; design and design management; capital project delivery and construction management; and support to operations, environmental management, and rates functions.

**12. Q. Please briefly describe your educational background and professional experience.**

A. I received a Bachelor of Science degree in Civil Engineering from the Pennsylvania State University and a Master of Science degree in Engineering from the New Jersey

Institute of Technology. I have been employed by AWWSC since 1986. Since then, I have held the positions of Senior Planning Engineer, Director of Planning, and Director of Planning & Strategy and Capital Investment Management. I was promoted to Vice President of Engineering in 2015. Prior to my employment at American Water, I was employed by the U.S. Environmental Protection Agency for nine years as an environmental engineer. I am a licensed Professional Engineer in the Commonwealth of Pennsylvania and am an active member of the American Water Works Association ("AWWA") and have served on AWWA's Conservation Committee.

**13. Q. Have you previously testified before the Commission?**

A. No.

**14. Q. What is the purpose of the Panel's testimony in this case?**

A. The purpose of our testimony is to discuss the Company's Verified Petition filed on August 27, 2018 in this proceeding ("Verified Petition"). Specifically, pursuant to the Ruling on Schedule and Process issued on September 28, 2018 in this proceeding, our testimony and supporting exhibit discuss the Company's: 1) proposed allocation and disposition of the property tax refunds at issue in this proceeding; 2) calculation of interest accrued on the refunds; 3) request to offset from said refunds the $388,000 in costs incurred by the Company to obtain the refunds; and 4) proposed conservation plan utilizing a portion of the property tax refunds.

**15. Q. Why did the Company retain B&V to help develop a Conservation Study and Rebate Program?**

A. B&V has substantial experience in developing robust demand-side water conservation programs in New York under the direction and guidance of the New York State Department of Public Service ("DPS"). NYAW desired to bring this level of expertise to its conservation program. B&V also has specific expertise in supply-side conservation.

**16. Q. Does the Company anticipate working with other third-parties to implement this program?**

A. The Company will likely work with other third-party companies to conduct surveys; assist with communications, education, and implementation; and facilitate stakeholder meetings.

**17. Q. Are you sponsoring any exhibits in support of your testimony?**

A. Yes; the Panel is sponsoring Exhibit PTRP-1 which is an updated version of Exhibit A to the Verified Petition.

**BACKGROUND**

**18. Q. Please describe the property tax refunds that are the subject of this proceeding.**

A. The property tax refunds at issue were obtained as a result of multiple lawsuits against the Town of Hempstead and the various garbage and refuse districts within the Town challenging the special *ad valorem* levies for garbage and refuse services (referred to herein as taxes). Specifically, the lawsuits were against the Supervisor of the Town of Hempstead, the Town of Hempstead, the Town of Hempstead Refuse/Disposal

District, the Town of Hempstead Refuse/Garbage District, the Merrick-North Merrick Refuse/Garbage District, the Lido Beach-Point Lookout Refuse/Garbage District, the Town Board of the Town of Hempstead as Commissioners of: Town of Hempstead Refuse/Disposal District, Town of Hempstead Refuse/Garbage District, the Merrick-North Merrick Refuse/Garbage District, the Lido Beach-Point Lookout Refuse/Garbage District, the Board of Commissioners and Commissioners of the Town of Hempstead Refuse/Disposal District, the Town of Hempstead Refuse/Garbage District, the Merrick-North Merrick Refuse/Garbage District, the Lido Beach-Point Lookout Refuse/Garbage District, the Receiver of Taxes of the Town of Hempstead, and the Controller of the Town of Hempstead (collectively, the "Town").

**19. Q. What is the amount of the property tax refunds obtained from the Town?**

A. The property tax refund received from the Town totals approximately $8.4 million, including interest (the "Refund"). The Refund represents the refund payment to NYAW from the Town arising out of two judgments resulting from a series of court actions commenced by the Company.

**20. Q. Is the total amount of the Refund subject to change?**

A. Yes. Both the Company and the Town have appealed the judgments. The Company's appeals are limited to the rates of interest awarded by the Court. However, the Town has appealed the judgments in their entirety (i.e., both principal and interest). The results of those appeals could alter the final Refund amount. In addition, the appeals

process will increase the Company's legal expense associated with the Refund which, if authorized by the Commission, will be deducted from the overall refund returned to customers, as discussed later in our testimony.

**21. Q. Please discuss the litigation that resulted in the Refund.**

A. As stated above, the Refund represents the refund payment to NYAW from the Town arising out of two judgments resulting from a series of court actions commenced by the Company. When these actions were first commenced, New York Water Service Corporation ("NYWS"), the plaintiff in one of the actions (the "NYWS Action"), and Long Island Water Corporation ("LIWC"), the plaintiff in the other action (the "LIWC Action"), were separately owned. During the course of these actions, the Commission approved the acquisition of NYWS by NYAW through various proceedings that resulted in the merger of NYWS and LIWC and the renaming of the merged entity to New York American Water Company. The NYWS Action and the LIWC Action nevertheless continued under separate captions and index numbers, followed slightly different procedural courses, and resulted in separate judgments.

**22. Q. Please describe the LIWC Action.**

A. In April 2003, LIWC commenced an action against the Town and various garbage districts located in the Town in the Supreme Court, Nassau County, which sought an order declaring the Town's imposition of special *ad valorem* levies for garbage and refuse services on LIWC's special franchise and public utility property (collectively "mass property") illegal, enjoining the continued imposition of such levies, and

ordering refunds with interest from the dates of each tax payment. LIWC commenced a new action every year from 2003 through and including 2014 when the Town ceased imposing the levies at issue. The consolidated index number for these actions is 6098/2011. The 1999 through 2002 actions were resolved in 2011 and were the subject of a prior Commission order.

**23. Q. Please describe the NYWS Action.**

A. In April 2008, NYWS commenced an action against the Town and various garbage districts located in the Town in the Supreme Court, Nassau County, which sought an order declaring the Town's imposition of special *ad valorem* levies for garbage and refuse services on NYWS's mass property illegal, enjoining the continued imposition of such levies, and ordering refunds with interest from the dates of each tax payment. NYWS commenced a new action every year from 2008 through and including 2012 when the Town ceased imposing the levies at issue. The consolidated index number for these actions is 6348/2011. The 2007 action was resolved in 2011 and was the subject of a prior Commission order.

**24. Q. What was the legal theory of the lawsuits?**

A. The actions were predicated on the theory that the special *ad valorem* levies for garbage and refuse services may only be levied on real property that is benefited by such services. Since the Company's "mass property" (i.e., mains, valves, hydrants and other appurtenances of the water utility system) does not generate garbage or refuse, it does not benefit from the collection and disposal services provided by the

Town and the various refuse and garbage districts. As a result, the Company argued that the special *ad valorem* levies on this property were unlawful and must be refunded.

**25. Q. When did the Company receive the Refund?**

A. On March 7, 2018 and April 9, 2018, the Court entered judgments for NYWS and LIWC respectively (at a 5.54% interest rate for the LIWC Action refund and a 5.0% interest rate for the NYWS Action refund). Thereafter, the Town bonded the judgment and payment was issued on July 16, 2018, in the amount of $5,306,849.75 to LIWC and $3,086,073 to NYWS.

## PROPOSED ALLOCATION AND DISPOSITION OF REFUND

**26. Q. How does the Company propose to allocate the Refund?**

A. The Company proposes to return all but $1 million of the Refund to its customers via a one-time sur-credit.

**27. Q. Is the Company proposing to retain the $1 million for shareholder benefit?**

A. No. While traditionally the Commission has allowed utilities to retain a portion of a net tax refund sufficient to incentivize such utilities to pursue tax mitigation efforts in the future, in this instance the Company seeks to utilize $1 million of the Refund, which would otherwise be considered the shareholder portion, to establish a conservation study and data-driven customer education and rebate program (the "Conservation Study and Rebate Program").

**28. Q. Why is it reasonable to allocate $1 million to the Conservation Study and Rebate Program?**

A. As we noted earlier, the $1 million amount represents the typical shareholder portion of the Refund. We have been informed by counsel that the Commission has traditionally allowed utilities to retain 12-20% of net property tax refunds for their shareholders; in this case, $1 million is approximately 12.5% of the total $8 million Refund. Allocating $1 million to the Conservation Study and Rebate Program is therefore reasonable because this amount is at the low end of the range of recoveries allowed in prior cases. Moreover, in this instance, the $1 million will not benefit shareholders, but instead will be dedicated to the Conservation Study and Rebate Program, thereby benefitting customers.

The Panel has also been advised by counsel that the Commission considers a utility's "efforts, risk and benefits" in achieving a property tax refund when determining how much of such refund a utility should retain. Given the considerable risk undertaken by the Company in pursuing the Refund, including incurring legal fees and costs that it would not recover if the NYWS Action and LIWC Action were unsuccessful, the $1 million dedicated to the benefit of ratepayers via the Conservation Study and Rebate Program is consistent with the Company's efforts, risks, and benefits associated with obtaining the Refund.

**29. Q. Please describe the proposed Conservation Study and Rebate Program.**

A. While the specifics of the Conservation Study and Rebate Program still must be developed in consultation with DPS Staff ("Staff"), the Company is evaluating water efficiency improvements, including both supply-side (i.e., primarily non-revenue water reduction) and demand-side (i.e., customer conservation) efforts. Through this program, the Company seeks to:

- Work toward reducing peak consumption by 15% in the next several years;
- Provide a tailored approach to communicate with customers about the importance of water conservation; and
- Facilitate customer participation in the program.

**30. Q. What is the preliminary framework of the proposed demand-side Conservation Study and Rebate Plan?**

A. The preliminary framework includes the following key elements:

- Customer ~~Surveys~~Survey;
- Customer Communications;
- Data Analysis and Validation;
- Optimized Irrigation Program;
- Low Income Concerns; and
- Monitoring and Reporting.

Further details will be developed with customer input and data analysis.

**31. Q. ~~What types of surveys are under consideration?~~ Can you explain the survey that NYAW will be conducting?**

A. ~~NYAW is considering two types of surveys: 1) a broad survey that would cover customers in both Company service areas; and 2) a more focused survey that concentrates on customers whose consumption has reached the highest tariff block.~~ Yes, NYAW is planning to launch a comprehensive survey during the week of November 12, 2018. The Company's survey vendor, ORC International, will conduct the survey on the Company's behalf.

**32. Q. How will the Company inform customers about the surveys?**

A. The ~~Company will use bill inserts, traditional news, social media and/or public meetings.~~ survey will be distributed to some 65,000 customers via email and a link to the survey will be posted on various social and other media sites to allow additional customers, for which the Company does not have emails, to participate. In addition, to ensure that customers without digital access are included, a number of phone surveys will also be conducted.

~~**33. Q. How does the Company plan to conduct the surveys?**~~

~~A. The Company is considering either retaining a third-party company or using its own capabilities to conduct statistically valid surveys via paper/mail and/or an online survey. In addition, the Company may use focus groups, customer advisory panels, or other direct customer communication channels (such as phone calls) to solicit more direct input from customers.~~

**33. ~~34.~~ Q. What types of questions will be included in the ~~broad~~ survey?**

A. The survey, which consists of 31 questions, will fall into the following categories:

- Basic demographics (e.g., number of persons per household, income range);
- Indoor water usage behavior (e.g., number of toilets, type of washing machine);
- Outdoor water usage behavior (e.g., automatic or manual systems, use of smart devices, number of ~~sprinklers~~zones and duration/time of application, pools); and
- Customer behaviors and preferences (e.g., receptivity to water saving actions and devices/appliances as well as communication preferences).

~~**35. Q. What is the focus of the second survey?**~~

~~A. Through the second survey, the Company will reach out to customers in the highest usage blocks. To prevent overlap, this focused survey would not be sent to customers also receiving the broad survey and would ask specific and relatively detailed questions regarding outdoor water usage. It will also query whether customers are interested in participating in an incentivized outdoor water reduction program. The survey results coupled with consumption data analysis will help identify key areas for conservation savings and will provide a solid technical basis for focused communications to both educate and inform customers of conservation programs and the potential for reducing their bills.~~

**34. ~~36.~~ Q. What is the time frame for the ~~surveys~~survey?**

A. The ~~Company is targeting implementation as soon as practical, with a goal of impacting 2019 summer season usage.~~ survey will stay active for approximately two weeks. The results of the survey along with other information obtained as part of the study will be used to attempt to reduce water usage for the 2019 summer season.

**35. ~~37.~~ Q. Please describe the customer communications programs.**

A. The Company will prepare a communications/outreach campaign around conservation that will use social media, news media, direct mailings, website enhancement and stakeholder meetings. The efficiency/conservation campaign will include:

- Providing indoor and outdoor water saving tools and tips;
- Communication with customers about the surveys and the programs;
- Meetings with customer focus groups and stakeholders to gather input to inform the development of the program; and
- School-based educational programs.

**36. ~~38.~~ Q. Please explain the Optimized Irrigation Program.**

A. While this program is still under development, the Company is considering the following elements:

- Irrigation contractor outreach – The Company will meet with irrigation contractors to discuss peak reduction goals and obtain important feedback on critical issues and solutions. Training workshops will be provided to ensure that contractors are using the most current information, including irrigation ordinances

that might apply and to set the schedule for automatic sprinklers. Partnership with the Irrigation Association of New York will also be a part of this program.

- ~~Incentivized irrigation~~Irrigation efficiency incentive program – ~~As a result of the focused survey, the~~The Company will reach out to appropriate customers based on the survey responses to participate in a first phase optimized irrigation program. The scope of this effort has not been finalized, but may include the following:
  - ~~Selected customers will receive a free audit~~NYAW is planning to offer water audits and ~~a~~ tailored ~~report~~reports on improvements that can be made to reduce outdoor water usage, if warranted (e.g., irrigation timer updates, rain or soil moisture sensors, smart irrigation devices) to participating customers.
  - With the customer's approval, the Company will use licensed irrigation contractors to make the improvements identified in the audit. The cost for such improvements would likely be shared between the customer and the Company.
  - The Company will analyze summer watering season data and the results would be used to assess the feasibility of a more comprehensive second phase program. The data would also be used to develop case studies to positively communicate and educate customers about making informed decisions on water consumption to reduce their bills.
- Demonstration of irrigation efficiency programs – The Company would seek to

conduct demonstrations with Nassau County, local parks and recreation departments and nurseries.

**37. ~~39.~~ Q. Will the project team collect information on other successful irrigation control programs in the United States?**

A. Yes. A summary of other successful programs, particularly those in the northeast, will be provided as a point of comparison.

**38. ~~40.~~ Q. What type of reporting does the Company propose?**

A. The Company proposes an annual report describing the progress of the various programs.

**39. ~~41.~~ Q. What would happen if the Commission determines that the shareholder portion of the Refund should be something other than $1 million?**

A. Should the Commission decide that the shareholder retention amount of the Refund be less than $1 million, the Company would reduce dollar for dollar its contribution to the Conservation Study and Rebate Program. On the other hand, should the Commission decide that the shareholder retention amount of the Refund be greater than $1 million, the excess amount would inure to the benefit of NYAW's customers by being allocated dollar for dollar to the Conservation Study and Rebate Program.

**40. ~~42.~~ Q. How would the remainder of the Refund not used for the Conservation Study and Rebate Program be distributed to customers?**

A. As stated above, the Company proposes that the remainder of the Refund be returned directly to its customers in the form of a one-time sur-credit. For efficiency and to

avoid multiple concurrent sur-credits, the one-time sur-credit would take into account a customer credit arising out of the federal income tax ("FIT") rate change resulting from the Tax Cuts and Jobs Act of 2017 ("TCJA") for the period of January 1, 2018, through September 30, 2018 (which the Company estimates to be $2.6 million). The sum of both credits (approximately $7 million related to the Refund and $2.6 million related to the TCJA) (together, the "Total Customer Credits") would first be used to offset the Company's Revenue Allocation Clause ("RAC") / Property Tax Reconciliation ("PTR") regulatory asset (approximately $2.9 million as of March 31, 2018) which otherwise would result in a customer surcharge starting on or about November 1, 2018.

**41. ~~43.~~ Q. Will residential and non-residential customers receive a portion of the Refund?**

A. Yes. While the Company had initially proposed that only residential customers receive a portion the Refund, after working with Staff to determine which classes of customers would receive the credit, it was decided that both residential and non-residential customers will receive a sur-credit. The exact allocation has not yet been finalized.

**42. ~~44.~~ Q. After offsetting the RAC/PTR regulatory asset, how would the remainder of the Total Customer Credits be treated?**

A. The remainder (approximately $6.4 million) would be returned directly to customers in the form of a one-time sur-credit. The one-time sur-credit allocated to each

customer would be calculated by applying a per CCF credit to each customer's water consumption over the previous 12 months. Exhibit PTRP-1 provides further information regarding the Total Customer Credits and proposed sur-credit.

**43. ~~45.~~ Q. Would the remainder of the Total Customer Credits be allocated evenly between the Company's two service areas?**

A. No. Approximately $3.9 million would be allocated to Service Area 1 customers and approximately $2.8 million would be allocated to Service Area 2 customers.

**44. ~~46.~~ Q. When would the sur-credit be implemented?**

A. The Company proposes to implement the sur-credit mechanism as soon as practical after the Commission approves the Company's proposal.

**45. ~~47.~~ Q. Is the Company's proposal in this proceeding consistent with the term sheet for the Proposed Global Settlement between NYAW and DPS?**

A. Yes. On August 18, 2018, the Company and DPS entered into a term sheet for a Proposed Global Settlement addressing: 1) the Sea Cliff District property tax matter regarding the over-assessment of certain utility property due to a Company error that resulted in higher than necessary property taxes paid by NYAW; and 2) customer notification related to changes to a rate schedule (the "Global Settlement Term Sheet"). As part of the Global Settlement Term Sheet, the Company agreed to petition the Commission to accelerate the allocation of the Refund to its customers. The Global Settlement Term Sheet further required NYAW to contribute the entire

Company shareholder retention from the garbage settlement to a conservation study and rebate program designed in consultation with DPS.

**INTEREST ACCRUED ON REFUNDS**

**46. ~~48.~~ Q. Have ratepayers earned interest on the Refund amount that is being held by the Company pending resolution of this proceeding?**

A. Yes. Ratepayers will continue to receive interest on the funds until they are disposed of via a refund or other disposition. The interest is reflected in the Refund amounts shown on Exhibit PTRP-1.

**FEES AND COSTS TO OBTAIN REFUNDS**

**47. ~~49.~~ Q. In order to obtain the approximately $8.4 million in property tax refunds at issue in this proceeding, was it necessary for the Company to incur legal fees and costs?**

A. Yes. As set forth in detail in the Company's Verified Petition at pages 2-8, the Company had to bring multiple multi-year lawsuits against the Town of Hempstead and the various garbage and refuse districts within the Town challenging the taxes levied for garbage and refuse services.

**48. ~~50.~~ Q. In bringing these lawsuits, did the Company require outside legal representation?**

A. Yes. Given the complexity of the various lawsuits, the Company hired outside real property tax counsel to prosecute these matters its behalf.

**49. ~~51.~~ Q. What is the amount of outside legal fees that the Company is seeking to offset against the Refund?**

A. The Company is seeking to offset outside legal fees and associated legal expenses (or disbursements) incurred of approximately $388,000 against the overall Refund amount. The Company created a work order to reflect the legal costs for challenging the taxes paid to the Town of Hempstead. The Company's legal fees associated with these litigations are set forth in Exhibit PTRP-1.

**50. ~~52.~~ Q. When did the Company incur these legal costs?**

A. The costs were incurred from 2012 to May 2018.

**51. ~~53.~~ Q. Will the outside legal fees and costs increase given the need for outside law firm work to defend and/or increase the Refund available for ratepayers?**

A. Yes. As noted in the Verified Petition at Footnote 3 and previously in our testimony, the Company is pursuing and the Town may pursue further appellate court review of the underlying legal proceedings that resulted in the Refund. As a result, the Company will incur additional legal costs to prosecute its appeal and, in all likelihood, defend the Refund against challenge. The Company's appeals also could result in an increased Refund should the Company be successful in obtaining an increase in the interest the Town is required to pay on the judgments.

**52. ~~54.~~ Q. How does the Company propose to treat these additional legal expenses?**

A. To the extent such costs are incurred prior to disposition of the Refund, the Company proposes that they be included in an updated offset amount. To the extent that such

legal fees and costs are incurred after disposition of the Refund, the Company requests that the fees be deferred for future recovery in the Company's next base rate case.

**53. ~~55.~~ Q. Does the Company seek to offset internal legal resource time against the Refund?**

A. No.

**54. ~~56.~~ Q. Does the offset being sought include the cost of Company personnel involved in prosecuting the litigations against the Town?**

A. No. The Company does not request to offset the cost of any internal human resource time.

**55. ~~57.~~ Q. Did the Company need to hire an expert witness as part of its successful prosecution of the NYWS Action and the LIWC Action?**

A. Yes. The Company retained an expert, Dr. Patrick Gaughan, President of Economatrix Research Associates, Inc., to calculate the appropriate interest rate to be paid by the Town of Hempstead. The costs associated with this expert were included in the $388,000 in fees, disbursements and costs for legal services.

**56. ~~58.~~ Q. Does this conclude your direct testimony at this time?**

A. Yes, it does.