

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a continued hearing of the Public
Service Commission, held at Jefferson
City, Missouri, on the 10th day of
April, 1979.

CASE NO. SA-78-240

In the matter of the application of
HERCULANEUM SEWER COMPANY for permission,
approval, and a certificate of convenience
and necessity authorizing it to construct,
install, own, operate, control, manage and
maintain a sewer system for the public
located in an incorporated portion of the
community of Herculaneum, Missouri.

BEFORE:

THOMAS R. PARKER, Presiding,
HEARING EXAMINER.

REPORTED BY:

ROBERT L. STRATMAN

Missouri Public Service Commission

APPEARANCES:

W. R. ENGLAND, III, Attorney at Law,
Hawkins, Brydon & Swearingen, PC,
P. O. Box 456,
Jefferson City, Missouri 65102,

FOR: APPLICANT,
HERCULANEUM SEWER COMPANY.

GARY W. DUFFY, Assistant General Counsel,
Missouri Public Service Commission,
P. O. Box 360,
Jefferson City, Missouri 65102,

FOR: STAFF OF THE MISSOURI PUBLIC
SERVICE COMMISSION.

Missouri Public Service Commission

1 PURSUANT to a letter from Mr. W. R. England,
2 III, of the law firm of Hawkins, Brydon & Swearengen,
3 Professional Corporation, 312 East Capitol Avenue, P. O.
4 Box 456, Jefferson City, Missouri 65102, said letter
5 contained the following: "The above-referenced matter
6 represents the application of Herculaneum Sewer Company for
7 a certificate of convenience and necessity as a regulated
8 sewer company. Initial hearings were held on this appli-
9 cation on August 18, 1978, and additional hearings have been
10 scheduled for May 24, 1979.

11 "The purpose of this letter is to request
12 an earlier hearing date for this matter, and specifically, to
13 request that it be set for April 10, 1979. That date had
14 previously been set aside for hearing the St. Joseph Light &
15 Power Company complaint case against Burlington Northern, Inc.,
16 Commission Case No. RC-78-86. That complaint case has been
17 dismissed, which would make available one of the Commission's
18 hearing rooms for April 10. I have checked with the Examiner
19 assigned to this case and the Staff attorney, as well as
20 the Staff personnel involved in this matter, and they are
21 agreeable to an April 10 setting."; and thereafter on the
22 10th day of April, 1979, at the time, date and place indicated
23 in said letter the following proceedings were had at approxi-
24 mately 10:30 a.m., Tuesday, April 10, 1979:

25 (Written Entries of Appearance filed.)

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1 EXAMINER PARKER: The hearing will come to
2 order.

3 The Commission has set for hearing today
4 Case No. SA-78-240; in the matter of the application of
5 Herculaneum Sewer Company to obtain a certificate of
6 public convenience and necessity.

7 The case was partially heard previously,
8 on August 18, 1978. At that time, I believe Applicant put
9 on its case, and the Staff's Counsel reserved their right
10 to cross-examination.

11 Are there any preliminary matters before we
12 proceed today?

13 Well, make your oral entries of appearance,
14 please.

15 MR. ENGLAND: Let the record reflect the
16 appearance of W. R. England; mailing address, Hawkins,
17 Brydon & Swaengen, P.C., Post Office Box 456, Jefferson
18 City, Missouri, Zip Code 65102, appearing on behalf of the
19 Applicant, Herculaneum Sewer Company.

20 MR. DUFFY: Gary W. Duffy, Assistant General
21 Counsel, P. O. Box 360, Jefferson City, Missouri, appearing
22 for the Staff of the Commission.

23 EXAMINER PARKER: I assume you have made your
24 written entries of appearance; if you have not, please do.

25 Now are there any preliminary matters before

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1 EXAMINER PARKER: The hearing will come to
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16 appearance of W. R. England; mailing address, Hawkins,
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19 Applicant, Herculaneum Sewer Company.

20 MR. DUFFY: Gary W. Duffy, Assistant General
21 Counsel, P. O. Box 360, Jefferson City, Missouri, appearing
22 for the Staff of the Commission.

23 EXAMINER PARKER: I assume you have made your
24 written entries of appearance; if you have not, please do.

25 Now are there any preliminary matters before

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1 we proceed?

2 MR. ENGLAND: Well, not so much, I think,
3 in a preliminary nature, or maybe a preliminary nature, Your
4 Honor, but in the intervening time since the first hearing,
5 we have had an opportunity to talk with the Staff, and not
6 only put together additional information that they requested,
7 but also to amend our application, as of last week, to
8 include a request for permission to issue long-term debt,
9 which will be concurrent with, hopefully, the certification
10 of this utility; that that, as will be explained in the
11 testimony of the Company, is necessary to the construction
12 of the initial facilities.

13 EXAMINER PARKER: All right.

14 Call your first witness, Mr. England.

15 MR. ENGLAND: Thank you very much.

16 Mr. Kenneth McClain, please.

17 EXAMINER PARKER: Raise your right hand to be
18 sworn, sir.

19 (At this time Mr. Kenneth McClain was duly
20 sworn.)

APPLICANT'S EVIDENCE (CONTINUED):

K E N N E T H M C C L A I N, called as a
witness in behalf of the APPLICANT,
HERCULANEUM SEWER COMPANY, being duly
sworn, testified as follows:

DIRECT EXAMINATION BY MR. ENGLAND:

Q State your name and address for the record,
please.

A My name is Kenneth McClain; my address is
Box 173, High Ridge, Missouri.

Q Mr. McClain, by whom are you employed?

A Essex Contracting.

Q And are you also--in what capacity are you
employed by Essex Contracting?

A Vice-President.

Q Are you also associated with the Applicant,
Herculaneum Sewer Company?

A Yes, sir.

Q And what position do you hold with the
Applicant?

A I am President.

Q President of Herculaneum Sewer Company?

A Yes, sir.

Q Are you authorized to appear here on behalf
of the Applicant and testify?

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1 A Yes, sir.

2 Q Mr. McClain, did you cause to be filed, very
3 recently, an amended application in this matter, which was
4 to include a request for authority to issue long-term debt?

5 A Yes, sir.

6 Q And I believe it is already in the record,
7 but, if I could, turn your attention to what has previously
8 been marked for purposes of identification as Applicant's
9 Exhibit No. 6, would you describe for the record what that
10 exhibit purports to show, please.

11 A Okay. This is the loan agreement with the
12 Boatmen's Bank of Jefferson County, for a loan commitment
13 over a seven-year period, for \$120,000, for the Herculaneum
14 Sewer Company.

15 Q And is that loan to be secured by a First
16 Deed of Trust on the sewer lines, with assignment of tap-on
17 and user fees?

18 A Yes, sir.

19 Q And in order to secure that commitment, did
20 you also need to post the guarantees of the individuals
21 associated with the Herculaneum Sewer Company?

22 A Yes, sir.

23 Q At what--you may have testified to this,
24 but would you restate, please, at what interest rate is
25 the bank proposing to loan you money?

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1 A An interest rate of two percent, it is a
2 floating interest rate of two percent over prime.

3 Q I see. And are payments to principal to be
4 made over the full seven years, or something less than that?

5 A No. The first year is just interest by
6 itself. And the amortization and interest over the next
7 six years.

8 Q Is this loan commitment contingent upon you
9 receiving authorization from this Commission to operate as a
10 sewer utility?

11 A Yes.

12 Q And I note the date of the commitment, I
13 believe, is June of 1978. Has that commitment been extended,
14 or is it still available to you?

15 A Yes; yes, the loan has been made.

16 Q All right.

17 MR. ENGLAND: At this time, Your Honor,
18 could I have permission to mark for purposes of identification
19 a one-page exhibit, which, I believe, will be Applicant's
20 Exhibit No. 10?

21 EXAMINER PARKER: All right.

22 MR. ENGLAND: We stopped with 9 at the other
23 hearing.

24 EXAMINER PARKER: All right.

25 MR. ENGLAND: I have a limited number of

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1 copies, and will provide as many as need be later on, if
2 that is permissible.

3 EXAMINER PARKER: All right.

4 (AT THIS TIME APPLICANT EXHIBIT NO. 10 WAS
5 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)
6 BY MR. ENGLAND:

7 Q Mr. McClain, could I turn your attention
8 to a one-page document, which has been marked for purposes
9 of identification as Applicant's Exhibit No. 10, and would
10 you describe for the record what that exhibit is and what
11 it purports to show.

12 A Well, it is a balance sheet of Herculaneum
13 Sewer Company. It shows what, basically, the assets and
14 liabilities of the corporation are.

15 Q And included in those liabilities, have you
16 pro formaed, if you will, the loan which is the subject
17 of the amended application?

18 A (No response.)

19 Q Let me turn your attention to Line 19.

20 A Okay. This indicates the \$120,000 loan
21 that we have secured from the Boatmen's Bank of Jefferson
22 County.

23 Q So, this balance sheet assumes that the
24 \$120,000 is available to the Company for the purposes of
25 constructing the system, is that correct?

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1 A That's correct.

2 Q And it is included in the capitalization of
3 the Company as a long-term debt, if you will?

4 A That's correct.

5 Q All right. Or at least a note payable for
6 one year or more. Let me turn your attention to the first
7 line, Cash, \$21,000, approximately, is that monies that
8 have been spent by the Company in the construction of the
9 system?

10 A This is what is left, cash on hand, the
11 \$21,000.

12 Q I see. Let me turn your attention, then,
13 down to Line 8, Line 8 and the line before that, or the
14 line after that, entitled "Other current assets, Engineering,
15 \$14,240." Are those monies spent by the Company for
16 purposes of engineering the system and in preparing for
17 this case?

18 A Yes, sir.

19 Q And work in progress, the line below that,
20 is the sewer lines, the \$117,230.31, is that the cost of the
21 system in service or at least in the ground as of today?

22 A Yes.

23 Q Or as of April 9, 1979. Mr. McClain, was
24 this exhibit prepared by you or under your direct supervision?

25 A Yes, sir.

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1 Q And are the numbers contained in this
2 exhibit true and correct, to the best of your knowledge?

3 A Yes, sir.

4 MR. ENGLAND: Your Honor, if I may have
5 permission, I would like to have marked another exhibit,
6 a one-page document, as Applicant's Exhibit No. 11, I believe.

7 EXAMINER PARKER: All right.

8 (AT THIS TIME APPLICANT EXHIBIT NO. 11 WAS
9 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)
10 BY MR. ENGLAND:

11 Q Mr. McClain, would you turn your attention
12 now to what has been marked for purposes of identification
13 as Applicant's Exhibit No. 11, and explain for the record
14 what that purports to show.

15 A The income and expenses of Herculaneum
16 Sewer Company, projected for the next two years.

17 Q I see. And was this prepared by you or
18 under your direct supervision?

19 A Yes.

20 Q Is it true and correct, to the best of your
21 knowledge and belief?

22 A Yes, sir.

23 Q Is this a similar breakdown or a similar
24 approach, if you will, as that taken in your feasibility
25 study or amended feasibility study, which has previously

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1 been marked as Applicant's Exhibit No. 3? And let me show
2 you that, to refresh your memory.

3 A Yes, it is.

4 Q I note that some of the expenditures have
5 changed; is that as a result of your conversations with the
6 Missouri Public Service Commission Staff and reevaluation
7 of the Sewer Company's operations, at least for the first two
8 years of operation?

9 A Yes.

10 Q Does the loan amortization amount, the amount
11 denoted by three asterisks, include the loan that is the
12 subject of the amended application?

13 A That's correct.

14 Q In other words, does it also include or does
15 it include, besides principal, interest payments on that
16 loan?

17 A Not for the first year. The first year is
18 just interest payments.

19 Q All right. And, then, the second year would
20 include interest plus principal?

21 A Yes.

22 Q Okay. So, in this exhibit, you have factored
23 into your income and expenditure statement the principal
24 and interest payments on the loan for the first two years,--

25 A That's correct.

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1 Q --is that correct?

2 A That's correct.

3 Q Thank you. Mr. McClain, is the purpose of
4 the loan that is the subject of the amended application to
5 finance initial construction of the sewer system?

6 A Yes; initial construction.

7 Q In other words, it will be used purely for
8 capital expenditures only, is that correct?

9 A Uh-huh; right.

10 Q When will the system be constructed, do you
11 have an idea?

12 A We are on the final stages of it right now,
13 just the pump station is really--

14 Q Within two or three weeks--

15 A Yes.

16 Q --the system will be fully constructed?

17 A Constructed, except to the--the only thing
18 we have to wait on is possibly the power.

19 Q I see. And you have an exhibit, for later
20 on, do you not, breaking down your actual construction
21 costs to date?

22 A Yes.

23 Q All right.

24 MR. ENGLAND: Mr. Examiner, at this time,
25 could I have permission to mark as an exhibit, and I am

1 afraid I only have two copies, but will provide more at
2 a later date, a copy of the Resolution of the Board of
3 Directors of the Applicant, authorizing the take-down of the
4 loan, that is the subject of the amended application?

5 EXAMINER PARKER: All right; that will be
6 Applicant's Exhibit No. 12.

7 (AT THIS TIME APPLICANT EXHIBIT NO. 12 WAS
8 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)
9 BY MR. ENGLAND:

10 Q At this time, Mr. McClain, would you turn
11 your attention to what has been marked for purposes of
12 identification as Applicant's Exhibit No. 12, and describe
13 for the record what that purports to be.

14 A Okay. This is the minutes of one of our
15 Board meetings, which allowed me to sign for the loan at
16 the Boatmen's Bank at Pevely, for \$120,000.

17 Q In other words, the loan that is the subject
18 of the amended application has been approved by the Board
19 of Directors of the Applicant, is that correct?

20 A That's correct.

21 Q And that is what this exhibit shows?

22 A (Witness McClain nodded head.)

23 Q Mr. McClain, I am going to shift gears on you
24 now, but I want to ask a line of questions or a line of
25 questioning, rather, as a result of our informal meetings

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1 with the Staff of the Missouri Public Service Commission.
2 First of all, you are familiar with the addendum to the
3 engineering study, which has previously been submitted and
4 is Applicant's Exhibit No. 3, in this matter, are you not?

5 A Yes.

6 Q And I think one of the construction require-
7 ments is the installation or construction, rather, installation
8 and operation of a lift station, is that correct?

9 A Yes, sir, it is.

10 Q And there was concern over the, for lack of
11 a better word, continued operation or integrity of that
12 lift station, and is it your understanding that you have an
13 agreement with the sewer district that currently serves
14 Herculaneum, the Herculaneum--I guess the City of Herculaneum,
15 that that lift station, they will provide power to it, as
16 well as additional backup power, is that correct, should
17 something go wrong?

18 A We are providing actual power, they are
19 providing the backup power.

20 Q I see. So, there is a secondary source of
21 power, should something happen to the initial source of power?

22 A Yes, sir. There is an agreement.

23 Q And will this strengthen the adequacy and the
24 reliability of that lift station, in your opinion?

25 A Yes.

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1 Q Mr. McClain, in the income and disbursement
2 projection, five-year projection included in Applicant's
3 Exhibit No. 3 you have projected the number of new customers
4 for the first five years of operation. Those numbers are
5 still correct to this day, is that correct?

6 A Yes, they are.

7 Q And is it your testimony that a proposed
8 connection fee of \$650 be authorized for the Herculaneum
9 Sewer Company?

10 A Yes.

11 Q And that is also addressed in this exhibit,
12 is that not correct?

13 A Yes.

14 Q Now I believe, in discussions with the Staff,
15 there was some concern over whether the connection fees
16 would cover the cost of construction, or exceed that cost
17 of construction, and as a result of that conversation, has
18 the Company agreed to, in effect, escrow amounts collected
19 as connection fees from its customers?

20 A Yes.

21 Q And has the Company been willing or is the
22 Company willing, rather, to place on that escrow amount
23 certain restrictions for the use of that money?

24 A Yes.

25 Q And would those restrictions, one be to

1 service the debt that is the subject of the amended
2 application?

3 A Yes.

4 Q In other words, payment of principal and
5 interest of the long-term debt, evidenced by Applicant's
6 Exhibit No. 6?

7 A That's correct.

8 Q Secondly, should the need arise to construct
9 additional plant, that money would be used for additional
10 capital expenditures?

11 A Uh-huh; that's correct.

12 Q And to the extent that it is necessary to
13 repair or replace the existing system, requiring capital
14 expenditures, would those monies, those escrow monies be
15 available for that?

16 A Yes.

17 Q And, finally, when those three items that
18 I have previously mentioned have been taken from the escrow
19 amount, should any be left over, and capital expenditures
20 no longer be required by the Company, is it the agreement
21 of the Company or the understanding of the Company that that
22 excess will be refunded to the customers?

23 A Yes.

24 Q Or in the event the system is sold, if there
25 was an excess, those monies may be used to offset the ultimate

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1 purchase price or sale price of the system?

2 A Yes.

3 Q I am going to need to take you back to
4 Applicant's Exhibit No. 11, which has previously been marked,
5 and this is the two-year projection, is it not, of income
6 and disbursements by the Company?

7 A That's right.

8 Q And I am more interested now in the expenditures;
9 would you please identify those for the Commission and for
10 the record, and whether those are--I take it they are on
11 an annual basis, is that correct?

12 A Yes, sir.

13 Q Would you please explain each one of those,
14 and the amount associated with it in the first two years
15 of operation?

16 A Well, you have, of course, your electric,
17 which is for the operation of your plant, and your maintenance--
18 do you want the dollar amounts?

19 Q Yes; if you would, please.

20 A Okay. This is the engineer's estimate, that
21 we are using \$840 a year for the first year on electric.
22 Your maintenance is \$900 a year. The operation of the
23 plant is \$1,200. Administrative costs are about \$2,400 a
24 year.

25 Q I see. And the treatment costs, how much will

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1 those be in the first year of operation?

2 A The treatment charges, the treatment itself
3 is \$1,350.

4 Q And will those increase in the second year?

5 A Yes.

6 Q And what will they increase to?

7 A \$4,350.

8 Q And is the reason that they will increase is
9 not because of the cost of the treatment, but the number of
10 customers added to the system in the second year?

11 A That's correct.

12 Q You have a contract with the sewer district,
13 do you not, to treat the waste of Herculaneum Sewer Company
14 at a cost of \$5 per month per customer?

15 A Yes, sir.

16 Q Finally, or not finally, but there is another
17 item, insurance, which is \$410 for the first two years of
18 operation. Insurance on what, if you know, Mr. McClain?

19 A Well, primarily the pump station and the lines.

20 Q Okay. And, finally, an item, it is not
21 finally yet, an item known as miscellaneous, \$800. Do you
22 know what that amount includes?

23 A Miscellaneous.

24 Q Miscellaneous. In other words, all other
25 expenses that you may incur but not particularly itemized
above?

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1 A That's right.

2 Q Items, I would suppose, of ten or \$20, or
3 small amounts, but, nevertheless, would add up to approximately
4 \$800 over a year's operation?

5 A That's correct.

6 Q And, finally, we mentioned the loan amortization
7 as one other item, and I don't mean to over-emphasize or
8 over-stress it, but the loan amortization, it is the
9 intention of the Company to pay that out of the connection
10 fees, is it not?

11 A That's correct.

12 Q Based upon these cash expenditures, as shown
13 in Applicant's Exhibit No. 11, is it the belief of the
14 Company that a monthly service charge - excuse me a second -
15 in the neighborhood of \$10.50 is appropriate for the
16 Company for the first two years of operation?

17 A Yes, it is.

18 Q All right. One other question, Mr. McClain,
19 with respect to the treatment charges charged by the sewer
20 district, is it your opinion, as an officer of the Company
21 and a man who, I assume, negotiated the contract with the
22 sewer district, that this manner of treatment, that is,
23 through contract with the sewer district, as opposed to
24 your own in-house treatment of the sewer system, is more
25 beneficial not only from your standpoint but the customer's
 standpoint?

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1 A Yes, sir. We couldn't treat it for what
2 the cost of the sewer district can.

3 Q Could you speak up, please.

4 A We couldn't--we couldn't handle the treatment
5 for what the cost of the sewer district can.

6 Q In other words,--

7 A It would be much cheaper than us.

8 Q In other words, is it your testimony that
9 it would be more expensive to treat your own waste rather
10 than have the sewer district treat it at \$5 a month per
11 customer?

12 A Yes, sir, it is.

13 Q Are there any environmental concerns that
14 enter into your decision to enter into this contract?

15 A Well, as to concerns,--are you saying that--
16 I am not really quite sure I understand what you are
17 saying.

18 Q Well, is it more beneficial from your point
19 of view to have the Herculaneum sewer district, I suppose,
20 treat this waste rather than have a second treatment plant
21 located within the certificated area of the Company?

22 A Oh, yes, sir. The treatment requirements are
23 more stringent on us than what they would be for the
24 Herculaneum sewer district itself.

25 Q And is that because your treatment facility

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1 would have been located near a lake or a pond area?

2 A Uh-huh; that is correct; sure.

3 Q Finally, has this alternative and this
4 contract been concurred in by the Department of Natural
5 Resources, if you know, sir?

6 A Yes.

7 Q It has been concurred in by them. They have
8 reviewed this proposal and the contract, and find it--

9 A Well, they concur with the plan and can go
10 along with it, that we have the Herculaneum sewer district
11 treat it, that it was a preferable plan.

12 Q All right. Mr. McClain, the Company has
13 another witness, does it not, who will testify as to the
14 actual construction costs of the system as it is in place
15 today?

16 A Yes, sir.

17 Q And who will that witness be, sir?

18 A It will be Norville McClain, the President
19 of Essex Contracting Corporation.

20 Q And Essex Contracting Company has performed
21 the actual construction of the system, is that correct?

22 A Yes.

23 Q And he would be in a better position to
24 testify as to the costs charged to Herculaneum Sewer Company
25 for the construction?

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1 A Yes.

2 Q All right.

3 MR. ENGLAND: At this time, Your Honor, I
4 believe I have no other questions of Kenneth McClain.

5 I would ask, subject to cross-examination,
6 that Applicant's Exhibits 10, 11 and 12 be admitted into
7 evidence.

8 And if I have not done so, request that
9 Applicant's exhibits that preceded it, 1 through 10, or 1
10 through 9, rather, also be included. I realize, and I was
11 a little bit late in realizing it, only as of this morning,
12 two previously marked exhibits have not been submitted and
13 were to be submitted on a late-filed basis, one being the
14 approval of DNR, and the other being a written contract
15 entered into between this company and the sewer district,
16 both of those exhibits will be forthcoming within the
17 next few days. It was an oversight on my part, and I
18 apologize for not having them here at this hearing today.
19 But, nevertheless, I would like to--subject to cross-
20 examination, I would like to offer all of Applicant's
21 exhibits to date into the record.

22 EXAMINER PARKER: All right.

23 Any cross-examination, Mr. Duffy?

24 MR. DUFFY: May we go off of the record for
25 a minute?

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1 EXAMINER PARKER: Let's go off.

2 (Discussion off of the record.)

3 EXAMINER PARKER: All right. The hearing will
4 come to order.

5 CROSS-EXAMINATION BY MR. DUFFY:

6 Q Mr. McClain, does Herculaneum Sewer Company
7 have a construction permit from the Department of Natural
8 Resources for constructing the sewers?

9 A Yes.

10 MR. DUFFY: That is all I have.

11 EXAMINER PARKER: Is there anything further?

12 MR. ENGLAND: No. As a matter of fact, that
13 construction permit would have been supplied here today but
14 for my oversight. We have it now, we didn't at the original
15 hearing, and I will submit that within the next day or so,
16 as soon as I get my hands on it and make sufficient copies.

17 EXAMINER PARKER: Thank you, Mr. McClain.
18 You may step down.

19 (Witness excused.)

20
21
22 EXAMINER PARKER: Any objection to Applicant's
23 Exhibit Nos. 10, 11 and 12?

24 MR. DUFFY: Can we go off a second?

25 EXAMINER PARKER: Let's go off.

(Discussion off of the record.)

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1 EXAMINER PARKER: The hearing will come to order.

2 MR. DUFFY: The Staff has no objections to
3 the exhibits, with the exception of a typo, which is going
4 to be corrected.

5 MR. ENGLAND: While we were off of the record,
6 Mr. Examiner, the Staff pointed out that there is a \$20
7 error in the second column of Applicant's Exhibit No. 11,
8 and rather than show how it affects each line down to the
9 bottom line, I will just correct, for purposes of the
10 record, the bottom line, and that is the "Net Cash Change,"
11 the Company will experience, instead of a \$295 deficit in
12 Year No. 2, a \$315 deficit, and the Net Cash Change, then,
13 would not be \$8,290, but \$8,270.

14 EXAMINER PARKER: All right. Applicant's
15 Exhibits 10, 11 and 12 are received. According to the
16 transcript of the prior hearing, the Applicant's previous
17 exhibits have been received, except for the late-filed ones.

18 (AT THIS TIME APPLICANT'S EXHIBIT NOS. 10, 11
19 AND 12 WERE RECEIVED IN EVIDENCE AND MADE A PART OF THIS RECORD.)

20 MR. ENGLAND: At this time, Mr. Examiner,
21 could I call Mr. Norville McClain to the stand?

22 EXAMINER PARKER: All right.

23 Raise your right hand and be sworn, sir.

24 (At this time Mr. Norville McClain was duly
25 sworn.)

- 1
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DIRECT EXAMINATION BY MR. ENGLAND:

EXAMINER PARKER: All right.

Missouri Public Service Commission

1 cost of that construction?

2 A Yes, we have.

3 Q Could I turn your attention to what has
4 previously been marked for purposes of identification as
5 Applicant's Exhibit No. 13, and ask that you describe what
6 that exhibit purports to show.

7 A It describes the breakdown of the proportions
8 of the work that we done for the Herculaneum Sewer Company.
9 And it also states the amounts that was paid by Herculaneum
10 Properties for sewer development in the subdivision itself.
11 And it also states the amount that was paid by Herculaneum
12 Properties that was actually part of the trunk line prior
13 to January 1, 1979. And it also states our estimate of
14 what the balance is left to complete the sewer project in
15 its entirety.

16 Q Now, Mr. McClain, is it my understanding--first
17 of all, was this exhibit prepared by you or under your
18 direct supervision?

19 A Yes, it was.

20 Q And are those figures true and correct,
21 to the best of your knowledge and belief?

22 A Yes, they are.

23 Q In fact, is it true, isn't it true, rather,
24 that you have supporting data and underlying bills that will
25 support these cost breakdowns here in the hearing room?

Missouri Public Service Commission

1 A Yes, sir, we have.

2 Q And they are available to anyone who wants
3 to look at them, is that correct?

4 A Yes, sir.

5 Q Let me turn your attention to Applicant's
6 Exhibit No. 3, which is the amended feasibility report in
7 this case, Mr. McClain, and on Page FC-AD-1, the Applicant
8 has made a breakdown of the construction expenditures
9 necessary to complete the system, and their estimated value.
10 Can we look at some of these expenditures and see how they
11 are running. I noticed the first on your exhibit is
12 "River Crossing," that was estimated at \$30,000, but
13 apparently it has taken less money to make that, is that
14 correct?

15 A Yes, sir. We made that river crossing
16 during the latter part of December and the early part of
17 January, and we had exceptionally good luck, the river
18 crossing was low, and it didn't take us long to get across
19 as what we had assumed it would under our original estimate.

20 Q And let me ask you with respect to the
21 force main, you have actually billed \$18,480.70; the projection
22 per the feasibility study, if I am correct, was \$17,600, is
23 that correct?

24 A Yes, sir. That reflected some increase that
25 we had in the cost of PVC pipe.

Missouri Public Service Commission

1 Q So, there is the increase there, although
2 what I would call negligible, is due to a cost or an
3 increase in the cost of material?

4 A Yes, sir.

5 Q All right. The highway boring listed on your
6 exhibit, of \$22,946.83, is that reflected on Page FC-AD-1?

7 A Yes, it is.

8 Q On Applicant's feasibility study?

9 A Yes, sir, it is.

10 Q Is that the Highway 61-67 crossing?

11 A Yes. Well, there is several crossings.
12 There was another crossing we had made and they are all
13 lumped into one--

14 Q Well, let me ask--

15 A --into one lump price.

16 Q Let me ask, the highway boring that you show
17 on your exhibit, that includes the cost of boring Highway
18 61 and 67, is that correct?

19 A Yes, sir.

20 Q Does it also include the boring of Highway--
21 or a street known as Joachim Street?

22 A Yes, it does.

23 Q And that was not--the cost of boring Joachim
24 Street was not included in the Company's feasibility study,
25 was it, if you know?

Missouri Public Service Commission

1 A No, sir, it was not.

2 Q Okay. So that was just an oversight on our
3 part in preparing the feasibility study, but an additional
4 expense that the Company found necessary to make?

5 A Yes, sir, it was.

6 Q The Highway I-55 right of crossing is
7 estimated at \$44,800 in the Company's feasibility report,
8 that as of today has not been made, is that my understanding?

9 A That has not been made, no, sir.

10 Q And that is reflected on the bottom part of
11 your bill or letter, that that remains to be made, and you
12 have estimated the cost at approximately \$45,000?

13 A Yes, sir.

14 Q Now based on your experience with crossing
15 Highway 61 and 67, and crossing Joachim Street, do you
16 estimate that this boring will be more expensive than the
17 \$45,000 projected by you in your exhibit?

18 A No, sir. I feel that we will be within the
19 cost of the projection, \$45,000.

20 Q Let me take your attention back to the 12-inch
21 trunk line, installed at a cost of \$16,318.12, does that or
22 is that 12-inch trunk line the same that is reflected in
23 Applicant's Exhibit No. 3?

24 A Yes, sir.

25 Q And I believe the estimated cost was \$17,800,

Missouri Public Service Commission

1 A Yes, sir.

2 Q In other words, you have come in under your
3 estimate for that particular piece of construction?

4 A Yes, sir, we have; by approximately \$700.

5 Q All right. Now the lift station, you have
6 costed at \$17,396.25, and it is estimated at \$26,800 in
7 the feasibility study. Is the lift station, as built by
8 you, complete?

9 A No, sir, it is not.

10 Q And is that included in your estimate of
11 further construction that needs to be done at the bottom
12 half of that letter, your Exhibit No. 13?

13 A Yes, sir.

14 Q If I am not--if my addition is not wrong,
15 it appears that the lift station will ultimately cost
16 approximately \$3,000, give or take a few dollars, more than
17 is projected, is that correct?

18 A Right. This requires additional electric
19 work, that the emergency standby generating system at
20 Herculaneum Sewer Company--or the Herculaneum Sewer District
21 has, that could be adapted to our plant, and this difference
22 amounted to approximately \$3,000 in making the changeover
23 in electricity.

24 Q This changeover will benefit or at least
25 ensure that the lift station will operate in a more reliable

Missouri Public Service Commission

1 manner, is that my understanding?

2 A It will operate in case of a normal power
3 breakdown.

4 Q I see. And Kenneth McClain has testified
5 to that contingency, has he not, previously in this proceeding?

6 A Yes, sir.

7 Q Could you summarize for me the actual amount
8 of construction costs expended to date?

9 A To date, Essex Contracting has received from
10 Herculaneum Sewer Company a total of \$117,230.31 for actual
11 sewer construction.

12 Q I see. And what does it estimate it will have
13 to expend in the future to complete the system?

14 A An additional \$57,000, making a total of
15 \$176,330.31.

16 Q All right. Thank you very much. Mr. McClain,
17 are you at all affiliated with Herculaneum Sewer Company?

18 A Yes, I am.

19 Q In what capacity, sir?

20 A I am one of the partners or one of the
21 stockholders.

22 Q Do you hold any official position?

23 A No, sir.

24 Q Just a stockholder with the Company?

25 A Yes, sir.

Missouri Public Service Commission

1 MR. ENGLAND: I do not have any further
2 questions of this witness, Mr. Examiner, and would offer
3 Applicant's Exhibit No. 13 into evidence, subject to cross-
4 examination by Staff.

5 EXAMINER PARKER: Any cross-examination,
6 Mr. Duffy?

7 CROSS-EXAMINATION BY MR. DUFFY:

8 Q Mr. McClain, you said you are a stockholder
9 of the Sewer Company?

10 A Yes, sir.

11 Q And you are also President of Essex Contracting?

12 A Yes.

13 Q Is Essex Contracting the only contractor
14 that has been used by the Herculaneum Sewer Company in
15 constructing the sewer system?

16 A The only general contractor. There will be a
17 subcontractor, there is subcontractors, of course.

18 Q There was a subcontractor for boring, wasn't
19 there?

20 A There is a subcontractor for partial boring,
21 and subcontracted the electrical contractor. And, then,
22 of course, materials and supplies.

23 Q The major role of Essex Contracting, then,
24 would have been laying the actual sewer pipe, the sewer pipes
25 themselves?

Missouri Public Service Commission

1 A Yes, sir.

2 Q That would have been your main function, and
3 everything else was subcontracted?

4 A Not in its entirety. We, of course, tried
5 to do everything at the most reasonable price. So, like on
6 the boring, we furnished the equipment and dug the pits
7 and actually strung the pipe after the boring was made.
8 The boring contract in itself was not in its entirety.
9 Essex Contracting had some expenditures in the boring itself,
10 too.

11 Q Since you have got an affiliated relationship
12 between the developer or between the contracting company
13 and the Sewer Company, did you give the Sewer Company a
14 break on prices?

15 A We actually done everything on a cost, time
16 and material basis, plus ten percent for overheads.

17 Q Could you explain that a little more, since I
18 am not familiar with it?

19 A All right. The actual costs reflected here
20 are the actual expenditures that Essex Contracting had,
21 with the exception of ten percent was added for overheads,
22 which would include office and trucks and equipment,
23 secretarial help and this type of thing.

24 Q Well, what would be the main component of the
25 actual expense that you are talking about; is that labor?

Missouri Public Service Commission

1 A Labor and materials.

2 Q All right. So, you are saying that you paid
3 the going labor rate, and then added ten percent on for
4 overheads?

5 A We added ten percent on to our total billing,
6 whether it be labor and materials. Of course, we have then,
7 we have our insurance, and it is actually about a break-even
8 type of arrangement, with ten percent over actual cost.

9 Q Okay. If Essex Contracting Company was doing
10 this for the XYZ Sewer Company, that you are not affiliated
11 with, would you use the same kind of contractual provisions?

12 A No, sir.

13 Q What would that have been, then?

14 A In our Estimating Department, we actually
15 use actual costs plus 33 percent, in order to sustain a
16 profit and overheads.

17 Q So, my original question is, you gave a
18 break to the Herculaneum Sewer Company, your answer is "Yes,"
19 isn't it?

20 A Yes, sir.

21 Q The difference between ten percent overheads
22 and 33 percent overheads?

23 A Yes, sir.

24 Q And you are estimating another \$57,000 in
25 construction costs before the system will be complete, is
that correct?

Missouri Public Service Commission

1 A Yes, sir.

2 Q Could you briefly outline what that \$57,000
3 is going to build?

4 A There is approximately \$12,000 left yet to
5 complete on the lift station, which would include the manholes;
6 the, what we call the wet well. The only thing that has
7 been installed so far is the actual components of the lift
8 station itself. So, we have the wet well yet to install,
9 and we have the electricity to install to the lift station
10 yet. The I-55 boring has not been started at this time.
11 And, if my memory is correct, we have approximately 900 feet
12 to cross on state property, at the Herculaneum Spur and
13 I-55, which part of it is boring and part of it is open
14 cut, and we have approximately 900 feet of ductile iron
15 pipe to put in that boring yet. And I think I have got
16 down here at the bottom, I have \$2,100 for three more
17 manholes yet to be installed.

18 MR. DUFFY: That is all I have.

19 EXAMINER PARKER: Thank you. You may step
20 down.

21 (Witness excused.)

22
23 EXAMINER PARKER: Any objection to Applicant's
24 Exhibit No. 13?

25 MR. DUFFY: None.

Missouri Public Service Commission

1 EXAMINER PARKER: It is received.

2 (AT THIS TIME APPLICANT'S EXHIBIT NO. 13 WAS
3 RECEIVED IN EVIDENCE AND MADE A PART OF THIS RECORD.)

4 MR. ENGLAND: Mr. Examiner, let me call,
5 finally, Mr. Jerry Nixon to the stand on behalf of the
6 Applicant.

7 (At this time Mr. Jeremiah Nixon was duly
8 sworn.)

9 WITNESS JEREMIAH NIXON RECALLED TO THE STAND.

10 FURTHER DIRECT EXAMINATION BY MR. ENGLAND:

11 Q Would you state your name and address for the
12 record, please.

13 A Jeremiah Nixon, 5546 Vista Creek, in St. Louis
14 County. I just moved there, that is the reason I had to
15 think a minute.

16 Q Mr. Nixon, by whom are you employed and in
17 what capacity?

18 A I have several employments. I am a partner
19 in the law firm of Thurman, Nixon, Smith, Howald, Weber and
20 Bowles. I am also an employee of Klondike, Incorporated.

21 Q And are you at all employed or have any
22 business arrangements with the Applicant, the Herculaneum
23 Sewer Company?

24 A I am a stockholder, and I am Secretary of the
25 corporation.

Missouri Public Service Commission

1 Q I see. And I believe you have testified
2 before in this matter, have you not, on behalf of the
3 Company?

4 A Yes.

5 Q And you are authorized to appear and testify
6 on behalf of the Company today as well, is that correct?

7 A Yes.

8 Q Mr. Nixon, just by way of background, do you
9 have any other familiarity or experience with the regulated
10 sewer industry?

11 A I was an owner of Bayshore Sewer Company, or
12 a co-owner, the largest private sewer company at that time
13 in Jefferson County. I am one of the owners of South
14 Jefferson County Utilities. I have, in the last 20 years
15 or 25 years, represented, perhaps, ten or 15 private sewer
16 companies and water utilities. I have represented ten
17 water districts, four public sewer districts, six, six or
18 seven cities, involved in water and sewer construction and
19 operation.

20 Q Mr. Nixon, there was some testimony earlier
21 this morning regarding the loan commitment that the Company
22 has from - I can't recall the bank right now - is it
23 Boatmen's Bank of Jefferson County? With reference to that
24 loan commitment, what is the status of that loan, if you will,
25 for the record, please?

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1 A The commitment is still in place, at least
2 orally. There was a one-year loan for \$120,000, total,
3 signed by the President of the Sewer Company. And, then,
4 in addition, there were individual guarantees by the six
5 stockholders in the sewer company. This is a one-year note,
6 in which it is renewable, it is interest only, and then
7 the entire amount is due at the end of the year, in which
8 a further--in the agreement of the loan, they further
9 agreed to go into the additional six years on the prorated
10 principal payment, in the event that it is all approved.
11 So that is the status. The money has been taken down, it
12 has been deposited in the Herculaneum Sewer Company and has
13 been substantially disbursed.

14 Q Is the commitment contingent upon the
15 Herculaneum Sewer Company receiving authorization from this
16 Commission to engage in the business of a regulated sewer
17 company?

18 A Yes.

19 Q And, as you have said, the money has been
20 advanced for purposes, I understand, of making the necessary
21 construction payments and completing the system, is that
22 correct?

23 A That's correct.

24 Q And at the time or at the time that this loan
25 is approved, one, by the Commission, and, two, the Company is

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1 authorized to engage in the business of a regulated sewer
2 utility in the State of Missouri, will that loan then
3 become the loan of the Sewer Company?

4 A Yes.

5 Q And--

6 A And it will be re-executed under the terms
7 as approved by the Commission.

8 Q At that time, will the loan form, or at
9 least a surety, security, rather, for that loan will be
10 included, in that the lien on the sewer properties of the
11 Company, as well as the lien, as I understand it, on the
12 user and tap-on fees?

13 A That's correct. And the escrow fund of all
14 of the connection fees, or the user fees, the tap-on fees,
15 or however you refer to them, that escrow fund will be
16 kept in the Boatmen's Bank, so that it will be there just
17 to be disbursed on the payment of the loan or for capital
18 contributions, capital construction.

19 Q Has the bank been made aware of the escrow
20 agreement made between the Staff and the Company?

21 A No. The bank, I am sure, will be very
22 pleased to see it handled that way. They haven't been
23 brought up to date on the discussion with the Staff because
24 that, of course, is preliminary.

25 Q But you don't see any problem the bank would

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1 have with the escrow arrangement; in fact, it would be
2 more beneficial from their point of view and be a safer
3 investment, I understand, is that correct?

4 A Absolutely. And in reading the commitment
5 that they made in June of 1978, it is perfectly consistent.

6 Q Let me change gears on you here, Mr. Nixon,
7 but looking at the total construction costs as projected
8 by Mr. McClain, and I believe that is \$176,000, and then
9 the tap-on fees of approximately \$650, my first question is:
10 Are those the total construction costs, to your recollection,
11 or do they include other construction costs that will be
12 required to be paid for by the Company?

13 A No. What they have already been paid is
14 for the construction costs up to date. They have some more
15 work to do. This, of course, doesn't include engineering
16 and legal. There has been paid to Metropolitan Engineering
17 over \$14,000 for engineering to date, and there is another--
18 they estimate an additional \$4,000, or some such figure, of
19 additional engineering. And this figure of Essex does not
20 include legal. It does not include the acquisition of some
21 easements. We had to pay \$500 for an easement, and we had
22 to pay a connection fee of \$650. All of these are reflected
23 in the balance sheet filed today, the expenditures.

24 Q Applicant's Exhibit No. 10?

25 A Right.

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1 Q I see. Per your Exhibit 3, which has
2 previously been put into the record, the balance of the
3 system to be constructed by the Company was approximately
4 \$466,400, less the \$285,000 associated with the cost of
5 constructing the sewer system in the Westchester-Oaks
6 Subdivision, is that correct?

7 A Yes.

8 Q I am having a bit of a problem, but I
9 always do when I get near a calculator. If you will hold
10 on for a second, please. Would the balance to be constructed
11 by the Company be approximately \$181,400 per your Exhibit
12 No. 3?

13 A It would be very much in that range.

14 Q Based on Mr. McClain's testimony and the
15 exhibit that he has presented here today, and the additional
16 testimony regarding engineering, legal, and other miscellaneous
17 costs, do you expect, then, the additional construction
18 costs of the sewer system to be borne by the Company to
19 exceed that \$181,000 figure?

20 A It will be a little bit above it, because of
21 the engineering and the legal and these other items I
22 described.

23 Q It will not be significantly above it,--

24 A No.

25 Q --will it, Mr. Nixon?

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1 A No.

2 Q Now with respect to the \$650 tap-on fee,
3 do you recall how that was calculated by the Company in its
4 feasibility study?

5 A Yes. This is a small area. Assuming the
6 best, you could only have 350--325 possible connections.
7 Then, we calculated the estimated cost of construction,
8 the financing necessary to cover it on the bank loan, and
9 then what the amounts that we were putting in, is the
10 \$30,000, is the investment, plus a second note or lien that
11 we would receive for the excess above the loan and the
12 30,000, when you divide that in, plus the carrying charges,
13 you come out with that being a pretty accurate figure.

14 Q In the first five years of operation,
15 Mr. Nixon, you have projected customers in the amount of
16 approximately 265. Do you have any reason to believe that
17 that number is high, low or on the money, as far as today
18 is concerned?

19 A I think it is pretty accurate. I think it
20 is pretty accurate.

21 Q So, in the first five years of operation,
22 you will have 265, approximately, tap-on fees to contribute
23 towards the construction costs, which are going to exceed
24 \$180,000 before the end of this year,--

25 A Right.

1 Q --very shortly?

2 A Right.

3 Q And to the extent that those contributions
4 come on in subsequent years beyond the first year of the
5 operation, it is also true that those construction costs
6 will be--added to those construction costs will be the
7 carrying charges for the various debt and equity used to
8 finance, is that correct?

9 A That's correct. And the interest charge in
10 the last year has gone up two percent.

11 Q And one other thing with regard to the
12 financing. You have heard the testimony of Mr. Kenneth
13 McClain regarding the escrow agreement; your understanding
14 of that agreement is similar and you have no objections to
15 that escrow agreement as testified to by him, do you?

16 A No objections whatsoever. I think it is a
17 very good way to handle it.

18 Q In your honest opinion, Mr. Nixon, do you
19 think that that escrow amount will ever outstrip the
20 construction costs of this system, plus the carrying charges,
21 plus any repair and replacement costs that may be incurred
22 in the years of operation?

23 A I don't think it will, unless something
24 totally unexpected occurs.

25 Q And if something totally unexpected occurs,

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1 and there is an excess of contributions over original
2 construction costs, plus the carrying costs, it is your
3 testimony, along with Mr. McClain's, that the excess either
4 be refunded to the customers, or deducted against the
5 purchase price, really whichever way the Commission should
6 order, at that time, when you go out of business?

7 A That's right.

8 Q Mr. Norville McClain testified to the manner
9 in which he bills your Company for construction costs
10 relating to the construction of this sewer system. Have
11 you had previous dealings with Mr. McClain and the Essex
12 Contracting Company?

13 A Yes.

14 Q And would that be with your South Jefferson
15 County Company, in particular?

16 A Yes. And they, with other work and other
17 things I have been connected with over the last 20 years.

18 Q Have you also had an occasion to experience
19 construction work of other contracting companies and pay
20 those bills?

21 A Yes.

22 Q And how do you find the rates or the construc-
23 tion costs charged by Mr. McClain versus those of other
24 construction people in the area that you have had dealings
25 with?

1 A I think the rates here in this Herculaneum
2 was at least a third less than the cost would have been
3 if we had gone out for bids; at least a third less. They
4 ran into some difficult problems over there, with a swampy
5 area and other problems like that, and just the cost plus
6 ten percent, that cost means what the actual employee gets
7 paid, that doesn't include their unemployment insurance
8 or Workmen's Comp insurance and those items. So, it is
9 actually at a break-even figure for Essex.

10 Q And you are very happy, then, with the cost
11 that they charged you for the construction of the system?

12 A Yes. I would say that I was calculating the
13 work that they did in South Jefferson County Utility, in
14 which there was a couple of hundred thousand feet of pipe
15 installed, and I was calculating these figures in the last
16 few days, and they did it, it is about one-half of what it
17 would cost if it had gone out on a bid.

18 MR. ENGLAND: I have no other questions of
19 Mr. Nixon, and I tender him for cross-examination at this
20 time.

21 EXAMINER PARKER: Mr. Duffy?

22 CROSS-EXAMINATION BY MR. DUFFY:

23 Q Mr. Nixon, concerning the loan agreement,
24 it sounds like what you have done is enter into a short-term
25 loan, that is, by its terms of not coming due within--or not

1 coming due in more than one year,--

2 A That's right.

3 Q --and that you are then going to roll the
4 short-term into a long-term, subject to approval of the
5 Commission?

6 A That is exactly it.

7 Q With regard to the escrow agreement, what
8 do you contemplate to be the terms of the agreement,
9 specifically as to who the bank is supposed to release the
10 funds to, and on what conditions will they do that?

11 A I think that the escrow agreement should be
12 with the bank, in which we agree that all fees received
13 for connecting onto the system go into the bank, into this
14 fund, and that this fund be held to make interest and
15 principal payments on the obligation to the bank, first;
16 second, for any capital improvements that might be necessary.
17 And, third, for any additional financing that would be
18 approved in the future.

19 Q Would you be willing to draft some terms of
20 that agreement and supply it to the Commission, for the
21 approval of the Commission before the escrow agreement is
22 entered into?

23 A Yes. I would do that, and I would also
24 submit it to the bank and see if it is satisfactory to them.

25 MR. DUFFY: That is all I have.

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1 EXAMINER PARKER: Let's go off of the record
2 for a second.

3 (Discussion off of the record.)

4 EXAMINER PARKER: The hearing will come to
5 order. Any redirect, Mr. England?

6 MR. ENGLAND: Yes, sir.

7 REDIRECT EXAMINATION BY MR. ENGLAND:

8 Q Since the last hearing in this matter, Mr.
9 Nixon, there has been a revision to the operating expenses
10 of the Company in the first two years of operation, and
11 necessarily an adjustment in the amount of monthly billing
12 to be made or proposed to be made to the customers. I
13 believe the proposal has gone now from \$9, which it was in
14 August of 1978, in our first hearing, and now it is \$10.50;
15 can you explain for the record this change?

16 A Since last August, the cost of money has gone
17 up to us two percent. The cost of electricity and the
18 cost of operations have also gone up more than that. Of
19 all of those figures, the only figure that has stayed totally
20 consistent is the \$5 a month to be paid to the sewer district
21 for the treatment.

22 Q As a matter of fact, these costs have been
23 discussed with the Staff prior to this hearing, have they
24 not?

25 A They have. And these costs do not indicate

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1 any profit, they do not indicate any return on the \$30,000
2 capital investment. These are raw bone figures.

3 Q I think the record will reflect it, but you
4 and the other stockholders of the Company have proposed
5 to include in the capitalization \$30,000 of equity for this
6 company, isn't that correct?

7 A That's correct.

8 Q And have you also proposed to take a second
9 lien on the assets of the Company, for purposes of loaning
10 more money to cover the initial construction costs?

11 A Right. The initial construction costs, and
12 their might be need for operating costs for the first six
13 months to a year.

14 Q And you and the other stockholders of the
15 Company stand ready, willing and able, do you not, to put
16 that money up?

17 A Yes, sir.

18 Q In order to make this a viable operation?

19 A That's right. In fact, the \$30,000 has
20 already gone in.

21 MR. ENGLAND: No other questions.

22 EXAMINER PARKER: Anything further of Mr.
23 Nixon?

24 RECROSS-EXAMINATION BY MR. DUFFY:

25 Q I am sorry. Did I understand that, in essence,

1 the stockholders are going to guarantee all losses to the
2 Company in the first two years of operation, is that the--

3 A We will guarantee that the money will be
4 made on a loan to the Company, so that there would be no
5 chance of any failure, but that that be just advanced as a
6 loan.

7 MR. DUFFY: Can we go off of the record?

8 EXAMINER PARKER: Let's go off.

9 (Discussion off of the record.)

10 EXAMINER PARKER: All right. Let's go back
11 on the record.

12 MR. DUFFY: All right. I don't have any
13 other questions.

14 EXAMINER PARKER: Thank you, Mr. Nixon.

15 (Witness excused.)

16
17 EXAMINER PARKER: Is that it on behalf of the
18 Applicant?

19 MR. ENGLAND: So that concludes the Applicant's
20 case on this, Your Honor.

21 EXAMINER PARKER: All right.

22 Mr. Duffy, any Staff presentation?

23 MR. DUFFY: Yes.

24 We call Mike Logston.

25 (At this time Mr. Michael Logston was duly

sworn.)

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STAFF'S EVIDENCE (CONTINUED):

WITNESS MICHAEL LOGSTON RECALLED TO THE STAND.

FURTHER DIRECT EXAMINATION BY MR. DUFFY:

Q State your name for the record, please.

A My name is Michael Logston.

Q What is your occupation?

A I am an Engineer for the Staff of the Missouri
Public Service Commission.

Q I believe you previously have testified
briefly in this case, is that correct?

A Yes, I have.

Q Have you participated in the discussions
with the Company since the last hearing in this case?

A Yes, I have.

Q Have you made yourself fully aware of
their proposals embodied in their application and amended
application?

A Yes.

Q Do you have a recommendation to the Commission
as to whether this Company should be granted a certificate
of convenience and necessity?

A Yes. It would be Staff's recommendation that
they be issued a certificate; however, we would ask that
based upon the testimony of Kenneth McClain, pertaining to
the escrow account of the contributions in aid of construction,

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1 that the conditions will be placed in the ordered section
2 of this Report and Order from this case.

3 Q Are there any other conditions that you
4 have?

5 A We would ask that the Company provide the
6 Staff with the location of the Company's office, and the
7 phone number, where personnel from the Company can be
8 reached in case of an emergency.

9 Also, that the Company would establish and
10 maintain continuing property records of their expenses,
11 expenditures of the Company.

12 Q Have you had a chance to examine the projections
13 of the Company with regards to rates and connection fees?

14 A Yes.

15 Q What were the results of your examination?

16 A We find that the proposed monthly rate and
17 contribution in aid of construction charge to be a reasonable
18 rate, based on the expenses that has been presented in this
19 case.

20 Q What are those rates?

21 A There would be a monthly rate of \$10.50 per
22 month per customer, based on a single family residential
23 flow, and sewage discharge, plus a contribution in aid of
24 construction of \$650 per residential equivalent.

25 Q Have you worked out any rates for commercial

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1 or industrial establishments?

2 A Those would be based upon their strength and
3 quantity of sewage, based upon, as stated earlier, the
4 single family residential flows, and would be prorated
5 accordingly.

6 Q Have you examined the bills from Essex
7 Contracting Company, that have been presented in the hearing
8 room this morning?

9 A Yes, I have.

10 Q Do you have an opinion as to the reasonableness
11 of those bills, based upon your experience as an Engineer
12 regulating sewer companies?

13 A The costs appear to be reasonable, based on
14 my experience; yes.

15 Q Do you have any recommendation with regard
16 to the Company submitting for Staff approval the terms of
17 the escrow agreement with the Jefferson County--or with the
18 Boatmen's Bank of Jefferson County?

19 A Yes. I would ask that they would be
20 submitted to the Staff for our review and approval. I
21 would also recommend that the proposed monthly rate, as
22 stated earlier, would be set for an interim of 18 months
23 and then would be subject to review by the Commission's
24 auditing Staff, for purposes of establishing a permanent
25 rate at that time.

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1 Q Since earlier testimony has indicated that
2 the system may be completed within two to three weeks,
3 do you have a recommendation as to when the tariffs should
4 be filed by the Company?

5 A Well, I would say they should be filed as
6 soon as possible, within 60 days from the date of the hearing.

7 Q Well, that would have to be contingent on the
8 Report and Order?

9 A Yes. The Report and Order. I am sorry.

10 MR. DUFFY: That is all I have. I tender
11 the witness for cross.

12 MR. ENGLAND: Excuse me just a second.

13 CROSS-EXAMINATION BY MR. ENGLAND:

14 Q Mr. Logston, with respect to the 18-month
15 recommendation, is there any way I could get you to make
16 that recommendation 24 months?

17 A I think we could arrange that to be made;
18 yes.

19 Q Well, I was just going to say, that I know
20 that 18 months is only a year and a half, and I thought
21 maybe two operating periods, two annual periods, two
22 yearly periods might be a better basis for examining the
23 expenses and the costs, or whatever, and the income of this
24 Company, as opposed to 18 months, the other alternative, I
25 mean the other reason for it, that the 18 months seems to

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1 go by awfully quickly, and of course, the 24 then gives us
2 a little more breathing room.

3 A Well, I think if the Company can live with
4 that figure, the Staff can also.

5 Q The 24 months?

6 A The 24-months' period; yes.

7 Q Okay.

8 MR. ENGLAND: No other questions, Mr. Examiner.

9 REDIRECT EXAMINATION BY MR. DUFFY:

10 Q Mr. Logston, do you have a recommendation
11 as to whether these interim rates, be they for 18 or 24 months,
12 should they be subject to refund, should the Staff audit
13 determine that the rates were set too high, based upon
14 actual operating experience?

15 A Yes; if that is what is determined by the
16 Staff audit.

17 Q Are you recommending, then, that they be--

18 A Yes.

19 Q --put in subject to refund?

20 A Yes, I would recommend that.

21 Q Okay.

22 MR. DUFFY: That is all I have.

23 EXAMINER PARKER: Let's go off of the record.

24 (Discussion off of the record.)

25 EXAMINER PARKER: The hearing will come to
order.

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1 Anything further of Mr. Logston?

2 (No response.)

3 EXAMINER PARKER: Thank you, Mr. Logston.

4 You may step down.

5 (Witness excused.)

6
7 EXAMINER PARKER: Any desire to file briefs
8 or orally argue this matter?

9 MR. DUFFY: Not on the part of the Staff.

10 MR. ENGLAND: Not on the part of the Applicant.

11 EXAMINER PARKER: Any desire to waive the
12 reading of the transcript?

13 MR. ENGLAND: The Applicant, I believe,
14 already has waived the requirement of reading of the transcript.

15 MR. DUFFY: So has the Staff.

16 EXAMINER PARKER: All right.

17 We will reserve Applicant's Exhibit 14, to
18 be a late-filed exhibit, setting forth the terms of the
19 escrow agreement.

20 And, just as Counsel has noted, late-filed
21 Exhibits 5 and 8 still have not been submitted.

22 I should also note that this matter, for the
23 record, was set for hearing for the 24th of May, 1979,
24 and it has been heard today; no notice of hearing or change
25 of hearing was sent out, just through agreement of the

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1 parties, and I see no due process problem, as everybody
2 involved has appeared here today.

3 If there is nothing further, the hearing is
4 adjourned.

5 Thank you.

6 WHEREUPON, the hearing of this case was
7 concluded.

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I N D E X

APPLICANT'S EVIDENCE (CONTINUED):

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EXHIBITS

APPLICANT'S EXHIBITS:

MARKED

RECEIVED

Exhibit No. 10
Balance Sheet

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Exhibit No. 11
Two-Year Projection Income &
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Exhibit No. 12
Minutes of the Board of Directors
Meeting of Herculaneum Sewer Company

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Exhibit No. 13
Breakdown of Work Done for
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Exhibit No. 14
Late-Filed

*

*Late-Filed