

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

ON-THE-RECORD PRESENTATION

In the Matter of the Application of Emerald Pointe
Utility Company for Permission, Approval, and a Certificate of
Convenience and Necessity Authorizing it to Construct, Install,
Own, Operate, Control, Manage, and Maintain a Water and
Sewer System for the Public Located in an Unincorporated
Area in Taney County, Missouri

Volume 1

Case No. WA-2004-0581, et al.

TRANSCRIPT OF PROCEEDINGS

October 19, 2004

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Missouri
Public Service Commission

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Operate, Control, Manage, and)
Maintain a Water and Sewer) Case No. WA-2004-0581, et al.
System for the Public, Located)
in an Unincorporated Area in)
Taney County, Missouri)

MORRIS L. WOODRUFF, Presiding,
SENIOR REGULATORY LAW JUDGE.

CONNIE MURRAY,
JEFF DAVIS,
LINWARD "LIN" APPLING,
COMMISSIONERS.

REPORTED BY:
STEPHANIE L. KURTZ MORGAN, RPR, CCR
MIDWEST LITIGATION SERVICES

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APPEARANCES:

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FOR: Emerald Pointe Utility Company.

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FOR: Staff of the Missouri Public Service
Commission.

1 P R O C E E D I N G S

2 JUDGE WOODRUFF: Let's go ahead and get started,
3 then. This is Case No. WA-2004-0581, and it's on the
4 rec-- and it's an on-the-record presentation concerning the
5 application of Emerald Pointe Utility Company for a
6 Certificate of Convenience and Necessity.

7 We'll begin by taking entries of appearance, first
8 of all, for the Company.

9 MR. ENGLAND: Thank you, Your Honor.

10 Let the record reflect the appearance of
11 W. R. England of the law firm Brydon, Swearngen & England,
12 appearing on behalf of the Applicant Emerald Pointe Utility
13 Company.

14 Our mailing address is Post Office Box 456,
15 Jefferson City, Missouri 65102.

16 JUDGE WOODRUFF: Okay. Thank you.

17 And for the Staff?

18 MR. SNODGRASS: Yes. Good afternoon, Judge.

19 Let the record reflect the appearance of Cliff
20 Snodgrass for the Staff of the Missouri Public Service
21 Commission. My formal business address is Governor's Office
22 Building, Suite 800, 200 Madison Street, Box 360, here in the
23 big town of Jefferson City, Missouri 65102.

24 JUDGE WOODRUFF: Thank you, sir.

25 I don't see anyone here from Public Counsel, so

1 that's all of the parties. We do have several people present
2 by telephone, just so the record is clear, representatives
3 of -- of Emerald Pointe.

4 And if you would just introduce yourselves and tell
5 me -- the people on the phone, just introduce yourselves.

6 MR. PITTMAN: My name is Larry Pittman. I'm the
7 accountant for Emerald Pointe Utility Company.

8 MR. MENKE: Bruce Menke, chief operations officer.

9 MR. SNADON: And Gary Snadon, and I'm the owner.

10 JUDGE WOODRUFF: Okay. Very good, then.

11 And what we'll do today is we're gonna ask -- allow
12 the Commissioners to ask questions that -- that have occurred
13 to them about this application.

14 And so we'll begin with Commissioner Murray.

15 COMMISSIONER MURRAY: Thank you, Judge.

16 My first question is for Staff. And I don't know
17 if we want to swear in the witness. I guess I see we have a
18 Staff Witness present here.

19 JUDGE WOODRUFF: All right. If you want to come
20 forward --

21 COMMISSIONER MURRAY: Mr. Merciel?

22 JUDGE WOODRUFF: -- Mr. Merciel. Come on up to the
23 witness stand.

24 Please raise your right hand.

25 (Witness sworn.)

1 JUDGE WOODRUFF: You may be seated.

2 JAMES MERCIEL testified as follows:

3 QUESTIONS BY COMMISSIONER MURRAY:

4 Q. Mr. Merciel, in this agreement and the Staff's
5 recommendation, is there any requirement for the Company to
6 file a rate case with any specified period of time?

7 A. No, there is not.

8 Q. Wouldn't that be advisable, especially since the
9 Staff has stated that there appears -- there appear to be
10 deficiencies or errors in some of the accounting in -- in
11 place, and that a full rate case audit might be necessary
12 before accurate information can be available?

13 A. I do see a need, obviously, of a rate case audit.
14 The Staff usually does not recommend companies file cases. In
15 this case I would like to see one get filed and -- or at least
16 have an audit conducted.

17 Q. In what time period are you thinking?

18 A. Well, that's a good question. I'm not sure there
19 is an immediate need to do that. Considering this is a
20 growing company, they're at a point where they need to
21 construct additional plant even for what -- you know, for --
22 for their existing area, so they are gonna be spending some
23 more money.

24 And then we would need to see what kind of customer
25 growth they have, if they are granted the new area. There's a

1 projection. As you know, we don't -- you know, you never know
2 if that's really accurate. So I think if we look at some
3 period, let's say within the next two years, would be
4 adequate.

5 Q. Did you discuss with the Company the -- the
6 advisability of them filing a rate case within that time
7 period?

8 A. Well, I did not. We -- we are considering the
9 possibility of a rate review in the context of -- of this case
10 if the Commission does grant the service area.

11 Q. And rate review, ta-- explain to me how --

12 A. Okay.

13 Q. -- how and when that would occur.

14 A. Okay. Well, let me back up a little bit and speak
15 a little -- a little more generally. In situations where we
16 have a brand new company going into business, new service
17 area, it's the -- the Company has not existed before, all your
18 expenses are pro forma. You know, they're all -- all of them
19 are educated guesses.

20 And we typically do have a rate review period. We
21 will make our best estimate and make that recommendation, and
22 then give the Company some time to get going. Typically it's
23 on the order of 18 months, you know, so they have at least
24 one year of a fairly solid operation.

25 If we know it's gonna be a slow-growing pla--

1 service area, sometimes it'll be a little bit longer.

2 Sometimes two years, sometimes up to three years.

3 But the purpose of a rate review is to go back and
 4 basically see if the Company is overearning or if the rates
 5 are -- are, you know, even close. If there's substantial
 6 overearning, the Staff would have an opportunity to file a
 7 complaint case.

8 Of course, the Company always has the option to
 9 file a rate case. But the purpose is to satisfy ourselves
 10 that the rates were set, you know, reasonably -- reasonably
 11 close.

12 Now, to take that into -- into this particular
 13 case, we normally don't have to do that with existing
 14 companies, because they are established and -- and, you know,
 15 expenses are -- are more known, even though you might have
 16 some projected -- projected expenses for the new service area.

17 We did not recommend that in this particular case.
 18 In hindsight I would have to admit it would have been a good
 19 idea to do it. Possibly that can still be done, because of
 20 the uncertainty of existing expenses.

21 Q. And when you say it would be a good idea to
 22 recommend it, are you saying that there would be some
 23 commitment by Staff to do a rate review within --

24 A. Yes.

25 Q. -- 18 months?

1 A. It would commit the Staff to initiate it, yes.

2 Q. And would that be a part of -- of the normal
3 agreement between the Staff and the Company?

4 A. Yes.

5 Q. So if we were to request the Company to do that, is
6 it possible at this date that that could still become a part
7 of the agreement?

8 A. I think it can. Either I -- well, I suppose the
9 Commission could order it or the Staff and the Company could
10 agree and -- and I suppose go on the record somehow to express
11 the agreement if the Company wishes to agree to it.

12 Q. Okay. You -- the -- I raised the concerns, because
13 in the Staff recommendation basically it was noted that there
14 appeared to be deficiencies or errors in some of the entries
15 to the annual report, for example, and that there -- the
16 balance sheet does not balance?

17 A. Yes.

18 Q. Some figures for contributions and aid of
19 construction and depreciation appear to be inaccurate. That
20 bothers me when we're just saying, yes, we're going to approve
21 this without some commitment for further review.

22 A. Uh-huh. I understand.

23 Q. And I also noted that the Company was deficient
24 with regard to the payment of its 2000 FY-- or Fiscal
25 Year 2000 assessments, and that that has been brought up to

1 date --

2 A. Yes, it has.

3 Q. -- is that correct?

4 A. Yes, it is.

5 Q. Do you know -- and I will ask the Company
6 representatives later -- but do you know why that payment was
7 late?

8 A. I -- I don't know why. I could -- I could
9 speculate. I know this company has changed accounts --
10 accounting people and bookkeepers several times. My guess
11 is -- is this was simply overlooked by the Company at the
12 time.

13 And my basis for saying that is, they've not had a
14 problem paying assessments ever since then. Our -- some of
15 the problem companies that we deal with, usually they just
16 quit paying and, you know, the problem is ongoing. It has not
17 been for this company.

18 Q. And since they have been in existence providing
19 service with the Certificate from the Commission, have they
20 ev-- ever been late other than that, to your knowledge?

21 A. To -- not to my knowledge. We researched
22 assessments and annual reports, and that was the only problem
23 that we found.

24 Q. Okay. Do you know -- are you aware of whether the
25 Company, since it's been providing service, has had any

1 notices of violation from the Department of Natural Resources?

2 A. To my knowledge, there have been no notices of
3 violation. It's been my obs-- observation this company has
4 been providing good service to customers and takes care of its
5 problems.

6 In fact, there -- there was a water outage, and the
7 Staff made a suggestion on improving its system by installing
8 a -- you know, a low-water-level alarm in the tank, and this
9 company promptly did that.

10 Q. Okay.

11 A. So --

12 Q. And do you make any effort to determine whether
13 there have been any NOVs?

14 A. I -- I -- I didn't actively go look. But we do
15 typically get notices from the Department of Natural
16 Resources. And if there are problems, then we -- we typically
17 hear about it. And -- and I'm -- I have not been aware of it.

18 We do our inspections every year, and so that --
19 that's my basis for the answer.

20 Q. Okay. In the Staff Recommendation -- or the Staff
21 Memo, I guess it is accurately called, on page -- actually
22 beginning on page 3 and carrying on over onto page 4, you go
23 into what will be supplied and contributed to the utility by
24 the developer. And you say -- the -- the Staff has estimated
25 an amount of rate base to be included in its two-year estimate

1 for the additional treatment capacity.

2 Is the amount -- is that amount for the new
3 treatment plant to be included in rate base before its used
4 and useful?

5 A. No. No. It -- it -- it would have to be used and
6 useful in order to actually be included in our rate base.
7 That's -- you know, we're looking at the projections to serve
8 a service area. And to do so, this company does need to build
9 another treatment plant.

10 The fact is I -- they're -- they're at the point
11 they're needing to build another treatment plant for what they
12 have. So we're gonna be seeing some construction.

13 Now, if they did -- if they filed a rate case
14 today, it would not be included, because the plant does not
15 exist yet, if that's what you're asking.

16 Q. Do you -- do you think that will be completed in
17 18 months?

18 A. A new treatment plant?

19 Q. Yes.

20 A. I hope so. Ba-- based on the -- based on the
21 existing growth, it's time for this company to be moving ahead
22 on that.

23 Q. And it appears -- and I can't remember exactly what
24 language made me think that -- but it appeared that
25 contributive property was going into rate base.

1 A. That -- no, that --

2 Q. That's --

3 A. -- shouldn't be the case.

4 Q. That's not --

5 A. No.

6 Q. -- accurate?

7 A. Yeah. That wasn't intended.

8 The contributive property would normally be the
9 pipelines, and that's usually contributed by the developer.
10 And that's not intended to be included in the dollars going
11 into rate base.

12 But the treatment plant, some pumping equipment on
13 the sewer side would be constructed by the Company as rate
14 base. That's what the dollars should be representing.

15 On the water side, it would be either a new well --
16 a second well or a second storage tank or both.

17 Q. So when you say that the Staff has estimated an
18 amount of rate base to be included in its two-year estimate,
19 you're talking about -- why -- why are you referencing rate
20 base there?

21 A. Because there's gonna need to be an increase in
22 rate base in order to serve, as I say, both the exist -- well,
23 not existing customers, but growth in their existing service
24 area and the projected growth in the proposed service area.
25 There will need to be more rate base.

1 Now, that's not all the plant that's gonna be going
 2 into the ground. There's also gonna be contributions from the
 3 developer. The rate base is only -- only some of the new
 4 plant going into service.

5 Q. Okay. And your analysis was that the Company was
 6 underearning with re-- regard to the sewer service right now;
 7 is that right?

8 A. Yes. Yes.

9 Q. And overearning with regard to water?

10 A. Yes, that's correct.

11 Q. But is it accurate to -- to assume that you thought
 12 those balanced fairly -- fairly well, or --

13 A. Well -- well, we're not sure. We're not sure,
 14 because we don't know exactly what the numbers are. And I
 15 would like to point out some of the numbers that you might be
 16 looking at in the -- in the Staff's filing, a lot of that was
 17 my estimate.

18 And those numbers, to a great extent, are guesses.
 19 They're probably not exactly accurate. But the numbers that
 20 are there show more overearning in water than underearning in
 21 sewer.

22 Q. Are these the same customers that are paying too
 23 much for water and not enough for sewer?

24 A. Yes, they are, with maybe a handful of
 25 exceptions -- three or four exceptions like clubhouses or that

1 sort of thing. But generally, yes, they're the same
2 customers.

3 Q. And you indicated that you were -- you believe that
4 the Company has some necessary technical, managerial and
5 financial capacities, in part, because it employs a licensed
6 operator.

7 Are you familiar with that licensed operator?

8 A. I'm gonna say yes. To be honest, I can't think
9 offhand -- I don't do the -- I haven't done the field work
10 myself, but they -- they do have a licensed operator.

11 And based on the fact that we -- we've not had
12 problems -- they've addressed the service problems they do
13 have, we've not had any problems with this company.

14 Q. And do you know how long they have employed a
15 licensed operator?

16 A. I think they always have since their existence in
17 the -- in the '90s.

18 Q. And I just want to confirm that I understood
19 something you said earlier, and that is that in hindsight you
20 would have recommended a rate review --

21 A. Rate review, correct.

22 Q. -- to be specified to take place within 18 months;
23 is that correct?

24 A. Yeah, I think I said two years, considering --

25 Q. 18 months to two years?

1 A. Yeah, two years if the Commission grants the
2 expanded service area. I think two years is a little more
3 reasonable to -- to account for some of the projected growth.
4 So, yes, I do think that would be reasonable.

5 Q. And why is -- now, the Staff could do that without
6 a commitment from the Company, could they not?

7 A. Yes, that's a good question. I think the Staff
8 could go and do that any time we wanted to. I suppose the
9 Commission could direct the Staff or the Staff could do it on
10 its own initiative.

11 There's -- you know, the records are -- of the
12 Company are supposed to be open to the Staff so, yeah, I think
13 we could do it any time.

14 But if we -- we -- I guess that's one of these
15 things we've always done it this way. You know, the -- the
16 famous cliché on certificate cases just to get it on the
17 record that we want it done, and so that we -- we remember to
18 do it in 18 months or two years, we -- I kind of like to put
19 it on the record that it's gonna get done.

20 COMMISSIONER MURRAY: Okay. I -- I think that's
21 all of the questions I have for you, Mr. Merciel. Thank you.

22 THE WITNESS: Okay. You're welcome.

23 JUDGE WOODRUFF: Commissioner Davis, do you have
24 any questions for this witness?

25 COMMISSIONER DAVIS: No.

1 QUESTIONS BY JUDGE WOODRUFF:

2 Q. I'm not sure we did this at the beginning, so I'll
3 ask you now, would you identify yourself for the -- for the
4 record?

5 A. Right. We didn't. My name is James Merciel. I'm
6 assistant manager engineering. I work in the water and sewer
7 department from the Commission Staff.

8 Q. Thank you.

9 And just so we're all clear here, there is no
10 stipulation agreement in this case, right?

11 A. I'm sorry?

12 Q. There is -- there is no stipulation agreement or
13 anything in this case?

14 A. Correct. There's no stipulation. There's only the
15 Staff recommendation and I think maybe a response from the
16 Company.

17 Q. So the -- if you, on the behalf of the Staff, makes
18 a recommendation today, the Commission should consider that,
19 which you just did about the -- the commi-- the commitment to
20 do -- to do a rate review?

21 A. I guess the answer is yes. Yeah, the --

22 Q. Okay.

23 A. Yeah, if the Commission -- I suppose the Commission
24 could, say, just go ahead and order it, based on this record.

25 JUDGE WOODRUFF: All right. Mr. England, do you

1 have any questions to follow up with this witness?

2 MR. ENGLAND: I don't believe so, Your Honor.

3 Thank you.

4 JUDGE WOODRUFF: Staff?

5 MR. SNODGRASS: No questions from the Staff
6 Counsel.

7 JUDGE WOODRUFF: All right. Thank you.

8 All right, then, Mr. Merciel, you may step down.

9 (Witness excused.)

10 JUDGE WOODRUFF: Commissioner Murray, do you wish
11 to call another witness?

12 COMMISSIONER MURRAY: Yes, I would like to -- I
13 would like to ask some questions of -- I'm not sure which
14 Company Witness it is. Perhaps Mr. England could help.

15 I -- first of all, I would like to follow up on the
16 recommendation from Staff that there be a rate review within
17 two years and whether the Company would be agreeable to that.

18 MR. ENGLAND: I -- I have not had the opportunity
19 to discuss that with my client, so I guess technically I can't
20 give you an answer today.

21 But I think Mr. Merciel made a good point.
22 Frankly, you can order it, whether we agree or not. And as a
23 practical matter, in new certificates it's been my experience
24 that you usually come back and ask for review within 18 to
25 24 months or -- or longer, depending on the circumstances.

1 COMMISSIONER MURRAY: And would you recommend --
2 which one of your witnesses that I could ask that question to?

3 MR. ENGLAND: Well, Mr. Snadon is the owner. I
4 suspect he's the fellow that's going to make the ultimate
5 decision in this regard, so I think he could probably address
6 it.

7 JUDGE WOODRUFF: Mr. Snadon, are you there?

8 MR. SNADON: Yes, I am.

9 JUDGE WOODRUFF: All right. I'll -- I'll go ahead
10 and swear you in as a witness, and then the Commissioner can
11 ask you questions.

12 MR. SNADON: Okay.

13 JUDGE WOODRUFF: If you, please, raise your right
14 hand.

15 (Witness sworn.)

16 JUDGE WOODRUFF: Thank you very much.

17 And, Commissioner, you can ask your questions.

18 COMMISSIONER MURRAY: Thank you.

19 GARY SNADON (VIA TELEPHONE) testified as follows:

20 QUESTIONS BY COMMISSIONER MURRAY:

21 Q. Good afternoon, Mr. Snadon. I'm glad you didn't
22 have to make that flight or that drive to Jefferson City
23 today.

24 A. And again, we appreciate your understanding.

25 Q. I'm sure you heard the exchange with Mr. Merciel

1 regarding the recommendation that a rate review be done in
2 two years -- within two years?

3 A. Yes.

4 Q. Would you be agreeable to that?

5 A. Yes, I would.

6 Q. Okay. Great.

7 And do you -- do you have an explanation of why the
8 assessment for Fiscal Year 2000 was late?

9 A. No. When I became aware of it, I immediately asked
10 my -- you know, going back to the year 2000, I -- I was
11 certain that it had been paid. And we went back and, of
12 course, could not find the check where it had been.

13 We had changed accountants at that period in time,
14 and Mr. Pittman came on the board.

15 THE WITNESS: Was it the year 2000 that you came on
16 board?

17 MR. PITTMAN: Yeah -- right in there, yeah.

18 THE WITNESS: Okay. And I think that must have
19 been how it got not paid. Because, you know, we -- we don't
20 have a record where it was paid. So it was just an oversight.

21 And, to my knowledge, we never received any type of
22 delinquency request on the assessment from the Public Service
23 Commission, so just fell through the cracks.

24 BY COMMISSIONER MURRAY:

25 Q. Okay. And since the Company has been providing

1 service -- water and sewer service, has -- has the Company had
2 any notices -- notices of violation from the Department of
3 Natural Resources?

4 A. I don't think so, ma'am. Not to my knowledge.

5 Q. Great. We love to see you comply with all the
6 environmental laws.

7 A. Certainly.

8 Q. And what -- and what is the name of the operator
9 that you use?

10 A. David --

11 MR. MENKE: Jacobs.

12 THE WITNESS: -- Jacobs. He's been with us
13 quite -- quite a long while.

14 BY COMMISSIONER MURRAY:

15 Q. And he is a licensed operator; is that right?

16 A. Yes, he is. And -- and maybe I could let -- but
17 he's received an award from the -- who is it?

18 MR. MENKE: Operator of the year.

19 THE WITNESS: I don't know who -- I don't know who
20 actually gives him the reward or how we receive it, but we're
21 very pleased that he's received the operator of the year for
22 the -- the last couple of years -- two or three years.

23 So I think we have a -- I think he's been doing a
24 real good job for us.

25 BY COMMISSIONER MURRAY:

1 Q. That's good to hear.

2 Let me see if I have any other questions for you.

3 A. Okay. Thank you, ma'am.

4 Q. Just one -- let me ask you this: Do you -- and --
5 and perhaps your accountant would be better to ask these
6 questions about the discrepancies that appeared on the annual
7 report and the -- the balance sheet not balancing some
8 inaccurac-- inaccuracies that were noted by Staff?

9 A. Yes.

10 COMMISSIONER MURRAY: If you would rather put your
11 accountant on for those questions, that would be fine.

12 But let me find out before, since you've been
13 sworn, maybe there might be other questions for you from the
14 other Commissioners.

15 JUDGE WOODRUFF: All right. Let me ask the -- the
16 other Commissioners, then.

17 Commissioner Davis, do you have any questions for
18 Mr. Snadon?

19 COMMISSIONER DAVIS: No questions.

20 JUDGE WOODRUFF: Okay. Commissioner Appling has
21 joined us. This is -- Gary Snadon is the owner of the Company
22 and is on the line. Do you have any questions for him?

23 COMMISSIONER APPLING: No questions. I apologize
24 for being late, but no questions.

25 JUDGE WOODRUFF: All right. All right, then.

1 Thank you, Mr. Snadon.

2 (Witness excused.)

3 JUDGE WOODRUFF: And is it -- Mr. Pittman is the
4 accountant?

5 MR. PITTMAN: Yes.

6 JUDGE WOODRUFF: All right. Mr. Pittman, I'll
7 swear you in as a witness, and then the Commissioner can ask
8 you questions.

9 MR. PITTMAN: Okay. That'd be great.

10 JUDGE WOODRUFF: All right. Would you please raise
11 your right hand.

12 (Witness sworn.)

13 JUDGE WOODRUFF: All right. Commissioner, you can
14 ask your questions.

15 COMMISSIONER MURRAY: Thank you.

16 LARRY PITTMAN (VIA TELEPHONE) testified as follows:

17 QUESTIONS BY COMMISSIONER MURRAY:

18 Q. Mr. -- Mr. Pittman, is it?

19 A. Yes.

20 Q. Have you seen the memorandum from the Staff -- the
21 recommendation from the Staff regarding this Certificate?

22 A. Yes, I have.

23 Q. And so you have seen where the Staff observes that
24 there appear to be deficiencies or errors in some of the
25 entries in the annual report.

1 Do you -- do you have any explanation for any of
2 these discrepancies that Staff has noted?

3 A. I guess the best explanation that I can give you,
4 the Company began filing annual reports in 1996. And a
5 gentleman by the name of Vince Unell (phonetic sp.) filed
6 those reports in '96, another gentleman by the name of Dave
7 Black filed them in '97 and then I took over filing them in
8 2002.

9 And we've gone back and researched all the way back
10 to that initial report in 1996. And it appears that the
11 errors that you're seeing in the balance sheet in the
12 amortization and contributions and aid of construction and
13 depreciation reserves for the sewer and water were errors that
14 were made in the initial filings, and then on a consistent
15 basis carried forward from '96 up to and including the
16 2003 report.

17 And honestly, I was not aware there were errors
18 until I received a notice on a -- a balance sheet deficiency
19 on a 2003 report. I think I received that in April of '04.
20 It may have been later than that. I don't recall exactly.

21 I made some corrections and resubmitted that,
22 thinking that was my only issue, until the memo came out and
23 then some subsequent correspondence in early October.

24 I met with Mr. Nichol last week for the better part
25 of the day. We went over the formulation of the reports,

1 where those errors were, how they came about. And then I
2 have, since that period, gone back, starting with that initial
3 report in '96, revised both the sewer and water individual
4 sections, I've revised the aid in contribution section, I've
5 revised the balance sheet, asset and liability sections for
6 years '96 through 2002.

7 And then I have revised in its entirety the 2003
8 report, and had hoped to present those to you today. But ob--
9 obviously we're not there, so that's not gonna happen. But I
10 do have those ready to be submitted.

11 Q. And has any of the Staff seen -- seen that? You
12 said you -- you've met with Mr. Nichol for about a day a week
13 ago?

14 A. Correct. No, no one's -- we did '96. Mr. Nichol
15 did not take a copy of it with him. I have a package -- in
16 fact, I mailed him a package yesterday, and the rest I was
17 going to present today.

18 Q. Okay. And you are going to submit that --

19 A. Yeah.

20 Q. -- sometime?

21 A. My -- my plan now, since we didn't make the trip to
22 Jeff City, was to, you know, overnight or regular mail them,
23 whichever you would prefer.

24 Q. Okay. I -- I appreciate the fact that you've gone
25 back and -- and tried to find out where these errors are

1 to -- to make the corrections. I would feel more comfortable
 2 if Staff took a look at it, so --

3 A. Yeah, that's -- and -- and I'll be -- I'll be happy
 4 to get those there any way that you prefer to expedite the
 5 process.

6 And -- and I'm confident now, after having met with
 7 Mr. Nichol, that I certainly have a better grasp on -- on
 8 preparing the report. And the information from this point
 9 forward will -- will certainly be accurate, as well as timely.

10 COMMISSIONER MURRAY: All right. Well, thank you
 11 very much. I believe that's all I have for you.

12 THE WITNESS: Thank you.

13 JUDGE WOODRUFF: Thank you.

14 Let me follow up on that real quick here.

15 Mr. Snodgrass and Mr. Merciel, do you have any
 16 instructions on how the Company should submit these documents?

17 MR. SNODGRASS: I guess our initial reaction would
 18 be perhaps to submit some revised annual reports with
 19 corrected figures.

20 JUDGE WOODRUFF: Yes, that's the --

21 MR. SNODGRASS: And the -- the method of doing that
 22 could be submitted to Mr. Merciel, and -- and he could forward
 23 those to -- to other auditing personnel, if necessary.

24 JUDGE WOODRUFF: Okay. Do you want it --

25 MR. SNODGRASS: Just a suggestion.

1 JUDGE WOODRUFF: -- regular mail, overnight, does
2 it matter to you?

3 MR. SNODGRASS: Regular mail would be fine with
4 the -- with the Staff, Your Honor.

5 JUDGE WOODRUFF: All right. Thank you.

6 Did you get that, Mr. Snadon?

7 MR. SNADON: Yes, I did. Thank you.

8 JUDGE WOODRUFF: All right.

9 COMMISSIONER MURRAY: Judge?

10 JUDGE WOODRUFF: Yes, go ahead, Commissioner.

11 COMMISSIONER MURRAY: And I'd just like to say, I'm
12 not -- I'm not interested in delaying this approval process
13 unnecessarily. And I'll ask the Staff, how quickly can
14 somebody look at these documents?

15 MR. SNODGRASS: After consultation with
16 Mr. Merciel, Staff's of the opinion, as soon as we get the
17 figures, we'll look at them immediately, Commissioner.

18 COMMISSIONER MURRAY: And get a response to the
19 commission?

20 MR. SNODGRASS: Yes.

21 JUDGE WOODRUFF: File a supplemental --

22 MR. SNODGRASS: Yes. Uh-huh.

23 JUDGE WOODRUFF: -- recommendation?

24 MR. SNODGRASS: Yes, sir.

25 JUDGE WOODRUFF: Thank you.

1 COMMISSIONER MURRAY: Thank you.

2 JUDGE WOODRUFF: Commissioner Davis, do you have
3 any questions for this witness?

4 COMMISSIONER DAVIS: No questions.

5 JUDGE WOODRUFF: Commissioner Appling?

6 COMMISSIONER APPLING: No questions.

7 JUDGE WOODRUFF: Okay. I'll throw it out to the
8 attorneys.

9 Mr. Snodgrass, do you have any follow-up questions?

10 MR. SNODGRASS: Not at this time, Judge. Thank
11 you.

12 JUDGE WOODRUFF: Mr. England?

13 MR. ENGLAND: No questions. Thank you.

14 JUDGE WOODRUFF: Thank you.

15 Commissioner Murray, do you have any other
16 questions for any of the --

17 COMMISSIONER MURRAY: I don't believe so.

18 JUDGE WOODRUFF: Commissioner Davis, anything else?

19 COMMISSIONER DAVIS: No questions.

20 JUDGE WOODRUFF: Commissioner Appling?

21 COMMISSIONER APPLING: No questions.

22 JUDGE WOODRUFF: All right. I -- I don't have
23 anything else either then.

24 (Witness excused.)

25 JUDGE WOODRUFF: I'll let the parties give me

1 closing statements, if they want to make any.

2 Mr. England?

3 MR. ENGLAND: No closing statements, other than to
4 say, I -- I think it's apparent from this on-the-record
5 presentation that Emerald Pointe Utility Company is doing a
6 good job of providing service to its customers.

7 And where errors have been noted or delinquencies
8 have been pointed with respect to past assessments, they've
9 promptly paid those. I don't think there's any intent on this
10 company's part to avoid or circumvent the Commission's rules
11 and regulations.

12 In fact, if anything, I think they're doing a good
13 job of trying to comply as best they can, given the
14 constraints of the size and the -- and the nature of their
15 utility operation.

16 I'd hope the Commission would follow the Staff
17 recommendation and issue a Certificate as soon as possible.

18 JUDGE WOODRUFF: All right. Thank you.

19 Mr. Snodgrass, anything from the Staff?

20 MR. SNODGRASS: Well, normally I do have something
21 to say, but I -- I -- I don't have anything further to say,
22 other than there is a need for this particular expansion.
23 Staff recognizes that need.

24 Staff feels that the assessment issue is an
25 isolated incident. It's not a part of a pattern of any abuse

1 of Commission orders or responsibilities to pay their
2 assessment.

3 And Staff will do everything within its power to
4 get this transaction moving along also.

5 JUDGE WOODRUFF: All right. Thank you.

6 With that, then, this on-the-record presentation is
7 adjourned.

8 WHEREUPON, the on-the record presentation was
9 concluded.

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