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STATE OF MISSOURI

PUBLIC SERVICE COMMISSION

At a continued hearing of the Public
Service Commission, held at Jefferson
City, Missouri, on the 21st day of
March, 1979.

CASE NO. SA-79-11

In the matter of the approval of
STODDARD COUNTY SEWER CO., INC.,
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 unincorporated area
in Stoddard County, Missouri.

BEFORE:

STANLEY A. LORING, Presiding,
HEARING EXAMINER.

REPORTED BY:

ROBERT L. STRATMAN

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APPEARANCES:

WILLIAM F. RINGER, Attorney at Law,
21 Vine Street,
Dexter, Missouri 63841.

FOR: APPLICANT,
STODDARD COUNTY SEWER CO., INC.

DANIEL S. OCHSTEIN, Assistant Public Counsel,
Office of the Public Counsel,
P. O. Box 1216,
Jefferson City, Missouri 65102,

FOR: THE PUBLIC.

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.

1 PURSUANT to a Notice of the Missouri Public
2 Service Commission, dated the 26th day of February, 1979,
3 entitled, "NOTICE OF CHANGE IN DATE OF HEARING," said
4 Notica provided as follows: "Please take notice that the
5 Public Service Commission of the State of Missouri has
6 changed the date of hearing in the above-numbered case from
7 Monday, the 26th day of February, 1979, to WEDNESDAY, the
8 21ST day of MARCH, 1979, at 10:00 A.M., before the Commission
9 in its hearing room on the tenth floor of the Jefferson
10 State Office Building in Jefferson City, Missouri."; at
11 which time, date and place the following proceadings were
12 had:

13 (Written Entries of Appearance filed.)

14 EXAMINER LORING: Let's go on the record,
15 Bob, if you are ready.

16 The Commission has set this morning the
17 continued hearing in Case No. SA-79-11; in the matter of the
18 approval of Stoddard County Sewer Company, Incorporated, for
19 permission, approval and a certificate of convenience and
20 necessity authorizing it to construct, install, own, operate,
21 control, manage and maintain a sewer system for the public
22 in an unincorporated area in Stoddard County, Missouri.

23 Would you make your oral entries of appearance,
24 starting with the Company, please.

25 MR. RINGER: Yes. William F. Ringer, Dexter

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1 Missouri, representing the Applicant.

2 MR. DUFFY: Gary W. Duffy, Assistant General
3 Counsel, P. O. Box 360, Jefferson City, Missouri, repre-
4 senting the Staff.

5 MR. OCHSTEIN: Daniel S. Ochstein, Assistant
6 Public Counsel, Office of the Public Counsel, P. O. Box
7 1216, Jefferson City, Missouri, appearing on behalf of the
8 Public.

9 EXAMINER LORING: Are there any preliminary
10 matters before we continue with the Applicant's case?

11 (No response.)

12 EXAMINER LORING: Okay.

13 Mr. Ringer, you can call your witness, please.

14 MR. RINGER: Yes, sir. I would like to recall
15 Gary Gaines.

16 EXAMINER LORING: Mr. Gaines, would you take-
17 the witness stand is over here today (indicating). It is a
18 little more comfortable than what we had the last time.

19 Would you raise your right hand.

20 (At this time Mr. Gary L. Gaines was duly
21 sworn.)

APPLICANT'S EVIDENCE (CONTINUED):

WITNESS GARY L. GAINES RECALLED TO THE STAND.

FURTHER DIRECT EXAMINATION BY MR. RINGER:

Q Would you state your name, please, sir.

A Gary L. Gaines.

Q And what is your occupation, sir?

A I am a Professional Engineer.

Q All right, sir. And have you testified in this matter previously, on October 19, 1978?

A Yes.

Q And, at that time, did you sponsor an exhibit referred to as Exhibit No. 3, commonly known as an Engineer's Feasibility Study?

A Yes.

Q All right, sir. I am going to hand you Applicant's Exhibit No. 3--

EXAMINER LORING: Excuse me. Let's go off of the record just a minute, Bill.

MR. RINGER: Okay.

(Discussion off of the record.)

EXAMINER LORING: Back on the record.

BY MR. RINGER:

Q And, Gary, have there been any changes in your Exhibit 3, which you sponsored, since that hearing on October 19?

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1 A Yes, there has.

2 Q Would you explain to the Commission what those
3 changes are?

4 A As shown on Page 11 in this Exhibit 3, where
5 the treatment plant site was, we have relocated it to a
6 location in Outlot No. 2, between the existing lake levee and
7 Three Mile Road. Outlot No. 2 is shown on Page 11 of this
8 Exhibit 3. That is the only major change that has been
9 made, is the location of the treatment plant.

10 Q Okay. Gary, would you state the reasons for
11 that change?

12 A The Staff of the PSC asked us to look into
13 the possibility of relocating it, because they felt it
14 would be a better site. We did that, and after field
15 work and investigating the possibility, we found that it
16 would be a better site for the treatment plant. So, it
17 was initiated by the Staff of the PSC, and then we concurred
18 with them that it would be a better site.

19 Q Okay. Gary, in your opinion, would this
20 change necessitate any further change in your feasibility
21 study, particularly concerning the rate structure?

22 A No.

23 Q And would you explain why?

24 A Well, the relocation of the treatment plant
25 site will increase the capital cost somewhat, but we feel

1 that that cost would be offset by the savings in eliminating
2 a pump station.

3 MR. RINGER: That is all of the questions I
4 have.

5 EXAMINER LORING: Okay. Any cross-examination?

6 MR. DUFFY: The Staff has no questions.

7 EXAMINER LORING: The Public Counsel?

8 MR. OCHSTEIN: Just a couple.

9 CROSS-EXAMINATION BY MR. OCHSTEIN:

10 Q Did you look into whether or not a gravita-
11 tional system could be used?

12 A Yes, sir, we did.

13 Q And what was your conclusion?

14 A We felt that an all-gravity system would be
15 unfeasible from an economic standpoint.

16 Q And did you look at alternatives--what type
17 of a system is it?

18 A This is a combination pressure and gravity
19 system. Some of its main trunk lines are gravity lines
20 and then pressure lines feed into them.

21 Q And did you look at alternative pressure
22 systems to determine whether or not this is the best
23 system for you?

24 A Yes. We investigated several alternative
25 routes and layouts of the entire system before arriving at
this one.

1 Q And is it your opinion that this is the
2 best system to use in this case?

3 A Yes, it is.

4 Q And, also, just for my own knowledge, most of
5 the existing homes there already have septic tanks, is that
6 correct?

7 A Yes.

8 Q And is there a problem with septic tanks in
9 that area of the state?

10 A Yes.

11 Q Why is that?

12 A It is primarily due to the soil conditions,
13 because a septic tank effluent will not percolate through
14 the soil. It is also due to the closeness of the homes in
15 that area. If the homes are spread out quite a bit, of
16 course when the effluent doesn't drain into the soil, it
17 doesn't cause much of a problem, but in this area, it runs
18 across other people's yards and causes problems. So, it is
19 a combination of the two, of the congestion of the sub-
20 division and the soil conditions.

21 MR. RINGER: Can we go off of the record for
22 a moment?

23 EXAMINER LORING: Yes. Off of the record.

24 (Discussion off of the record.)

25 EXAMINER LORING: Back on.

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MR. OCHSTEIN: I have no further questions.

EXAMINER LORING: Okay. Any redirect?

MR. RINGER: No, sir.

EXAMINER LORING: Thank you, Mr. Gaines.

You may step down.

(Witness excused.)

MR. RINGER: Applicant would call Mr. Carl Bien, recall Mr. Carl Bien.

(At this time Mr. Carl Bien was duly sworn.)

WITNESS CARL BIEN RECALLED TO THE STAND.

FURTHER REDIRECT EXAMINATION BY MR. RINGER:

Q Would you state your name, please.

A Carl Bien.

Q And your address?

A Route 3, Dexter, Missouri.

Q And, Mr. Bien, what is your association with the Applicant, Stoddard County Sewer Company?

A I am the President of the Stoddard County Sewer Company.

Q All right, sir. And did you not previously testify at a hearing on this application October 19, 1978, in Dexter, Missouri?

A Yes.

Q All right, sir. Have you since that hearing

1 had further discussions and communications with the Public
2 Service Commission concerning this application?

3 A Yes, sir.

4 Q All right, sir. For the record, would you
5 state, if the Commission sees fit to grant this certificate,
6 who in your Company would be responsible for the daily
7 operation and maintenance of the Sewer Company?

8 A The operation would be handled by an employee,
9 possibly part-time, who would be on call to handle any
10 maintenance problems that might occur. And also his
11 responsibility would be for the maintenance and observation
12 of the system. At the present, we don't--we haven't hired
13 this employee. I will also act as a backup for this system,
14 in case of emergency, no one is available, well, my number
15 or I will be available to them.

16 Q Okay. Mr. Bien, do you plan to have any
17 telephone number available to the users of your sewer system?

18 A Yes, sir. There will be at least two phone
19 numbers available.

20 Q Do you know what these phone numbers are at
21 the present date?

22 A No, I do not. I know my own and I know the
23 Company phone number, but there again the individual hasn't
24 been hired that will be maintaining this system.

25 Q You say you plan on it being a part-time
employee?

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A Yes.

Q Would you explain what you mean by that?

A The system cannot afford a full-time employee. It is not anticipated that an employee will be required or needed full time. So, at this point, it appears that a part-time employee is all that is required to maintain and handle the system the way it should be.

Q All right, sir. And you say that you, yourself, can also be contacted--

A Yes.

Q --concerning the operation and maintenance of the system?

A Yes, sir.

Q All right.

MR. RINGER: Mr. Examiner, I would like to have an exhibit marked at this time.

EXAMINER LORING: That will be marked--what do you have?

MR. RINGER: A Construction Permit.

EXAMINER LORING: Let's go off of the record.

(Discussion off of the record.)

(AT THIS TIME APPLICANT'S EXHIBIT NO. 5 WAS MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)

EXAMINER LORING: Back on the record.

The Applicant's Exhibit No. 5, the Construction

1 Permit, has been marked for identification.

2 BY MR. RINGER:

3 Q Mr. Bien, I am handing you what has been
4 marked as Applicant's Exhibit No. 5, and are you familiar
5 with that document?

6 A Yes, sir.

7 Q Would you explain what Exhibit No. 5 purports
8 to show?

9 A This is the Construction Permit that we
10 received from the Department of Natural Resources, giving us
11 permission to start construction of the system.

12 Q Okay. And when is that Construction Permit
13 dated?

14 A December 22, 1978.

15 Q Okay.

16 MR. RINGER: Mr. Examiner, at this time, I
17 would ask that Applicant's Exhibit No. 5 be admitted into
18 evidence.

19 EXAMINER LORING: Any objection to Exhibit
20 No. 5?

21 MR. DUFFY: None.

22 EXAMINER LORING: Applicant's Exhibit 5 is
23 admitted.

24 (AT THIS TIME APPLICANT'S EXHIBIT NO. 5 WAS
25 RECEIVED IN EVIDENCE AND MADE A PART OF THIS RECORD.)

1 BY MR. RINGER:

2 Q Mr. Bien, have you, as President of the
3 Company, entered into a stipulation and agreement on a
4 proposed monthly user rate for the Sewer Company with the
5 Public Service Commission's Staff?

6 A Yes, sir.

7 Q And would you state to the Commission what
8 that monthly rate would be?

9 A \$11.40 per month.

10 Q And how do you understand--is it also under-
11 stood that that is to be in effect for a certain length of
12 time?

13 A Yes. It is my understanding that this will
14 run for the first 18 months, 12 to 18 months.

15 Q All right, sir. Also, do you understand that
16 at a later date you are to supply the Commission, after you
17 get some figures on the operation of the Company, a proposed
18 tariff from your actual operating statement?

19 A (Witness Bien nodded head).

20 Q And you understand that you should supply
21 that at least 90 days before you ask for any rate change or
22 rate relief from the Public Service Commission?

23 A Yes.

24 Q Okay. Have you, in fact, or do you understand
25 that you need to get together with the Public Service

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1 Commission Accountants and go over their System of Accounts
2 prescribed by the Public Service Commission?

3 A Yes, sir.

4 Q Who is going to handle the books and records
5 of the Stoddard County Sewer Company on a daily basis?

6 A On a daily basis, this has not been determined
7 definite yet, either. Jones and Riley will certify these
8 records at least annually.

9 Q I don't mean to interrupt. Who are Jones and
10 Riley?

11 A Our CPA firm in Dexter, Missouri.

12 Q Okay. But you have an actual bookkeeper at
13 your place of business, do you not?

14 A Yes.

15 Q Is it your plan at this time to have her
16 try and operate the actual daily accounts for the Sewer
17 Company?

18 A This is not definite at this time. There is
19 also procedures to work out as far as collection or payments,
20 and so forth, of the monthly user fee, and so forth; so,
21 we don't know at this time definitely as to who will be
22 doing this daily bookkeeping work yet.

23 Q Yes, sir. You do understand that those
24 accounts need to be kept?

25 A Daily.

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Q And they need to be accurate?

A Yes, sir.

Q And they need to be continuous?

A Yes, sir.

Q All right. Okay. Have you also, as President of the Company, agreed and stipulated with the Commission to charge a set hook-on fee for the system to the customers?

A Yes, sir.

Q And what is that figure that you have stipulated and agreed to?

A \$10,035--one thousand--\$10,040, I believe it is.

Q \$1,035, is it not?

A Right. \$1,035. Okay.

Q Okay. And are you satisfied with both the proposed hook-on fee and also the proposed monthly rates?

A Yes. We are willing to accept these rates.

Q And what did you base, generally what did you base those figures on?

A The figures were arrived at from the feasibility, the backup work of our engineering firm and our firm at the same place.

Q Uh-huh. All right. On this hook-on fee and this \$1,035, what does that entitle you to do with those funds, and how far--or who do you receive it from, from how

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1 many proposed customers?

2 A It is my understanding that the agreement for
3 the \$1,035 is for the first 105 customers, provided they
4 hook up within the first year, or by approximately June 1,
5 1980. Any hookups within this--any people not hooking up
6 within this first 105 people, then after this one-year period
7 of time, they would be subject to a 12 percent interest
8 rate, increase for hookups.

9 Q As an interest expense?

10 A Right.

11 Q And that would just--is it your understanding
12 that that would only be applicable to the 105 customers
13 that will be hooked on?

14 A Yes; yes.

15 Q Okay.

16 A The first 105.

17 MR. RINGER: That is all of the questions I
18 have.

19 EXAMINER LORING: The Staff?

20 RE-CROSS-EXAMINATION BY MR. DUFFY:

21 Q Mr. Bien, is it your understanding that your
22 Company will file a bill form with your tariffs, with
23 telephone numbers on it, where somebody from the Company
24 can be reached 24 hours a day?

25 A Yes, sir.

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1 Q I assume that that part-time employee will
2 probably be a plumber or a plumbing contractor?

3 A He will be a plumbing contractor, yes, sir,
4 to handle the system.

5 Q Now, I want to get into this connection fee
6 of \$1,035. Can you explain to me, if I were a customer of
7 your company and I paid you \$1,035, what would you do with
8 that money, what benefit would I receive from that payment?

9 A For the term of the \$1,035, the Company will
10 hook up, you know, what you might term as a turnkey project,
11 or a turnkey job, as far as the facilities for the residences
12 there, includes hooking up to their existing house sewer.

13 Q All right. So I, as a customer, would not--
14 if I paid you that amount of money, then I wouldn't have
15 anything else to do with worrying about getting my sewer
16 connected, your Company would take care of it, I wouldn't
17 have to hire a plumber to do any work on my house?

18 A This is correct.

19 Q And if I have a septic tank there already,
20 you are going to take care of taking that out, or blocking
21 it off, or what are you going to do about a septic tank?

22 A The existing septic tank will be used, at
23 least if it appears it could be used, for standby storage;
24 if not, they will be--if they are in a condition or in a
25 location where they cannot be used, they will be removed.

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1 Q All right. I, as a customer, will not
2 incur any additional expense beyond the \$1,035 to get sewer
3 service from the house, is that correct?

4 A This is correct.

5 Q All right. With regard to the septic tank,
6 does it make a difference whether they are on the gravity
7 portion of the system, or on the pressure system or pressure
8 portion of the system?

9 A If they are on the gravity portion of the
10 system, the septic tanks will be bypassed, the new line would
11 be cut in in between the septic tank and the house; in other
12 words, there would be no need of using the existing tank
13 for standby.

14 Q All right. Now, I think the record needs
15 to be cleared up a little bit about who will pay this
16 \$1,035, and then who will pay more than that. Can you explain
17 that a little fuller, as to how many people are going to
18 be entitled to this first payment, and when the exact
19 cut-off date will be, so that people will be--the customers
20 will know when they have to take advantage of this election?

21 A It is my understanding that as soon as
22 facilities are available to the people, whatever date that
23 might be, if they hook up within a year's time from that
24 date, as soon as service is available, then it will be at the
25 rate of \$1,035. If a number of these people elect not to

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1 hook up, and at some time, a later date they decide to
2 hook up, or if they sell their property and somebody else wants
3 to hook up, or something, then this hookup will be at the
4 \$1,035, plus the 12 percent interest, beyond the first year
5 that this service is available to them.

6 Q All right.

7 A This is for the first 105 hookups in the
8 area, which is what the plant facilities there, this is
9 the capacity of the plant itself.

10 Q All right. That was going to be my next
11 question, is why 105, and you are saying that is the
12 capacity, the rated capacity of the treatment facilities?

13 A Yes, sir, of the first phase of the system.

14 Q Now, is your tariff going to reflect just
15 this 12 percent increase after the first of the year, or
16 will it attempt to put increases on for the third, fourth,
17 fifth years beyond that, do you know at this time?

18 A Well, it is my understanding that if the
19 system or the facilities are available to them, and they
20 do not hook up, then for the period of time beyond the
21 first year, that they do not hook up, that they would be
22 responsible for the 12 percent interest.

23 Q Where did the 12 percent figure come from?

24 A That is the rate of interest that commercially
25 we are paying right now.

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Q That the Company is paying?

A Right.

Q What is the possibility of that going up or down? How long is your loan commitment at 12 percent?

A This is short-term.

Q Less than a year?

A Yes.

Q Where is the office of the Company going to be in this subdivision, or is it going to be in the subdivision?

A The office will probably not be in the subdivision. The office will probably have to be, due to the collection of the rates, and so forth, at the offices of the Bien Lumber Company.

Q How far away is that from there?

A Approximately three miles.

Q Now, this may have been brought out earlier, do you live in this subdivision--

A Yes, sir, I do.

Q --that is proposed to be served? How many platted lots are there in the subdivision?

A In the area served by this system, there is 274 platted lots.

Q Do you know how many existing homes there are?

A Approximately 90-some.

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1 Q Do you know how many of them are on septic
2 tanks?

3 A Would you clarify that? There is a--some of
4 these homes do have an aeration system, an aeration tank,
5 and some septic tanks; other than that, if you consider both
6 of those the same, they are all on septic tanks.

7 Q Do you know how many have the aeration type
8 facilities, as opposed to a--

9 A More specifically, a close estimate would be
10 six units, six houses.

11 Q Do you know, have the owners of those homes
12 with the aeration facilities expressed an interest or a
13 disinterest in connecting to the sewer system because of the
14 nature of their treatment facilities; do you expect them to
15 become customers?

16 A I would hope that they would become customers
17 yes, sir, and I expect them to.

18 Q Have any of them told you whether they are or
19 not?

20 A No, they haven't. As far as some of them,
21 they have asked me what is my position, my position is that
22 we are going to put the facility in, we have to according to
23 law, and it will be available to them. As far as them
24 hooking up, that is not our jurisdiction to enforce the
25 hookup or not. That is our position on it. So, I wouldn't
discuss--

1 Q Well, what I was really going after was your
2 knowledge as to if they, any of those people with this
3 aeration type of unit have told you that under no circum-
4 stances will they hook up to your system?

5 A No. They haven't told me under no circum-
6 stances will I hook up, they have not.

7 Q Have they told you that they are not going
8 to hook up?

9 A The question that some of them have is
10 if the aeration system is not equal to the same type of
11 system that we are putting in now, that there is somewhat--
12 they do have one-unit aeration systems, where we are having
13 this new unit, this plant we are putting in will handle
14 105 units or houses, the big difference, I believe, that is
15 involved here is the individual collection and not the
16 treatment, as much as it is the individual collection.
17 This is why they are not quite understanding the full
18 extent of it, and if their system meets the requirements
19 or not. There again, we have--I think there is just one
20 party that has even mentioned this to me, most of them
21 or most of the people are ready for the system and they
22 want the system, they realize that there will be a benefit
23 to them and to the subdivision and to the property values.
24 So, generally speaking, there is very little opposition.
25 There is some question by this one party, if he should have

1 to hook up or not, and my comments to him were to call the
2 Department of Natural Resources, to call the Public Counsel,
3 here in Jeff. City, and also Mr. Sankpill. I gave him all
4 of the information that I had available, as far as to who
5 he could talk with, or whatever, on it, and as far as the
6 decision goes, it wasn't mine, it was his, or the authorities
7 in charge.

8 MR. DUFFY: That is all of the questions I
9 have.

10 EXAMINER LORING: Oh, Public Counsel.

11 RECROSS-EXAMINATION BY MR. OCHSTEIN:

12 Q Mr. Bien, did I understand that you have a
13 lumber company?

14 A Yes.

15 Q Do you have any experience in running a sewer
16 company?

17 A Yes, sir,--not in running a sewer company.
18 I have experience in the mechanical trades; yes.

19 Q Who is going to be building or constructing
20 your sewer system and lines?

21 A At this point we do not have the answer. I
22 don't know if we will let this as a contract, or if we will
23 attempt this project ourselves.

24 Q Have you looked into the purchase of the lines,
25 the sewer lines as they run and not the treatment facilities
as such?

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A Into the purchase of the lines?

Q Yes.

A Have we taken bids for this installation work, is that what--

Q Well, that is my question.

A I don't understand you.

Q Have you taken bids for the construction of the system?

A We have not put this out for letting, no, because as of right now, I don't believe all of the--as of right now, we just now know exactly where the plant is going.

Q Okay. Have you taken bids as to the--just the purchase of the lines that have to be run but not the installation of it?

A Again, are you--the quotations for the cost of the piping?

Q Yes.

A On a per unit price basis, is this cost per foot?

Q Have you gotten any type of cost for those lines?

A Yes; we had some costs about two years ago, we got it, or whenever we started this, and I would have to look back and see what the date was, yes.

Missouri Public Service Commission

1 Q And from whom, do you have any idea from
2 whom you will be purchasing those lines, those pipes?

3 A At this point, no. And I don't know for sure
4 if we will be purchasing them or if we will let a contractor
5 come in and do it. So, we don't have these answers as of
6 yet.

7 Q I was just kind of wondering, if in your
8 lumber business, you carry that type of product?

9 A No, that is out of--that is a completely
10 different type of operation.

11 Q And will the sewer company be purchasing the
12 equipment and not the lumber company?

13 A Yes.

14 Q Do you have a general knowledge of how the
15 \$1,035 was arrived at?

16 A Yes, sir.

17 Q And how was that, to the best of your
18 knowledge, arrived at?

19 A There is a \$274,000 estimated total investment.
20 There is \$34,800 to be capitalized, or \$34,800 of the
21 \$274,000 to be capitalized by the stockholders of the Company.
22 The balance of it is based on the \$1,035, is to cover the
23 balance of the total investment.

24 EXAMINER LORING: What was that figure again?

25 WITNESS BIEN: The \$34,800?

1 EXAMINER LORING: The \$34,800, I think you
2 said some figure for the balance?

3 WITNESS BIEN: No, sir, I didn't have the
4 balance. The 274,000 less the 34,800,--

5 EXAMINER LORING: Oh, yes.

6 WITNESS BIEN: --and then the balance of it.

7 MR. RINGER: Mr. Examiner, may I refresh his
8 memory with a sheet that we have worked up?

9 EXAMINER LORING: Sure.

10 MR. RINGER: I think you might want to change
11 some of those figures after you review that.

12 EXAMINER LORING: Do you want to go off of
13 the record to give him a chance--

14 WITNESS BIEN: I would like to change it to
15 make it 174,000.

16 MR. RINGER: Correct.

17 EXAMINER LORING: Off of the record.

18 (Discussion off of the record.)

19 EXAMINER LORING: Back on the record.

20 Let's go back on.

21 Do you want to cover that ground again, Dan?

22 MR. OCHSTEIN: Sure.

23 BY MR. OCHSTEIN:

24 Q Do you have some additional information that
25 you would like to submit or some changes in the figures that

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1 you just gave me, that you would like to correct?

2 A The initial estimated cost is \$174,000 in
3 lieu of the 274,000.

4 Q And you are going, the Company will put up
5 34,800?

6 A That is right.

7 Q But you need to cover the remainder of
8 approximately \$139,000?

9 A Yes, sir.

10 Q So that the \$1,035 that you will receive from
11 each customer is going to pay for substantially all of the
12 system, is that correct?

13 A Would you repeat that, please?

14 Q Well, the \$1,035 is going to come from each
15 customer, is that correct?

16 A Yes. I tell you, I have a copy here, I would
17 like for you to--

18 Q Well, I understand. We will get to that.
19 My question is: Is it going to be the customer's contribution
20 that pays for substantially all of the system?

21 A For 80 percent of the system, yes.

22 Q Now, the system is to be run probably down
23 the middle of the streets of the subdivision, is that
24 correct?

25 A Not necessarily. A part of it, a part of it

1 is in the street area, part of it is not.

2 Q Well, what I am trying to get at, is you
3 are going to go relatively close to each house on the
4 system, so that you can pick up all of the houses in the
5 subdivision, or all of the platted lots in the subdivision?

6 A The road rights-of-way, even if we were able
7 or the lines that are going in the road rights-of-way, you
8 have got a distance of a 50-foot road right-of-way in most
9 cases; so, yes, we will be trying to locate as close as we
10 can.

11 Q My question is: You are not going to leave
12 out any of the platted lots or houses?

13 A No. All lots are to be covered with it.

14 Q And you have indicated there are approximately
15 90 houses--

16 A Yes.

17 Q --existing at this time? And that the system
18 as being built right now is going to have a capacity of
19 105 houses, is that correct?

20 A (Witness Bien nodded head).

21 Q And you have indicated that those who give
22 the Company the \$1,035 within the first year will have the
23 right to connect to the system, is that correct?

24 A Yes, sir.

25 Q And those who do not give their funds within

1 the first year, if they do give funds in the following year,
2 or the following time period, will have to pay their cost in
3 addition to the \$1,035, is that correct?

4 A Yes, sir. Up to the 105 houses, yes, sir,
5 or connections.

6 Q And you have stated that there are 274 plots
7 in your subdivision, is that correct?

8 A Yes, sir.

9 Q My problem, Mr. Bien, is that there are only
10 90 existing houses, and assuming all of those existing
11 houses connect, within the 12-months period, for \$1,035,
12 there is still going to be 15 vacancies to fill your capacity,
13 is that correct?

14 A Right.

15 Q And it is--and to fill up this capacity,
16 you are going to have to get 15 other lot owners to contribute
17 \$1,035, and if those 15 people do not pay you \$1,035 within
18 a 12-months period, they are going to be charged an additional
19 amount, is that correct?

20 A The 15 additional, basically, is where the
21 15 additional comes from, is there is an anticipated growth
22 rate or house increases of 15 per year, and this is somewhat
23 a fair average, so this means that if 15 additional homes
24 are built, the first year then no one with a--that is, the
25 facility would be full with one year's growth as well.

1 Q Well, my problem is, is that there may be,
2 after a full year, you may only have a hundred houses, is
3 that a safe assumption?

4 A I don't know.

5 Q Well, is it--

6 A I don't know how many houses will be there
7 after one year; I really don't.

8 Q Okay. And if you only have less than 105
9 houses, if you have less than 105 houses, you are going to
10 have to get lot owners that don't have a house to contribute
11 the \$1,035 during that 12-months period before they are
12 charged with interest, is that correct?

13 A Well, the lot owners would have the right to
14 prepay if they wanted to; I am sure of that.

15 Q Well, we are not denying that. My question
16 is, my problem is, you are going to have certainly, well,
17 approximately 184 lots that are going to--that are not going
18 to have houses on it, and out of that 184, you are going to
19 have to have some people come and pay you for the connection
20 fees prior to building that house; and if they don't pay
21 you within a 12-months period, then they are going to be
22 charged interest. My question is: What happens after the
23 12-months period, if you have 20 people, 20 house owners
24 come on and say, "We would like to give you the \$1,035,"
25 out of that 20 people, who are you going to take and who are

1 you going to charge the interest to?

2 A And this is with 90 prepaid?

3 Q Right.

4 A In other words, with 15 open?

5 Q Right.

6 A It would be the first 15.

7 Q Well, if they all come, you know, just
8 assuming they all come to you in the same day?

9 A I just hope they don't. I hope they get in
10 line, in whatever order, I guess, if this is the agreement.

11 Q My problem that I see is that you are going
12 to be charging, you are going to be charging interest to
13 some and you are not going to be charging interest to others.
14 And it is just going to be, you kind of mismatch who you
15 are going to be charging to, in my opinion.

16 EXAMINER LORING: Is that a question, or a
17 statement?

18 MR. OCHSTEIN: I would like to know if he
19 agrees or disagrees with that.

20 WITNESS BIEN: I don't really, I don't
21 really see where there is any problem here. I know what
22 you are saying; in other words, do individual lot owners
23 have to come in and volunteer and say, "Okay, I will pay
24 now, so I don't have to pay the interest later," and so forth.
25 Here again, this is calculated on somewhat of an average

1 building program that has been going on, if there is 90
2 existing now, if there is 15 to be built within the next
3 12 and somewhat 15 months, provided we can install the
4 system in 90 days, this would make the 105, which is the
5 plant capacity. Okay. Now, then, at this rate, no one
6 would pay any interest. Okay. Provided everybody hooks up
7 that is there, that has homes, and so forth. Now, then,
8 if four or five people decide we do not want to hook up,
9 we will wait, we will wait until it is convenient for us,
10 okay, yes, yes, sir, you can wait, or yes, ma'am, you can
11 wait. But we are asking you to pay the interest that we
12 pay, so that we may recapture our interest on a monthly
13 or a yearly basis for the period of time that you decide
14 to wait. So, provided that 15 homes are built, the plant
15 is occupied and this is what it is based on. So,--

16 BY MR. OCHSTEIN:

17 Q Okay. What happens if--

18 A The only one that is taking a risk here is
19 the people that doesn't hook up on the front end, that--
20 where the facility is available to them, they decide not
21 to hook up, they are the ones that is risking the additional
22 interest.

23 Q Is the reason for the interest to charge the
24 existing house owners who don't hook up within so much
25 period?

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1 A Are you saying, a charge, penalized?

2 Q Well, to have them incur the cost of the
3 interest?

4 A Not necessarily. At this--we are--the
5 interest for the first 12 months period is furnished.
6 Whatever our interim financing runs during the first six
7 months, or 12 months, or something, is cost-free to them.
8 Anything beyond that, anything beyond that point, yes, we
9 are asking that we get our interest back for it.

10 Q What happens if you have--if you get 105
11 people to pay the \$1,035, and that didn't include one of
12 the existing house owners, and then you go and construct
13 an additional treatment facility, and then that existing
14 house owner wants to connect to your system, are you going
15 to charge him interest?

16 EXAMINER LORING: Excuse me. What additional
17 treatment facilities are you talking about? Further
18 expansion?

19 MR. OCHSTEIN: I believe that they are
20 starting an application that contemplates further expansion.

21 BY MR. OCHSTEIN:

22 Q Isn't that correct, Mr. Bien?

23 A Yes. And what you are asking is, if an
24 individual decides to wait until the first round is over
25 with, the first 105, then if he can get on the second round

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1 or the second treatment plant, that that is back to the
2 additional hook-up charge?

3 Q Yes.

4 A This I do not have the answer for. I don't
5 know, other than the fact that again the second treatment
6 plant, I am sure, would have a year's hook-up, or whatever,
7 this program would start over. It would be worked out on
8 a fair and equal basis.

9 Q Do you think that there is a chance that you
10 will have over 105 customers that want to hook up in the
11 first year?

12 A If there is, we need to get the other plant
13 in, is what it amounts to, and we will have it in.

14 Q Now by the tariffs that you are going to file,
15 if there are more than 105 that wish to hook up, that means
16 that some of that 100 and--some of the surplus customers
17 aren't going to be able to pay the \$1,035 to hook up, isn't
18 that correct?

19 A Well, I hope we have the problems that you
20 are talking about. If we do, then I think we can find a
21 solution for it. But at this point, I don't--

22 Q Well, I am just afraid that by the literal
23 interpretation of your proposed tariffs, that if somebody
24 wants to come in on the first run, and they are not allowed
25 to, that by the literal interpretation of your tariffs, you

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1 may have to charge them an interest rate, even though you
2 couldn't hook them up.

3 MR. DUFFY: Could we go off of the record a
4 second?

5 EXAMINER LORING: Yes.

6 Let's go off of the record.

7 (Discussion off of the record.)

8 EXAMINER LORING: Back on the record.

9 BY MR. OCHSTEIN:

10 Q Mr. Bien, do you expect most of your new
11 customers to be those who already have an existing house?

12 A I would hope that all of the existing homes
13 would hook up; yes.

14 Q And you expect to receive \$1,035 in one lump
15 sum, isn't that correct?

16 A Yes.

17 Q Have you contemplated whether or not you would
18 allow any type of installment, or partial payment of the
19 connection fee?

20 A We haven't made any arrangements for any
21 installment fee, or plan, or I mean anything. We are
22 expecting these people to be able to meet their obligation
23 on that.

24 Q Do you think any of the people in your area
25 will have trouble meeting that \$1,035 connection fee?

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1 A I don't know the exact financial condition
2 of each individual. I know, I feel like, from opinion only,
3 that most of them are capable of doing this; yes.

4 Q Do you expect most of them to go to lending
5 institutions?

6 A There is lending institutions that are
7 interested in making these loans on these hook-ups. And
8 there is--and if they need to go there, I am sure that they
9 will try to help them.

10 Q And if they went to a lending institution,
11 they would have to pay interest on that amount, if they
12 borrowed the money, is that correct?

13 A Yes.

14 Q Is the Company philosophically opposed to
15 any type of installment or partial payment of the connection
16 fee?

17 A It is not a question if we are for it or
18 against it. It is a question that we are having to come up
19 with a tremendous amount of money here, not by choice
20 necessarily, and we don't feel at this point it is our
21 obligation to permanently or long-term finance really what
22 is everyone's investment out there. Somewhat, you know,
23 I mean that is our basic feeling on it. It isn't a question
24 of whether we could or couldn't, but we are not able to
25 just continuously--we are going to provide the system, we

1 are going to try and provide the system, but as far as--
2 at this point, as far as I know, it is not our obligation
3 to also furnish these people financing for their share of
4 this.

5 Q If someone came to you and said, "I will give
6 you \$100 a month for the next ten or 11 months to pay for
7 my contribution," would you say, "No, I am sorry, I have
8 got to have it all"?

9 A To answer your question, we are going to
10 try to be fair with all of the parties out there, whatever
11 regulation is set, we are going to try to hold it fair and
12 equal for all parties, and I am not going to tell one neighbor,
13 or one friend, that, "Yes, you can finance your system, you
14 can pay us however you want to," and another one, that I
15 might or might not know, "No, you have got to pay it all."
16 We are setting a regulation, provided we have the authority
17 to do so, to operate that Company, that the hook-up fee will
18 be paid and it will be paid in full.

19 Q Now,--

20 A Just the same as we have to pay for the
21 system in full.

22 Q Now under the strategy or the scenario that
23 you have chosen, all of the customers could come 11 months
24 and 29 days later and say, "Here we are, we are going to
25 pay our \$1,035," isn't that correct?

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A (Witness Bien nodded head).

Q And you would have paid for the construction during that period?

A That is right.

Q Boread the cost of construction during that period, is that correct?

A That is right.

Q So if some customers could pay you during the year of construction, then you would be better off, would you not, than if everybody came at the end?

A To answer your question, we wouldn't have to lose the interest over people that did pay us. So, yes, these people--we would be better off because they would be meeting their obligation on time, so we would be better off. If these people do not meet their obligation until 11 months and 29 days, we are going to lose, we are going to be paying these people's interest for some period, for 11 months and 29 days, that we are going to have to absorb, and we are aware of that.

Q My problem is, what is going to be the incentive to have somebody--if they know they have to pay for it in a 12-months period, at some point, what is going to be the incentive for them to come in tomorrow rather than 11 months and 29 days later?

A It is their choice, I guess. The regulation

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1 is within the first year, or this is what we are trying
2 to work out, is to give them a year to make arrangements
3 or to hook on, and this is what we are expecting.

4 EXAMINER LORING: Could I interject a question
5 here--

6 MR. OCHSTEIN: Sure.

7 EXAMINER LORING: --or interrupt you?

8 When is the proposed treatment plant planned
9 to be constructed and ready for operation?

10 WITNESS BIEN: Approximately 120 days. So,
11 this actually gives them 16 months.

12 EXAMINER LORING: Okay. That is all I have.
13 Thank you.

14 BY MR. OCHSTEIN:

15 Q And is the starting date of the tolling of
16 the 12-month period, is that from the time you get a
17 certificate in this case, or from the time that the system
18 is completed?

19 A It is from the time that these people hook
20 up, but they cannot hook up until the system is in operation
21 and ready to operate.

22 Q Did you expect to have a--did you expect the
23 Company to fully own the system when it is completed and
24 the people have paid their connection fee?

25 A I don't follow your question, when you say

1 "Company." We have talked about a couple of different
2 companies here.

3 Q The Stoddard County Sewer Company, are they
4 going to be the owners of the sewer system?

5 A Yes.

6 Q And you said you based the 12 percent on the
7 amount that you are paying for short-term debt, is that
8 correct?

9 A The commercial rate for money right now is
10 12 percent, and we are paying 12 percent--

11 Q Do you know--

12 A --for money.

13 Q Do you know if mortgage rates on homes are
14 also 12 percent, or set at 12 percent also?

15 A No. They are ten percent. They come under
16 the usury laws for individuals, in most cases anyway, and
17 it will be ten percent. So, I feel that people could borrow
18 their money cheaper than we can, somewhat, by doing this.

19 Q Are you going to have--after the construction
20 is completed, are you going to maintain a balance of short-
21 term debt until you receive in full the contributions?

22 A Yes, sir.

23 Q There is no way of trying to replace that
24 short-term debt with any other type or form of financing at
25 a lower interest rate?

1 A Well, from my knowledge right now, the
2 economics of this country and all, there is no--there is
3 very little difference in any type of financing. It is still
4 all high right now, due to the--if it is long-term or short-
5 term, it is very little difference in the rates.

6 Q And, finally, are you aware of any attempts
7 at any time to try to have a sewer district formed in the
8 Dexter area?

9 A Yes, sir; for a period of two years or longer.

10 Q And was there some reason why a sewer district
11 hasn't been formed, is that correct?

12 A Yes, sir.

13 Q Do you know what that reason is?

14 A Yes, sir.

15 Q Could you state what it is?

16 A Yes, sir. We started approximately two years
17 ago working with the people, or something over two years ago,
18 we tried several different methods of coming up with a
19 means, a ways and means of putting a system in and a sewer
20 district was one of them. Okay. To form a sewer district
21 in Stoddard County is useless. The district itself can be
22 formed, but the bonds themselves cannot be sold. The County
23 Court issues a six percent bond in payment to the contractor
24 to put the system in, and it is infeasible. Now, the thing
25 that we are involved in, and one thing that has really hurt

1 this whole operation here, that there is, I think,
2 approximately two or maybe three counties left in the State
3 of Missouri that is a third-class county, and Stoddard
4 County is one of them. And we also, in addition to going
5 through the County Court, we also tried to go the bond route,
6 have a--form a company to sell bonds for it. The bonding
7 companies will not sell to a third-class county on sewers.
8 We checked that out. We have checked every way of putting
9 that system in, that is possible, to our knowledge, and also
10 to the knowledge of the Department of Natural Resources,
11 and this is the only possible way of doing it. So, that is
12 where we are at on it.

13 Q Do you know who Emerson and Naomi Tucker
14 are?

15 A Yes.

16 Q Are they not the founders of Ecology Acres?

17 A Yes, they were.

18 Q Do you live in Ecology Acres Subdivision?

19 A Yes, sir, I do.

20 Q Did you purchase your property from the
21 Tuckers?

22 A Yes.

23 Q Do you know if you entered into an agreement
24 with them, and included in that agreement was a clause
25 which the developers would install the sewer system?

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1 A I am aware of that, of that clause in there.
2 And I am also aware that a clause says according to the PSC
3 regulations, and this is what we feel like in one way that
4 we are doing, is trying to meet all of the PSC regulations.

5 Q Let me show you a document--

6 A I am aware of the document. I believe that
7 is what it states, or at least that is our interpretation.

8 Q Could you identify this document?

9 A Yes, sir, I can. This is a copy of the--
10 this appears to be a copy of one of the pages in the
11 Abstract of Ecology Acres.

12 Q Okay. And would you look at, I think it is
13 marked Page, is that 7402?

14 MR. DUFFY: Mr. Examiner, I am going to
15 object at this time to any consideration of a purported
16 clause in a covenant running about the land as being
17 irrelevant and immaterial to the issues in this case.
18 And the reason for that, I cite you the case of Kansas City
19 Power & Light Company versus Midland Realty Company, 93 SW2d,
20 954, Supreme Court of Missouri 1936; and also the Kansas
21 City Bolt and Nut Company versus Kansas City Power &---
22 excuse me, Kansas City Light & Power Company, 204 SW, 1074,
23 an en banc decision of the Missouri Supreme Court in 1918,
24 and those cases, which have been upheld by the United States
25 Supreme Court, the Chicago and Alton Railroad Company versus

1 Tranbarger, 238 US67, 35 Supreme Court, 678, 59 Lawyer's
2 Edition, 1204, 1914, I believe present the proposition that
3 the regulation of the Public Service Commission gives them
4 their police power of the state and that any contracts
5 between individuals which attempt to circumvent or state a
6 different rate from that approved by the Public Service
7 Commission are void, because they try to contract around the
8 police power of the state. And that is my understanding of
9 the thrust of this document that is in question here today,
10 that it tries to set up a rate which is not approved by the
11 Public Service Commission.

12 In light of those cases, I suggest that
13 any further consideration of this document is totally
14 irrelevant to the issues in this case.

15 MR. RINGER: Mr. Examiner, I would like to
16 join in that objection, because I think the Public Service
17 Commission has full plenary power to determine rates in a
18 company's application of this sort. And, also, I object
19 on the best evidence rule, that that is just a hearsay
20 document, it is not a certified copy of the actual covenant,
21 if there is one, and it should not be admissible.

22 MR. OCHSTEIN: Let me respond to that.

23 EXAMINER LORING: Mr. Ochstein.

24 MR. OCHSTEIN: I have reviewed the cases which
25 Mr. Duffy has offered, and I do not believe that they are

1 directly on point. I believe that, by contracts, the
2 train company tried to institute a rate schedule
3 different than that as approved by the Commission,
4 and that contract would be void. All I am attempting
5 to show by this document is that the property owners
6 in the Ecology Subdivision were, by contract, not allowed
7 to install a private sewer system, and that there is
8 no mention of rates. The sewer system was to be installed
9 by the developer, at the developer's cost, and then
10 the rates would be set by the Missouri Public Service
11 Commission. I believe the--

12 MR. RINGER: Your Honor, now he is narrating
13 what the document says. He is not addressing the objection--

14 MR. OCHSTEIN: Your Honor, I am giving you
15 an offer of proof--

16 EXAMINER LORING: Yes. I guess he is
17 anticipating my ruling.

18 Why don't I rule and then you can make your
19 offer of proof.

20 I am going to sustain the objection, and
21 let you proceed, and you can make the offer.

22 MR. OCHSTEIN: All right.

23 EXAMINER LORING: Why don't you read in what
24 you would purport to prove by that document there.

25 MR. OCHSTEIN: Well, I will just then read

1 that paragraph, one paragraph from the abstract.

2 MR. RINGER: Subject to objection.

3 MR. OCHSTEIN: I know, subject to that
4 objection, and you must have that understanding.

5 It says that "No private sewage disposal
6 system shall be constructed on any lot by the lot owner,
7 other than the installation of a septic tank. This
8 covenant shall not be construed to prohibit the installation
9 of a central sewage disposal system." I don't believe that
10 is essential. "Each lot owner agrees to immediately
11 disconnect from his individual disposal system and to
12 connect to the central disposal system. There shall be
13 no cost to the lot owner in connecting to the central sewage
14 disposal system, but that each lot owner agrees to pay
15 the monthly service charge for use of said system, as
16 determined by the owner of said system, and approved by
17 the Missouri Public Service Commission, or other regulatory
18 agency having jurisdiction thereof."

19 I believe that the covenants which were
20 drafted were drafted in light of the existing law.

21 MR. RINGER: Your Honor, again he is making
22 a closing argument now. He has made his offer of proof
23 and I think that is all he can do.

24 EXAMINER LORING: Well, okay. Let's just go
25 on then. You have got the offer of proof in. Let's go on

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1 to the next question.

2 MR. OCHSTEIN: I believe I have presented it
3 in evidence, I don't believe I have tied it into why I believe
4 that the evidence is relevant.

5 EXAMINER LORING: You have made an offer of
6 proof, and I have accepted it, and it is in the record. I
7 have ruled on the objection, and you have made your offer
8 of proof, and that is as far as we can go with that.

9 MR. OCHSTEIN: Okay. I have no further
10 questions.

11 EXAMINER LORING: Okay.

12 MR. DUFFY: I have a couple of other questions.

13 EXAMINER LORING: Okay. Some more cross?

14 MR. RINGER: I have one question first.

15 EXAMINER LORING: All right. Do you want to
16 call this redirect and recross-examination?

17 MR. RINGER: Yes, sir; redirect.

18 EXAMINER LORING: Okay. Let's do it that way.

19 FURTHER REDIRECT EXAMINATION BY MR. RINGER:

20 Q Mr. Bien, you said that--you stated that you
21 have agreed to, if the Commission sees fit, to implement a
22 monthly user charge of \$11.40, is that correct?

23 A Yes, sir.

24 Q Do you know whether or not you have considered
25 any interest expense in that charge?

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1 A Again, I don't follow your line of questioning
2 there.

3 Q Do you know if an interest expense has been
4 considered in agreeing to that rate of \$11.40 per month?

5 A No, it hasn't been. To my knowledge, it is
6 not in there.

7 Q Okay.

8 MR. RINGER: Thank you.

9 EXAMINER LORING: The Staff, recross?

10 FURTHER RECROSS-EXAMINATION BY MR. DUFFY:

11 Q Mr. Bien, is your Engineer going to supervise
12 construction of the sewer lines?

13 A Yes, sir, he will.

14 Q All right. I think we need to get--to bring
15 out the Company's plans for construction of the second
16 treatment plant. What will trigger the start of construction
17 or plans; will it be the 106th customer applying for service,
18 or some other point?

19 A It should be started, the construction on it
20 should be started, oh, somewhere around the 75th or 80th
21 application. That should give enough time for the install-
22 ation of the second treatment plant.

23 Q You are saying that it should be. Is that
24 the plans of the Company?

25 A Yes.

1 Q A practical question, you are proposing to
2 set up this connection fee on the basis of a set price for
3 one year, and then the additional price in the second year.
4 How are the customers to know, to take advantage of the, if
5 you will, cut-rate the first year, are you going to mail
6 information to them, or how are they supposed to know about
7 this in order to take advantage of it, including the lot
8 owners who don't have houses there now?

9 A I am sure, at the request of the Public Service
10 Commission, we can make this, all of this information fully
11 available to all property owners. We have no objection to
12 doing so.

13 Q Well, what I am saying is, are you going to
14 do it voluntarily rather than have the Commission order you
15 to do it?

16 A Again, yes, to this extent, in the case of
17 out-of-town or out-of-state owners, we are willing to do that,
18 providing we have the addresses or the locations of these
19 people.

20 Q Well, you could locate those at the Recorder's
21 Office, surely, couldn't you?

22 A This I don't know, really. They wouldn't
23 have their out-of-town or out-of-state addresses recorded,
24 I don't believe, at the Recorder's Office.

25 Q Well,--

1 A They would have their property assessment
2 or the ownership of the property. Their mailing address is
3 what I am thinking about.

4 Q All right. What I am trying to get you to
5 commit--

6 A We will notify all of the people of the
7 rate structures and plans, if so requested by the Commission.

8 Q Well, okay.

9 MR. DUFFY: That is all I have right now.

10 EXAMINER LORING: Okay.

11 Any recross by Public Counsel?

12 MR. OCHSTEIN: No.

13 EXAMINER LORING: Okay.

14 Thank you, Mr. Bien. You may stand down.

15 (Witness excused.)

16 -----
17 MR. RINGER: Well, that is the Applicant's
18 case, Your Honor.

19 EXAMINER LORING: Okay. Let's go off of the
20 record.

21 (Discussion off of the record.)

22 EXAMINER LORING: Let's go back on the record.
23 The Applicant has rested.

24 MR. DUFFY: The Staff calls Bill Sankpill.

25 (At this time Mr. Bill L. Sankpill was duly
sworn.)

STAFF'S EVIDENCE:

1
2 B I L L L. S A N K P I L L, called as a
3 witness in behalf of the STAFF, being
4 duly sworn, testified as follows.

5 DIRECT EXAMINATION BY MR. DUFFY:

6 Q State your name for the record, please.

7 A Bill L. Sankpill.

8 Q By whom are you employed?

9 A The Missouri Public Service Commission.

10 Q In what capacity?

11 A As the Manager of the Water and Sewer
12 Department.

13 Q How many years have you been associated with
14 the regulation of sewer companies in Missouri?

15 A Oh, about 19 years.

16 Q Have you or are you familiar with the
17 application of the Stoddard County Sewer Company to
18 provide service in an unincorporated area of Stoddard County,
19 Missouri?

20 A Yes.

21 Q Have you been present in the hearing room
22 today?

23 A Yes, I have.

24 Q Were you present at the earlier hearing in
25 this case?

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A Yes, I was.

Q Did you hear Mr. Bien make a statement regarding the proposed monthly rate for this Company?

A Yes.

Q Is that the rate that the Staff has recommended?

A Yes.

Q And you understand that the Company has agreed to file that rate in their tariffs?

A Yes.

Q As regards the \$1,035 hookup fee, could you go into some detail and explain the rationale for that fee, and how that number was arrived at?

A Yes, I will. The Company, in its economic feasibility study and engineering study, had estimated costs of \$174,000 for the system, to serve the watershed or not the watershed, but the two subdivisions, the service area. Of that 174,000, 35,000 was for the initial treatment plant, 28,000 was for the initial pumping facilities, to handle the pressure portion of the sewer system, and the collecting, 111,000 was for the collecting sewers.

Also, the Company, in discussions with them since that last hearing, indicated that they would like to develop a connection charge, or a contribution fee, whatever you want to call it, to cover the dollars that they were not--they were willing to put up 20 percent of the total cost

1 of the collecting and treatment facilities, and that amounted
2 to \$34,800 on their part. So that left, I have broken it
3 down by facilities, that left \$28,000 to be paid by--on the
4 treatment plant, 22,400 on the pump facilities, and \$88,800
5 on the collecting sewers.

6 And, as I started to say, the Company wanted
7 to sort of have a turnkey type of operation here, because
8 they felt like if they had control over connecting the
9 customers to the collecting sewers or to the pumping facilities,
10 through the service lines, that they would--if they did it
11 themselves, they were assured of getting a good tight system.
12 And I couldn't agree more, especially with their Engineer
13 supervising construction, that 90 percent of the problems in
14 sewer systems are usually with the customers service sewers
15 and bad construction. And, so, to that extent, I was glad
16 to see the Company take this position. So, I asked the
17 Company for an estimate of what they thought the cost would
18 be to furnish the service sewers, this is connecting the
19 sewer to the homes, as Mr. Bien said, and from the collecting
20 sewer or the pump facilities. And he gave me a figure of
21 \$200, on an average, \$200 on the homes on the pressure sewers
22 and about 300 on the gravity sewers. And since there are
23 25 houses, approximately, that will be on gravity in this
24 initial stage, or say 25 percent of the total homes that
25 will be on gravity and the remainder on the pressure system,

1 I worked out an average cost for service lines of \$225.
2 And taking that \$225, then, and multiplying by 105 customers,
3 you get \$23,625. All right. To determine what connection
4 fee should be allowed, to get this turnkey operation done,
5 I took the cost of the treatment plant to the customer and
6 the cost of the pump facilities to the customer, the cost
7 of the collecting sewers to these 105 customers, and the
8 cost of the service sewers to this 105 customers, and that
9 amounted to \$108,675, and divided that by 105, and that
10 gives you \$1,035.

11 Now that will be the out-of-pocket expense
12 of the Company, over and above their initial stock invest-
13 ment.

14 Q All right. And you are familiar with the
15 time period that the Company has suggested, during which
16 the customers can connect at \$1,035?

17 A Yes.

18 Q And can you elaborate as to what that time
19 period will be, and what will happen if somebody tries to
20 connect or makes an application to connect one day beyond
21 that time period?

22 A Well, I would anticipate the Company filing
23 some rules in their tariffs to cover this connection
24 charge and the interest expense, and explain that, when
25 this would happen. It was my understanding that for the

1 first 105 customers that connected up, if they connected
2 within one year from the time that the facilities were
3 ready for service, and the tariff is in effect, of course,
4 then the charge would be \$1,035. All right. If a customer
5 chooses to, having been advised by the Company, as Mr. Bien
6 indicated they are willing to do, to wait that year, then
7 there would be approximately a \$100 interest expense, which
8 would be 12 percent on \$835. That \$835 is the expense that
9 the Company is going to have to put out of their pocket
10 right away, because they are going to have to build this
11 system.

12 Now the other \$200 average would be spent
13 at the time the customer hooks on, so there wouldn't be
14 any interest expense on that. So that was my reasoning,
15 and their agreement, on the \$100 or the 12 percent interest
16 expense.

17 Q All right. Since the customer, in order to
18 make this election to connect within one year, has to be
19 aware of that possibility, do you have a recommendation to
20 the Commission as to whether the Company should be ordered
21 to notify all of the potential customers of the Company that
22 this election is available?

23 A Well, if that is necessary, yes, I would
24 recommend that it be. I think it would be to the Company's
25 advantage to let everybody know, because if they don't get

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1 hooked up, they are going to be losing money on this system.

2 Q All right. Have you personally inspected the
3 area sought to be served by this Company?

4 A Yes, sir.

5 Q Is the Staff in agreement with the proposed
6 engineering plans, that is, a combined gravity and pressure
7 system?

8 A Yes, sir.

9 Q Do you consider that to be the most economical
10 method of serving the customers?

11 A Yes, sir, I do.

12 Q As you know, one of the problems that the
13 Commission has with sewer companies is when a problem develops
14 in the customer's service line, between the house and the
15 collecting sewer. Under the proposal of this Company, in
16 installing that service line, do you have an opinion as to
17 who is responsible, should something happen in that customer's
18 service line, between the house and the collecting sewers,
19 who would be responsible for maintaining and correcting
20 any problems in that portion of the line?

21 A I discussed this with Mr. Bien. He agreed
22 that a cleanout would be put at the property line, on the
23 collecting--on the service sewer, and the Company will be
24 responsible from the property line to either the pump
25 facility or the gravity collecting sewer. But, the customer

1 will be responsible for that part of the collecting sewer
2 that is on his property, for maintenance. He would also
3 own it. I assume the Company will own that part that is
4 in the public right-of-way.

5 Q All right. Does the Staff have a recommendation
6 as to whether this Company should receive a certificate of
7 public convenience and necessity from the Commission to
8 operate the sewer system?

9 A Yes. I would recommend that this Company
10 be certificated.

11 MR. DUFFY: That is all of the questions I
12 have at this point.

13 I tender the witness for cross.

14 EXAMINER LORING: Does the Company have any
15 cross?

16 MR. RINGER: No, sir.

17 EXAMINER LORING: Mr. Ochstein?

18 CROSS-EXAMINATION BY MR. OCHSTEIN:

19 Q To calculate the \$1,035 contribution, you
20 totaled the funds needed for the treatment plant, the pump
21 facilities, the collecting sewers, and the service sewers,
22 is that correct?

23 A Yes.

24 Q Well, looking first at the treatment plant,
25 will the 106th customer use any of that treatment plant?

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A No.

Q Will the 106th customer likely use the pump facilities?

A No.

Q Will the 106th customer use the collecting sewers?

A Yes. I took that into consideration. If you will look right above, on that sheet that you are looking at, where I made the calculations, the connecting sewers, the total investment is \$88,800, and that includes the pressure sewer. And I divided that by 270 lots, which is the anticipated number of homes that would be built, and that is where that \$330 came from. If you will notice, I multiplied that by 105 to get the \$34,650.

Q And you--

A It just so happened that the total system worked out that--it is anticipated that that ratio of gravity to pressure sewer customers will remain throughout the system. So that we feel it is a valid assumption.

Q And you anticipate only 80 customers to use the pump facilities?

A At the present time, on this first--that is all the Company had planned to build at first, was 20, to handle the current customers and the lots adjacent to those customers.

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1
2 By the way, this is from their feasibility
3 study. If they have to build more than that, that is
4 their problem.

5 Q Do you believe the system is economically
6 feasible?

7 A Yes, sir.

8 Q Will the rates to be charged to this system
9 be higher than most other sewer rates in the state?

10 MR. RINGER: Objection; that is irrelevant.

11 EXAMINER LORING: I will overrule it.

12 WITNESS SANKPILL: Well, for a system of--
13 this particular system, with the circumstances, we had the
14 same circumstances in another system, with this investment,
15 the number of customers, the type of system, I think it is--
16 it would be comparable, yes.

17 BY MR. OCHSTEIN:

18 Q It would be comparable. Do you know if there
19 is another system like this in the state?

20 A Not exactly, no. There are others similar,
21 but there are none exactly like this.

22 Q And as comparable as you can get, what are the
23 rates for those, that other system?

24 MR. DUFFY: I am going to object, because
25 I think that is irrelevant.

1 WITNESS SANKPILL: They are not set the same
2 way.

3 BY MR. OCHSTEIN:

4 Q My problem is, if we have a--somebody has a
5 standard, to tell whether or not the system is economically
6 feasible.

7 EXAMINER LORING: I will sustain that objection,
8 and you can ask him the question, if there is a standard.

9 MR. OCHSTEIN: Well, in my brief, I will show
10 you a couple, that the Commission has adopted a standard as
11 to how to grant a certificate. One of the standards is
12 economical feasibility. And if that is a set standard, then
13 I think we need to develop what is an upper limit to be
14 charged for sewer service.

15 EXAMINER LORING: Well, let's get back to the
16 questions.

17 In your brief, you can argue that.

18 MR. DUFFY: Can we go off of the record a
19 second?

20 EXAMINER LORING: Yes.

21 Off of the record.

22 (Discussion off of the record.)

23 EXAMINER LORING: Okay. Let's go back on.
24 You can proceed, Mr. Ochstein.

25 MR. OCHSTEIN: Are you sustaining his objection,
then?

Missouri Public Service Commission

1 EXAMINER LORING: Yes, sir.

2 MR. OCHSTEIN: What I wanted to know is,
3 how are we to determine whether or not a system is economi-
4 cally feasible if I can't compare it with other systems?

5 MR. DUFFY: Well, you can ask the witness
6 what he uses to determine whether a system is economically
7 feasible or not. I am objecting to comparing it to other
8 systems, because there is no foundation that the other
9 systems are the same or have the same factors as this one.
10 You well know that this Commission tries not to compare
11 public utilities, because each one is unique. But I have
12 no--

13 EXAMINER LORING: Well, would you agree to
14 ask him what method that he does use?

15 MR. OCHSTEIN: Well, I asked him, I thought
16 I did ask him that, and he said, well, there is some that is
17 just about comparable, and I asked what the rates were for
18 those.

19 WITNESS SANKPILL: Well, I can--

20 EXAMINER LORING: Excuse me. Let's go off of
21 the record.

22 (Discussion off of the record.)

23 EXAMINER LORING: Okay. So, let's go back on
24 the record.

1 BY MR. OCHSTEIN:

2 Q At what amount do you believe a sewer system
3 would be not economically feasible?

4 MR. RINGER: I will object to that; that is
5 purely speculative. He can't even answer, I don't know how
6 he could possibly answer that question.

7 EXAMINER LORING: Well, I will just overrule
8 it and let him try.

9 WITNESS SANKPILL: I don't think I can. I
10 don't--compared to what? Or what are you--or what do you
11 mean, Dan?

12 BY MR. OCHSTEIN:

13 Q Well, is \$25 too much to pay for sewer service,
14 by a treatment facility per month?

15 A I don't think I can answer that.

16 Q Are you basing the economic feasibility on
17 just how much--on what do the facts, the facts and figures
18 come up to?

19 A All I am doing is making a recommendation
20 to the Commission. The Commission, I assume, will decide
21 whether or not that it should be certificated.

22 Q Okay. Well, I will ask another question.
23 What is your rationale for your--for whether a system is
24 economically feasible or not?

25 A Well, I think the things, as a Staff member,

1 that I have got to look at, number one, did the Company
2 demonstrate it had the money to do the job with? And it
3 has done that. It can borrow the money. And is there any
4 need for the service, you know, or is this all speculation?
5 Well, there is obviously a need there. And the other thing
6 that we always look at is, who is being benefitted, or at
7 least the Staff does. Is this a land developer that is
8 just building this sewer system out here for his own gain
9 and for his support? And in this particular case, that is
10 not the case, although this--some of the owners of this
11 company, I think, are land developers, but they don't--this
12 is not all their land, and there are people already there
13 that need service and they are willing to provide that
14 service. Now do the rates that have been agreed on here
15 make this company economically feasible to operate? In my
16 opinion, it does, it covers their basic expenses. Now it
17 is obvious, since they have agreed to charge this rate,
18 and there is really no profit in that rate there, or there
19 is no return on their investment, they are anticipating
20 a return down the road, and since these rates are based on
21 estimated figures, we have recommended to the Commission,
22 and I didn't, but the Company agreed to an interim rate
23 of 18 months, and at that time, the rates will be reviewed
24 and we will decide, or the Staff will review them and
25 recommend to the Company what--if they should be changed.

1 But, right now, in my opinion, these are reasonable rates
2 for the service that is being rendered to these people.

3 Q Okay. As you know, I didn't participate in
4 the first hearing. And the reason that I am interested is
5 because the rates that are being proposed seem to be very
6 high for sewer service.

7 A Well, they are not as high as what the Company
8 proposed.

9 Q No. But--
10 MR. RINGER: Your Honor, I object. Are we on
11 a question--

12 EXAMINER LORING: I would have to sustain
13 that characterization of the rates, in that the witness,
14 he is asking him if he thinks--

15 MR. OCHSTEIN: I was just going to ask that.
16 EXAMINER LORING: Okay. Go ahead.

17 BY MR. OCHSTEIN:

18 Q Do you think that the rates are high, as far
19 as sewer rates in Missouri are concerned?

20 A They are higher than some, but I don't--they
21 are not any higher than others. So I--that is about the
22 best I can answer you. Yes; they are higher than some in
23 the state, but they are not as high as others that have been
24 proposed in the state, that we are dealing with today.

25 Q Well, can you name any that are higher?

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2 for the service that is being rendered to these people.

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4 the first hearing. And the reason that I am interested is
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21 are not any higher than others. So I--that is about the
22 best I can answer you. Yes; they are higher than some in
23 the state, but they are not as high as others that have been
24 proposed in the state, that we are dealing with today.

25 Q Well, can you name any that are higher?

1 A Well, not that are in effect. I mean, there
2 are several companies that are proposing rates today that are
3 higher than these.

4 Q My question is, though, are there any current
5 sewer rates in the State of Missouri, presently in effect,
6 that are higher?

7 A No. But, then, there are not any currently
8 in this condition, either.

9 Q Do you know if there are any connection fees
10 that are currently in effect that are higher than \$1,035?

11 A Well, considering what the Company is providing
12 the customer, there are some that are equal to that or
13 better, yes. Now,--

14 Q Do you know--

15 A Now, you have to consider--well, I have to
16 explain what I am talking about. A lot of sewer companies
17 collect, you can call it a connection fee or a contribution,
18 whatever you want to call it, that is to defray some of the
19 cost of the capital for building the system. Okay. They
20 are commonly called connection fees. Okay. What a lot of
21 your sewer companies provide is treatment facilities and
22 collecting sewers, and the sewers in the subdivision, like
23 are being built here, are built by the customer, and the
24 service line from his house to that collecting sewer is
25 built by and at the expense of the customer, so if you take

1 into consideration the cost of those service sewers, the
2 collecting sewers, and the connection fee that the sewer
3 company normally collects, or contribution fees, I don't
4 believe that this is out of line at all.

5 Q Do you know if the companies that have a
6 connection fee of approximately \$1,000 also have rates of
7 approximately \$11 a month?

8 A No. But, Dan, if I may explain, rates are
9 based on investment and on cost of operation, and some of
10 these--none of these companies are just now going into
11 operation, that I am aware of this type of circumstance.
12 Now most of the companies, as I mentioned a while ago, we
13 look at a company, whether it is a land developer company,
14 you know, and if he is going to--if he is going to recover
15 all of his money in his land sale, then he doesn't need to
16 recover it from the customers here, you know. But, there
17 is no place for this company to recover this money.

18 MR. OCHSTEIN: I have no further questions.

19 EXAMINER LORING: Okay. Any redirect for
20 Mr. Sankpill?

21 REDIRECT EXAMINATION BY MR. DUFFY:

22 Q Mr. Sankpill, you quoted several figures
23 regarding the treatment plant, the pump facilities, the
24 collecting sewers, the service sewers; do you have any
25 reason to suspect that those dollar figures are incorrect in
any way?

Missouri Public Service Commission

1 A No. I think they are reasonable estimates
2 of the cost of the installation of those facilities.

3 Q And what do you base that conclusion on?

4 A On about 20 years of experience.

5 MR. DUFFY: That is all I have.

6 EXAMINER LORING: Any recross?

7 MR. RINGER: No, sir.

8 EXAMINER LORING: Okay. Thank you, Bill.

9 You may step down.

10 (Witness excused.)

11
12 MR. DUFFY: That concludes the Staff's case.

13 EXAMINER LORING: Okay. Let's go off of the
14 record.

15 (Discussion off of the record.)

16 EXAMINER LORING: Back on the record, just to
17 clean up. Let's go back on the record.

18 Is there any indication on the desire to
19 waive the reading of the transcript by the parties?

20 MR. DUFFY: The Staff is waiving.

21 MR. RINGER: The Applicant has already waived
22 it.

23 MR. OCHSTEIN: At this time, the Public Counsel
24 has not waived, is not waiving.

25 EXAMINER LORING: So, the Public Counsel does

1 not waive.

2 Then, the normal briefing schedule, as
3 provided in the Commission's Rule will apply.

4 Just to make sure, all of the exhibits that
5 have not previously been received are received at this time.

6 And is there anything further to come before
7 the Commission in this case--

8 MR. RINGER: No, sir.

9 EXAMINER LORING: --for the record? Okay.

10 Then, the hearing is adjourned.

11 Thank you.

12 WHEREUPON, the hearing of this case was
13 concluded.

Missouri Public Service Commission

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I N D E X

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BILL L. SANKPILL

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E X H I B I T S

APPLICANT'S EXHIBIT:

MARKED

RECEIVED

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