

In the Matter of:

MISSOURI-AMERICAN WATER COMPANY'S APPLICATION, etc.

SA-2021-0017, VOL. I

April 02, 2021



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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

PREHEARING CONFERENCE

APRIL 2, 2021

VOLUME 1, PAGE 1

In the Matter of Missouri-American)
Water Company's Application for a)
Certificate of Convenience and)
Necessity Authorizing it to Install,) SA-2021-0017
Own, Acquire, Construct, Operate,)
Control, Manage and Maintain a Sewer)
System in and around the City of)
Hallsville, Missouri)

JANA JACOBS, Presiding
REGULATORY LAW JUDGE

REPORTED BY:
Linda DeBisschop, CCR No. 779
TIGER COURT REPORTING

A P P E A R A N C E S

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FOR THE BOONE COUNTY REGIONAL SEWER DISTRICT:

Ms. Jennifer Griffin

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Jefferson City, Missouri 65101.

1 JUDGE JACOBS: So thank you all very much
2 for joining me this morning. I appreciate it. We
3 do have a court reporter here with us. We will go
4 on the record now for this pre-hearing conference in
5 file SA-2021-0017. Today is April 2, 2021. This
6 case concerns Missouri-American Water's application
7 for certificate of convenience and necessity for the
8 Hallsville, Missouri sewer system.

9 The conference was set for
10 10:15 today and we are getting started right on time
11 at 10:15 a.m. My name is Jana Jacobs and I'm the
12 Regulatory Law Judge assigned to this matter. I'll
13 note for the record that this conference is being
14 conducted by telephone and video conference today.
15 The commission set this time for procedural
16 conference.

17 The purpose of this conference is
18 two-fold. First, I brought the parties together to
19 discuss how we will handle exhibits for the hearing
20 on April 8 which is going to be conducted as a
21 remote hearing.

22 Second, this conference is a bit of a
23 technical trial run for us. I wanted to get each
24 witness and every party an opportunity to verify
25 that they are able to connect adequately with

1 Webex that they understand how to use the controls
2 and that we will all be able to hear each other so
3 that we can conduct that hearing before the
4 commission on the 8th.

5 As I said before, we have a court
6 reporter here with us on the line. I will keep her
7 with us as we discuss exhibits and anything really
8 substantive that needs to be discussed today with
9 the parties. Hopefully, we will be able to excuse
10 her and then just remain with your witnesses.

11 The commission did ask that witnesses
12 appear today so that we could, as I said, test and
13 make sure that people are able to conduct and
14 participate in the hearing adequately.

15 So I am going to ask, of course, that
16 counsel remain present the entire time just so that
17 we don't have any concerns about ex parte
18 discussions.

19 So it looks like the Office of The
20 Public Counsel has filed a statement indicating that
21 they haven't taken a position. I don't see anyone
22 for the Office of the Public Counsel here listed in
23 my participants, but if you have connected
24 representing OPC, please speak up now so I will be
25 aware.

1 MR. WILLIAMS: Yes. Nathan Williams for the
2 Office of Public Counsel.

3 JUDGE JACOBS: Could you speak up again. I
4 apologize, but I can't tell which line that is.

5 Did you call in?

6 MR. WILLIAMS: Yes. I don't think I have
7 the Webex information. At least if I do, I didn't
8 find it.

9 JUDGE JACOBS: It went to the OPC service
10 email. Did you want to connect directly to Webex
11 today or are you content with your phone connection?
12 Because we can certainly help you get the
13 Webex information if you would like.

14 MR. WILLIAMS: If you would forward the
15 Webex to my email address, I will go ahead and use
16 it.

17 JUDGE JACOBS: And you said this is Mr.
18 Williams. Williams@OPC.gov would be the e-mail
19 address. I notice that the statement that was filed
20 had the old DED address which is why I needed to
21 clarify that with you.

22 One minute here. Some patience with
23 me while I get the connection information to
24 Mr. Williams. Thank you.

25 So I don't know if Mr. Williams, did

1 you stay with us on the line?

2 MR. WILLIAMS: Yes, I have, and I did
3 receive the email.

4 JUDGE JACOBS: Okay. So I wasn't able to
5 give you the easy one click connection, as I said,
6 because I don't have my usual Outlook connection,
7 but I was able to give you the access numbers and
8 the code, so if you either go to the Desktop app or
9 website and phone, all the other ways you can get on
10 Webex, you can use that information to get in.

11 MR. COOPER: Judge, I just forwarded that
12 link to Mr. Williams if he wants to use that.

13 JUDGE JACOBS: Thank you. So Mr. Williams
14 has joined us. So that allows for us do the next
15 thing we need to do which is entry of appearances
16 today. There is an echo so I will mute your line,
17 Mr. Williams, because it might be yours.

18 So we will take entries of appearance
19 with the company first, please.

20 MR. COOPER: Thank you, Judge. Dean Cooper
21 and Jennifer Hernandez with the Law Firm of
22 Brydon, Swearingen & England, P.C., PO Box 456,
23 Jefferson City, Missouri 65102 appearing on behalf
24 of Missouri-American Water Company.

25 JUDGE JACOBS: Thank you very much,

1 Mr. Cooper.

2 And for staff today, please.

3 MR. PRINGLE: Good morning, Judge. Travis
4 Pringle and Mark Johnson for Staff Counsel Office,
5 P.O. Box 360, Jefferson City, Missouri 65012.

6 JUDGE JACOBS: Thank you very much.

7 I know that we do have Mr. Williams
8 for OPC, so if you would like to introduce yourself,
9 you can go ahead and you should be able to unmute
10 yourself.

11 MR. WILLIAMS: Nathan Williams for the
12 Office of Public Counsel, P.O. Box 2230, Jefferson
13 City, Missouri 65102.

14 JUDGE JACOBS: Thank you very much.

15 For Boone County Regional Sewer
16 District, please.

17 MS. GRIFFIN: Thank you, Judge. Jennifer
18 Griffin. I'm with the Law Firm of Lathrop GPM, 314
19 East High Street, Jefferson City, Missouri 65101.

20 JUDGE JACOBS: Thank you very much, Ms.
21 Griffin. It looks like we have everyone we need.
22 So we can take up any preliminaries that we might
23 have.

24 There are a couple of things I wanted
25 to mention. I think it may be useful to the

1 commission or we might get questions on this related
2 to the company's current rates under its current
3 tariffs. I think that those tariff sheets are PSC
4 Missouri Number 26 first revised sheet number RT.1
5 and then there is RT2.1, RT3.1 and a sheet number
6 3.2.

7 So, as the person who would be
8 drafting an order in this case, it would be helpful
9 for the commission to have those tariff sheets
10 actually just in the record. So I wanted to let the
11 parties know that I was going to propose that just
12 so that you're aware.

13 Then, I think because the company has
14 a current rate case that is wrapping up, I don't
15 know what the parties' positions will be on whether
16 that would have any import at all in this particular
17 case, but it might be helpful if the stipulation and
18 agreement in WR-2020344 was included in the record
19 in this case. I'm aware of at least one of staff's
20 recommendations that is based on the company's
21 current depreciation rates and I am not in charge of
22 that rate case that is currently pending. I'm not
23 sure if there is an adjustment to depreciation rates
24 under that, but it might be worth considering
25 whether that recommendation would be to look at the

1 depreciation rates or anything else coming out of
2 the current rate case.

3 So that's just a couple things I
4 thought I should mention to the parties in this
5 forum.

6 Did counsel for the company have
7 anything to say on those issues?

8 MR. COOPER: Only as to the second one,
9 Judge. Just to point out that that stipulation it
10 both has depreciation rates attached to it and I
11 would say that those do not represent a change from
12 the prior rates. The stipulation, even though there
13 are rates attached, the agreement that that is
14 maintained existing depreciation rates.

15 JUDGE JACOBS: So what you're saying then
16 is, because those aren't being proposed to change at
17 all, that staff's recommendation that those would be
18 applied as a condition under any certificate to be
19 granted in this case, actually, just a status quo
20 and there is no need to be concerned about that.

21 MR. COOPER: That's correct, Judge.

22 JUDGE JACOBS: Did staff have anything to
23 say about that, those issues?

24 MR. PRINGLE: No, Judge.

25 JUDGE JACOBS: And the district?

1 MS. GRIFFIN: We don't have anything to add,
2 Judge.

3 JUDGE JACOBS: Thank you.

4 Does OPC want to say anything about
5 those two issues that I raised?

6 MR. WILLIAMS: No, thank you.

7 JUDGE JACOBS: So the other thing I wanted
8 to mention to the parties is that the commission
9 would ask that corrected testimony be provided in
10 writing. So you can go ahead and talk to your
11 witnesses about any corrections that need to be
12 made, but those corrections should also be reflected
13 in corrected testimony that is filed with the
14 commission. That is because, although it saves the
15 parties' time to just ask your witnesses for simple
16 corrections to their testimony, it doesn't save
17 anybody else time down the road when they are trying
18 to figure out what the testimony really was and they
19 have to cross reference a transcript and file
20 testimony. So just so that the parties understand
21 that that will be the request in this case.

22 Does anybody have anything they want
23 to say about that and we will start with the
24 company.

25 MR. COOPER: Just a question, Judge.

1 By that, do you mean an entire new
2 set of the testimony or I know in some of the cases
3 the parties have filed prior to the hearing sort of
4 an errata sheet where there is just a handful of
5 changes. I guess, which is your intention with what
6 you said?

7 JUDGE JACOBS: So I guess it depends on how
8 extensive your corrections are. The important thing
9 is that it is in a written document that is in the
10 record that can be referred to and will make it
11 clear that this is a correction to that testimony so
12 it isn't necessary to cross reference the
13 transcript. I think for most of the corrections
14 I've seen, that usually can be accomplished with a
15 so called errata sheet or some other filing. It
16 just needs to be something in addition to whatever
17 you are doing in the transcript on the hearing
18 because that is just too hard on a cold record to
19 resurrect, okay? Thank you.

20 Did any other parties want to comment
21 on that starting with staff?

22 MR. PRINGLE: No, Judge. We have a few
23 small corrections but we can do errata sheet or
24 filing at the hearing, whichever one.

25 JUDGE JACOBS: I appreciate that and I just

1 wanted to alert the parties so you knew that that
2 would be the expectation and weren't taken aback by
3 that request.

4 The district, any comments?

5 MS. GRIFFIN: No.

6 JUDGE JACOBS: And OPC? I imagine not since
7 you didn't file testimony, but you might have
8 something else to tell us.

9 MR. WILLIAMS: No, Judge.

10 JUDGE JACOBS: I don't want to get out of
11 the habit of asking because then I will skip over
12 someone at the wrong time and then I'm in trouble.

13 The other thing I would ask is to
14 just to make sure that your witnesses have access to
15 the documents in this case readily during the
16 hearing so that there isn't a big problem with, oh,
17 I can't find that or where was that or I can't pull
18 up my email or all the things that always happen.
19 So just do what you can to try to help to make sure
20 that your witnesses have what they need in case they
21 need to look at something during testimony. That is
22 my other request that I would have.

23 So those were the preliminaries that
24 I wanted to bring up. Does anybody have any
25 comments about that or anything else? And I will

1 start with Missouri-American.

2 MR. COOPER: Just one question, Judge.

3 I guess I'm making an assumption, but
4 I want to confirm it with you because of the
5 relatively small number of exhibits in this case,
6 are you planning to mark those sequentially at the
7 hearing?

8 JUDGE JACOBS: We will be talking more about
9 how exhibits will be marked and I think it will be
10 pretty simple.

11 Are you asking me if I want you to
12 pre-mark your exhibits? Is that the question?

13 MR. COOPER: Well, in a rate case, for
14 example, we generally get a block of numbers and we
15 have to provide a list of our exhibits identifying
16 by number prior to the hearing. A lot of times in
17 smaller hearings I've participated in, well
18 sometimes the Judge just starts with one at the
19 hearing and we mark them as we go. So that is the
20 nature of my question.

21 JUDGE JACOBS: Yes. And those are really
22 the reasons why we are here today is because, when I
23 was contemplating the procedural order for this
24 case, I was trying to figure out what the parties
25 would want to do and what would make the most sense

1 and that's when I decided I will just have a
2 pre-hearing conference and talk to the parties about
3 how they want to handle exhibits, so that is one of
4 the things that we are talking about today.

5 I was thinking that I would just go
6 ahead and use the convention that the commission has
7 of assigning a block of numbers to each party simply
8 because it's easy, it tells everybody where their
9 numbers start and end, and I know that most of these
10 parties will not have hundreds of exhibits but in
11 spite of that it's a good system. So I did actually
12 have a block of numbers to assign to each party and
13 I would ask that exhibits be provided in advance and
14 that you propose exhibit numbers for your exhibits
15 so we will get into that. That is really why we are
16 here.

17 I wasn't sure, for instance, on file
18 sizes that you all might have whether email was
19 going to work for you. I didn't know if there was
20 going to be any large images or bigger files that
21 you wouldn't be comfortable or able to email, so
22 those are the sorts of reasons that I thought we
23 needed to meet today.

24 Did anybody have any other questions
25 about that or comments on preliminaries that don't

1 have to do with exhibits before we move on into
2 exhibits? The floor is open now again to company,
3 staff, district.

4 MR. PRINGLE: Yeah, Judge. If any party has
5 a presentation for their opening statement of when
6 you would like those to be exchanged? I know I've
7 seen in the past the commission saying just an hour
8 before the hearing starts those need to be
9 exchanged. We need your input on that.

10 JUDGE JACOBS: Well, my preference is to
11 have things as far in advance as I can, then we are
12 doing less at the last minute. People mess things
13 up when they do things at the last minute. I will
14 be responsible for getting any presentation
15 materials that you want the commission to see say
16 during your opening statement. I need to get those
17 to commissioners so that they can see that. That is
18 one of the things we were going to talk about today
19 is are you going to use a slide show? Do you know
20 how to share your screen?

21 So I guess my preference would be
22 that you could provide any demonstratives like an
23 opening statement slide show at the same time as you
24 give me your exhibits. If you can't do that, then I
25 would want them 24 hours in advance, so hopefully,

1 that is not unreasonable.

2 MR. PRINGLE: Thank you, Judge.

3 JUDGE JACOBS: Anybody else have any other
4 preliminaries like that? It doesn't look like the
5 district had anything to add here.

6 Does Mr. Williams for OPC, did you
7 have anything that you wanted to say?

8 MR. WILLIAMS: No. I anticipate waiving
9 opening though.

10 JUDGE JACOBS: Okay. Well, if you
11 anticipate waiving opening, I'm still probably going
12 to say, and is there an opening for OPC and then you
13 can decline. So does that work for you?

14 MR. WILLIAMS: Sure.

15 JUDGE JACOBS: So it sounds like, if nobody
16 has any non-exhibit preliminaries about this
17 hearing, then we can talk about exhibit issues.
18 Then, once we get through that, as long as all our
19 substantive stuff is taken care of and everyone is
20 committed to not bringing up any more substantive
21 issues, we can just work with the witnesses and I
22 want to thank the witnesses for showing up here
23 today and enduring this part of the conversation but
24 we had to do this first before we could get into
25 your part so, thank you.

1 So I'm ready to move on to exhibits
2 unless anybody had anything else. Not seeing
3 anybody waving or jumping up and down.

4 The first question I have for you, is
5 email going to work to submit exhibits? So is
6 everyone fine and able with your file sizes and your
7 equipment and whatever limitations are in your
8 systems with dispatching and receiving by email
9 whatever exhibits that you want to share with
10 everyone with the commission and with the other
11 parties in advance of this hearing?

12 MS. GRIFFIN: Is it acceptable for us to for
13 the larger exhibits so maybe we don't have to break
14 them into as many smaller files to send the complete
15 exhibits like with a Box link? Can everyone
16 download that way?

17 JUDGE JACOBS: So I was hoping someone would
18 come up with some kind of solution like that because
19 email is great for small stuff, but not great for
20 everything. I believe that I don't have technical
21 barriers on my side that would block me from
22 receiving files that way. If I did, then I guess
23 the work around for that would be to use EFIS
24 essentially.

25 So speaking on behalf of the

1 commission, I believe I would be able to use a link
2 like that to access files. So I will let the other
3 parties respond about whether they would be able to
4 do that as well.

5 MR. COOPER: I don't know of any limitation,
6 but until we do it, I can't say it will work, but I
7 don't know of any limitation.

8 MR. PRINGLE: Same for the staff, Judge. I
9 think I've used the Box link and our exhibits aren't
10 going to be big enough to work with mail.

11 JUDGE JACOBS: I know Mr. Williams in a
12 previous hearing there were some difficulties on OPC
13 side email and I'm not sure what the source of those
14 was but there did seem to be some limitations.

15 Is that something that you are
16 concerned about or is there any reason that you
17 wouldn't be able to use a Box link or anything like
18 that?

19 MR. WILLIAMS: I'm not familiar with the
20 circumstance you're referring to, but at this point
21 I don't have a great concern in this area.

22 JUDGE JACOBS: So, Ms. Griffin, are you
23 saying that you would like to use like a cloud
24 service like Box or something to share your
25 exhibits?

1 MS. GRIFFIN: Yes, if that's acceptable. I
2 think it is easier. I've had a lot of problems
3 throughout this case with emails bouncing back and
4 then our staff having to break the documents down.
5 It's been a method that we've used in other
6 regulatory matters in other cases that's worked
7 pretty effectively.

8 JUDGE JACOBS: So would you propose that you
9 would just set up a link where you would put to
10 disclose all the district's exhibits and then
11 everyone would have access to that, the commission
12 and other parties, and you would provide all the
13 information that folks would need to access that?

14 MS. GRIFFIN: Yes. Essentially, I would
15 have my administrative assistant send everyone an
16 email with a link and then they click on the link to
17 access all of the documents which I think we did
18 with Mr. Pringle on one of the exhibits already in
19 this case because we were having trouble with the
20 email.

21 JUDGE JACOBS: Well, that's a good test case
22 then, Mr. Pringle, for whether there is some
23 mysterious block on PSC IT that would not allow this
24 to work, but apparently, you didn't have trouble
25 with it.

1 MR. PRINGLE: It was pretty much a service
2 email and I did not have a problem.

3 JUDGE JACOBS: All right. So it sounds like
4 there is a little bit of a concern about using email
5 and the district would prefer to not use email if it
6 wasn't required, so I don't see any reason why this
7 solution of using -- essentially giving everyone
8 access to an online source for these documents
9 wouldn't work. I would just ask that the documents
10 be labeled according to a proposed exhibit number or
11 some reasonable labeling system to make it easy for
12 everyone to know what the document is.

13 MS. GRIFFIN: We can certainly use the file
14 number for the PDF what the exhibit number is so it
15 would be easy for people to see to pull up the
16 documents.

17 JUDGE JACOBS: That sounds good to me.
18 Are there any other concerns about
19 this? Sounds like the other parties, staff and the
20 company, Missouri-American, are planning to use
21 email or are comfortable using email?

22 MR. COOPER: We should be able to, yes,
23 Judge.

24 JUDGE JACOBS: So you aren't aware that you
25 have any really large files, for instance, that are

1 going to get bounced back from people's email
2 systems or that you won't be able to attach or
3 anything like that?

4 MR. COOPER: Well, we had to split up, I
5 think, our surrebuttal testimony to get it all
6 through, but we successfully did that. At a
7 minimum, we can do that same thing here I would
8 think.

9 JUDGE JACOBS: And then I don't think it's
10 necessary to share yet again anything that has
11 already been filed in EFIS. So everyone has access
12 to EFIS and everything that is filed there. So if
13 you are proposing an exhibit that is identical to
14 what is in EFIS, then I think the best way to handle
15 that is to simply make that clear on your proposed
16 witness list that this is the testimony filed on
17 this day for this person that is identical if
18 that's what you're going to offer.

19 Does that seem reasonable to
20 everyone? I don't think there is a reason to
21 re-attach all of that testimony.

22 MR. WILLIAMS: I would agree with that,
23 Judge.

24 MS. GRIFFIN: I don't have a problem with
25 that. I just have a question for clarification

1 since I have not participated in one of these
2 hearings before so I am a little unfamiliar
3 procedurally.

4 So when we are using prefiled
5 testimony that is previously filed through EFIS, is
6 the exhibit we will say Exhibit 1 for a certain
7 person's testimony, does that include all of the
8 schedules that were attached to that testimony or
9 did those schedules have to be labeled as separate
10 exhibits for purposes of the hearing?

11 JUDGE JACOBS: And Mr. Cooper and some of
12 the other folks here have a lot more experience with
13 this, so I welcome everyone else chiming in. But my
14 impression is that, unless an issue is made with a
15 particular document that is attached, that the
16 entire testimony with schedules is labeled as one
17 exhibit.

18 Now, I will ask Mr. Cooper,
19 Mr. Williams and Mr. Pringle to clarify or chime in
20 on anything else on that.

21 MR. COOPER: Judge, that would be my answer
22 as well. A piece of testimony to include its
23 schedules would generally carry just one exhibit
24 number.

25 MR. WILLIAMS: That is mine, as well.

1 MR. PRINGLE: That has been the practice
2 with the commission for over 20 years.

3 JUDGE JACOBS: So the only time then that
4 you would worry about a schedule is if for some
5 reason a schedule, and God forbid this should
6 happen, becomes controversial for some reason, is
7 that right?

8 MR. WILLIAMS: Well, it would still be part
9 of an exhibit, but there may be an objection and
10 then it may or may not be admitted, that particular
11 portion of the exhibit.

12 MR. COOPER: Because it contains its own
13 schedule identification. I think it's easy enough
14 to refer to that. Even a problematic schedule is
15 just a part of the single exhibit.

16 JUDGE JACOBS: And that's why all the
17 schedules are individually labeled -- I'm sorry,
18 Mr. Pringle, go ahead.

19 MR. PRINGLE: I defer to Mr. Cooper and Mr.
20 Williams. I've never seen an individual schedule be
21 objected to.

22 JUDGE JACOBS: Well, let's hope that that
23 practice continues.

24 So did that answer that question, Ms.
25 Griffin?

1 MS. GRIFFIN: Yes, thank you.

2 So on our exhibit list, we just
3 identify by exhibit number the testimony with the
4 attached schedules, the description of what was
5 already filed through EFIS?

6 JUDGE JACOBS: Yes. I mean, as I'm
7 imagining it and what I think would be useful to me
8 would be your exhibit number identifying your
9 witness whether it was their -- in your case it's
10 going to be rebuttal or if it is direct or
11 surrebuttal and then the day it's filed in EFIS I
12 always find that helpful, because when you are going
13 back through EFIS and looking for a document, the
14 date is what you really need to narrow it down so I
15 always like to see a filing date in EFIS to help me
16 find stuff.

17 So if you are putting on your exhibit
18 list documents that are identical to what is filed
19 in EFIS, then please just identify them by the day
20 they are filed in EFIS with the description. As I
21 said, if it is testimony, it should be that person's
22 name and what testimony it was, the date it was
23 filed.

24 MS. GRIFFIN: So then my next question is,
25 for purposes of other parties' exhibits that might

1 be used, for example, in cross examination, do I
2 need to put those on my list of exhibits or are we
3 free to use at the trial other parties' exhibits
4 from their exhibit list?

5 JUDGE JACOBS: So I think the purpose of
6 this exhibit list process is to make sure that
7 everyone has had a chance to the extent at all
8 possible to be aware of what folks' exhibits are
9 going to be and have access to them. That is the
10 most important thing.

11 So if it is something that someone
12 else has filed in EFIS, that means everyone has had
13 access to it and can access it and that's really the
14 purpose that we are trying to achieve here because
15 we are all not going to be in a room together. We
16 can't pass documents around easily and share them so
17 we just all need to make sure to have a collective
18 volume of documents that we can all refer to and
19 then we can work out, you know, whether that party
20 has offered an exhibit, whether it is already in
21 evidence and things like that.

22 So I think if you are planning on
23 referring to something that we are using as an
24 exhibit, something that someone has already filed
25 but you aren't sure whether they are going to offer

1 it, you can put it on your exhibit list if you want
2 to. It doesn't hurt anything. It certainly let's
3 everyone know, but it is most important that you
4 identify and disclose those documents that people
5 have not -- the parties have not had access to
6 because we need to have access to them to conduct
7 the hearing.

8 MS. GRIFFIN: Thank you.

9 MR. WILLIAMS: Judge, do I understand
10 correctly that, instead of serving by email or a
11 link to an external source, you could actually file
12 your exhibit in EFIS and then tell everyone it's
13 there?

14 JUDGE JACOBS: Well, that is actually a
15 process that has been discussed in adjudication and
16 for various reasons it's not clear that that would
17 be a favorite process simply because of the
18 possibility of bloating EFIS with a bunch of
19 filings, so that's why we are going through this
20 process instead of just telling everybody to just
21 file everything. So that is a conversation that is
22 taking place about whether it is appropriate
23 essentially to use the commission's case filing
24 system in that way.

25 MR. WILLIAMS: I'm just asking for

1 clarification basically, but you indicated that, if
2 something is already prefiled like testimony that
3 has been, you don't need to refile that in EFIS or
4 circulate it, you can designate that as an exhibit.
5 I'm just asking if another possibility is to file
6 something in EFIS and then indicate it's going to be
7 in evidence. At some point it's going to end up in
8 EFIS if it is admitted, I guess.

9 JUDGE JACOBS: Right. So typically,
10 testimony gets filed and then everyone gets together
11 in the hearing room and they hand paper copies of
12 that testimony to the court reporter and she marks
13 it and then it gets filed again in EFIS so that is
14 the way things had been done. So now we are in a
15 remote hearing context and, yes, documents that have
16 already been filed, I'm not asking the parties to
17 pass those around to each other digitally again
18 because they are already accessible digitally
19 through EFIS, but the other part of this process we
20 haven't discussed yet is, once the parties have
21 proposed their exhibits in the hearing, those will
22 be marked again in a digital process and they will
23 be filed in EFIS just as if we had all met together
24 and passed paper around. So you will see more than
25 one entry in EFIS for testimony that is admitted

1 into evidence. There is the filing that is made
2 before the hearing and then, when it is marked by
3 the commission staff and filed in EFIS, it appears
4 in EFIS again.

5 The issue that I alluded to earlier
6 was do we want an intermediate filing also appearing
7 in EFIS where the parties tell everybody and I'm
8 also going to offer this during the hearing or here
9 are my other exhibits I'm going to offer during the
10 the hearing. Does that make sense? It's kind of a
11 choice between two EFIS filings for some of these
12 documents as opposed to three potentially.

13 MR. WILLIAMS: Thank you. My last
14 experience was in the Empire rate case which is not
15 the first case that was done electronically. It was
16 the first one that was done as a large rate case and
17 actually we ended up stipulating in the record the
18 documents. But since we've appealed it, I've
19 learned issues with the court about how that was
20 done. So I'm just asking for clarification.

21 JUDGE JACOBS: I think that these are issues
22 that are being worked out, of course, in the context
23 of now we are suddenly doing remote hearings and
24 we're trying to figure out how to do it. I know
25 that different judges have tried different things

1 out. I've tried different things out. That's why
2 we are having this session today, because instead of
3 me trying to imagine what the parties will want to
4 do, I wanted an opportunity to rely on experienced
5 counsel to talk about the specific case and how we
6 should do it in this case. So I don't know if there
7 is a perfect or ideal way to do it, but we
8 definitely want to make sure that the court is happy
9 with the record if things happen to get up to that
10 point.

11 I have mentioned this and I will
12 mention it again. I know that sometimes parties
13 aren't certain they're going to use something that
14 they think they might use it, they might want to
15 pull it out on cross examination. I would ask the
16 parties to the extent at all possible, please
17 disclose the exhibits you think you may use on your
18 exhibit list because the remote hearing just makes
19 things harder if we do end up in a situation where
20 we are circulating documents during the hearing, it
21 just slows everything down. So please, think hard
22 about if you can disclose as much as possible. That
23 will make this whole process less painful.

24 So I was planning on asking the
25 parties to provide to me your proposed exhibit list,

1 identifying your exhibits and then any documents
2 that are not already in EFIS in this case as we have
3 discussed, you would also disclose those to the
4 commission by email to me and to the other parties.

5 So it sounds like most folks are
6 planning on using email, but the district is going
7 to use Box for their disclosure. I was going to ask
8 that you provide those by 3:00 on Tuesday the 6th.
9 Is that reasonable?

10 MR. PRINGLE: That's reasonable for staff,
11 Judge.

12 MR. COOPER: We can do that.

13 JUDGE JACOBS: Thank you. So after our
14 conversation today, because I'm kind of a belt and
15 suspenders person, I will put out an order that will
16 describe what we discussed here today. So that if
17 you got confused by the conversation, you will have
18 an order to refer to about exactly what's happening,
19 how it's happening and when it's supposed to happen.
20 So you will see that today. Unless something
21 derails me, you will see that on Monday.

22 The other thing was the numbering
23 convention so we will just start with 1 to 99 for
24 Missouri-American. Staff is going to get 100 to
25 199. Boone County Regional Sewer District starts at

1 200 through 299. The commission because, as I
2 mentioned, I might have some documents that I would
3 propose and the commission would like to have in the
4 record in this case. That would start at 300 to
5 399. OPC will start at 400, should OPC decided they
6 need to provide exhibits.

7 Any questions or comments on that?

8 MS. GRIFFIN: I have one quick question. So
9 the district's first exhibit will be 200. Assuming
10 that that is prefiled testimony that is already in
11 EFIS and already been served, as I'm understanding
12 in regards to our discussion today, I don't need to
13 mark that and recirculate that. It will be marked
14 by staff at the hearing?

15 JUDGE JACOBS: Right. So what you will do
16 is you will include it on your exhibit list so that
17 it is very clear to everybody where they can find
18 that identical document, and then you will offer it
19 into evidence at the hearing and then, as quickly as
20 possible after the hearing, staff will gather up
21 either newly-disclosed documents or documents filed
22 in EFIS, refile them under a cover with an exhibit
23 mark and a description based on your exhibit list
24 and file all of those as quickly as possible after
25 the hearing closes.

1 MS. GRIFFIN: Thank you.

2 JUDGE JACOBS: Yes. If anybody wants to
3 jump in if I say something problematic or that you
4 don't think is going to work, I would ask you to
5 please do that, but this is how I'm contemplating
6 this is going to go.

7 MR. PRINGLE: This is for administrative
8 support to put all of that together?

9 JUDGE JACOBS: Yes. So adjudication staff
10 works -- yes. So I keep a close eye on it to avoid
11 mistakes that causes problems for us but, yes, that
12 is how that works.

13 MR. PRINGLE: Thank you, Judge.

14 JUDGE JACOBS: We did in a previous hearing
15 set up as special exhibits email address and I know
16 at least a couple judges have experimented with that
17 and I decided not to do that because it was
18 essentially just an extra email of the same
19 documents. So instead of doing that, I'm using what
20 is provided to the commission through the presiding
21 officer instead, but that was part of our experiment
22 of trying to figure out how to do remote hearings.

23 If anyone is planning on using a
24 demonstrative during your opening, that also needs
25 to be provided. So if our hearing is starting at

1 8:15 on Thursday, I would like to have those
2 demonstratives by Wednesday morning.

3 Is that reasonable? It doesn't sound
4 like anybody thinks it is a terrible burden, okay.

5 Those of you who are planning to use
6 a demonstrative during your opening, have you used
7 Webex to share your screen and give a presentation
8 or did you want an opportunity to experiment with
9 that today? Counsel, it looks like you are
10 comfortable.

11 I will ask Missouri-American, should
12 I expect to see a slide show presentation of some
13 kind during your opening?

14 MR. COOPER: I don't know yet, Judge.

15 JUDGE JACOBS: Okay. All right.

16 And staff?

17 MR. PRINGLE: Same here, Judge. Right now I
18 say no, but that could change.

19 JUDGE JACOBS: And Ms. Griffin?

20 MS. GRIFFIN: I don't know for sure, but I
21 wasn't really planning on it.

22 JUDGE JACOBS: And, Mr. Williams, you're
23 planning on waiving an opening?

24 MR. WILLIAMS: Correct. I don't anticipate
25 any exhibits either.

1 JUDGE JACOBS: Sometimes when the commission
2 has agenda and the companies come and present things
3 and have presentations they will have other people
4 run it.

5 If you're going to give an opening
6 statement with a slide show of some kind, I would
7 expect you to run it through the share screen
8 function. So just be prepared to do that if that's
9 your plan. And then, whatever that slide show is
10 that you are presenting, just provide it to me by
11 email by Wednesday morning.

12 So that's everything I had on
13 exhibits. I think that gets us ready to go.

14 Does anybody have anything else they
15 wanted to say about that before we move on to making
16 sure our witnesses are ready to go?

17 And everyone has my email address so
18 that they can provide exhibits to me that way or
19 links so that I can get them. So I will see exhibit
20 lists and any new documents by 3 p.m. Tuesday, April
21 6th is what we're going to do.

22 So unless we have any more
23 substantive matters, I think we can excuse our court
24 reporter and move on with our witnesses.

25 Did anybody have anything of

1 substance to discuss before we close the formal
2 proceeding and do some technical testing with our
3 witnesses?

4 No. Everyone wants to move on with
5 their life. Thank you so much. So we are now off
6 the record for the pre-hearing conference. So thank
7 you very much Miss Court Reporter for your
8 assistance today.

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REPORTER CERTIFICATE

I, LINDA DEBISSCHOP, a Certified Court Reporter for the State of Missouri, do hereby certify that pursuant to agreement of Counsel, there came before me by Zoom, in the County of St. Louis, State of Missouri,

PUBLIC SERVICE COMMISSION HEARING

who was by me first duly sworn to testify to the truth and nothing but the truth of all knowledge touching and concerning the matters in controversy in this cause.

I further certify that I am not counsel, attorney or relative of either party, or clerk or stenographer of either party, or otherwise interested in the event of this suit.


Linda DeBisschop, CCR #779

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